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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

[Docket ID FCIC–19–0005]

RIN 0563–AC63

Common Crop Insurance Regulations; Sugar Beet Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule with request for comments.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes the Common Crop Insurance Regulations, Sugar Beet Crop Insurance Provisions (Crop Provisions) and makes amendments to the final rule, with request for comment, published in the **Federal Register** on September 10, 2018, that updated existing policy provisions and definitions to better reflect current agricultural practices. This final rule is amended based on comments received and other issues identified since implementation of the previous final rule. The changes will be effective for the 2020 and succeeding crop years in states with a November 30 contract change date and for the 2021 and succeeding crop years in all other states.

DATES: This final rule is effective November 30, 2019. However, FCIC will accept written comments on this final rule until close of business January 28, 2020. FCIC will consider these comments and make changes to the rule if warranted.

ADDRESSES: We invite you to submit comments on this rule. In your comments, include the date, volume, and page number of this issue of the **Federal Register**, and the title of rule. You may submit comments by any of the following methods, although FCIC prefers that you submit comments electronically through the Federal eRulemaking Portal:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov> and search for Docket ID FCIC–19–0005. Follow the online instructions for submitting comments.

- **Mail:** Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, P.O. Box 419205, Kansas City, MO 64133–6205.

All comments received, including those received by mail, will be posted without change and publicly available on <http://www.regulations.gov>.

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FOR FURTHER INFORMATION CONTACT: Francie Tolle; Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility, Stop 0812, Room 7829, P.O. Box 419205, Kansas City, MO 64141–6205, telephone (816) 926–7730; email francie.tolle@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

This rule amends changes to the Common Crop Insurance Regulations, Sugar Beet Crop Insurance Provisions that were published by FCIC on September 10, 2018, as a notice of final rule with request for comment rulemaking in the **Federal Register** at 83 FR 45535–45539. The public was afforded 30 days to submit written comments and opinions.

Comments were received from 15 commenters. The commenters included persons or entities from the following categories: Insurance company, insurance agent, farmer, financial, producer group, academic, trade association, and other. The public comments received regarding the final rule with request for comment and FCIC’s responses to the comments are as follows:

Comment: Commenter suggested revising the definition of “Raw sugar” to “Percentage of raw sugar” since that term is frequently used.

“Percentage of raw sugar—Quantity of sugar that has not been extracted from the sugar beet crop and is determined from analytical tests of samples performed by the processor or other accredited laboratories.”

This revised definition clarifies how the percentage is determined and by whom, and includes the ability for alternative testing of samples by qualified facilities, which might be necessary in cases of unharvested appraisals where sampling and testing might not be readily performed by the processor.

Response: FCIC is adding the following definition for percentage of raw sugar, “quantity of sugar determined from analytical tests of samples performed by the processor or other laboratories approved by us.”

Comment: A commenter stated that Section 1 is revising the definition of Practical to Replant and seems to strengthen the idea of only replanting when practical to replant and will be good for the growers.

Another commenter stated that revising the definition of practical to replant to align with the practicality to replant and should be an improvement.

Response: FCIC thanks the commenter and appreciates their input.

Comment: Commenter stated that the definition of “Initially planted” can be deleted since the term is no longer used in the Sugar Beet CP (part of the “Insurance Period” details that have been removed in section 9).

Response: FCIC is deleting the definition of initially planted.

Comment: Commenter stated that definitions for “Pound” and “Ton” should be added to align with other crop provisions that use pounds as the unit of measure, and tons. This also will function in conjunction with the proposed definition of “Percentage of raw sugar” (see under “raw sugar” below) and the production’s unit of measure, as indicated in other suggestions/recommendations provided in this document.

- “Pound—Sixteen ounces avoirdupois.”

- “Ton—2,000 pounds.”

Response: FCIC is adding the definition of pound and ton.

Comment: Commenter stated the definition of “Processor contract” replacing the definition of “sugar beet processor contract” in the current Sugar

Beet CP, now begins: “A written agreement between you and the processor, executed on or before the acreage reporting date, which is in effect for the crop year, containing at a minimum: . . .” [highlighting indicates the changes from the “sugar beet processor contract” definition].

- As written, this could be misunderstood as having the phrase “. . . which is in effect for the crop year . . .” apply to the acreage reporting date rather than to the “written agreement” (processor contract). One way to make this clearer would be something like: “. . . executed on or before the acreage reporting date and in effect for the crop year . . .”

- Also consider if this should use a term other than “written agreement”, which generally has a different meaning for crop insurance purposes, as in section 7(a)(4) and elsewhere. [One possibility: “An agreement, in writing, between . . .”]

Response: FCIC is replacing the definition and references to the term “processor contract” with the definition/term “production agreement” which removes the requirement for the contract to include a price or formula for a price based on third party data. This better reflects sugar beet contracts because there is no third party data source for prices and not all production agreements include a price.

Comment: Commenter suggested revising the definition of “Raw sugar” to “Percentage of raw sugar” since that term is frequently used.

- “Percentage of raw sugar—Quantity of sugar that has not been extracted from the sugar beet crop and is determined from analytical tests of samples performed by the processor or other accredited laboratories.”

- This revised definition clarifies how the percentage is determined and by whom, and includes the ability for alternative testing of samples by qualified facilities, which might be necessary in cases of unharvested appraisals where sampling and testing might not be readily performed by the processor.

Response: FCIC is adding the definition for average percentage of raw sugar based on this comment to be the quantity of sugar determined from analytical tests of samples performed by the processor or other laboratories approved by the Approved Insurance Provider (AIP). FCIC is also revising section 13(d), to allow the average percentage of raw sugar to be determined by laboratories approved by the AIP, in addition to tests performed by the processor. Sections 13(d)(1) and 13(e)(1) will also clarify that raw sugar

content tests may be based on the insured’s previous tests performed by the processor or other laboratories approved by the AIP.

Comment: A commenter stated that a change that is not in here, but should be, is an optional unit provision based on each individual processor contract per field. With each field being separately contracted, this is an easy change to make. Units based on section lines may make sense for dryland bulk commodity crops with a low per acre value but are not appropriate for a specialty crop like sugar beets which often have many smaller fields in the same section with each exposed to different risks due to their location in that unit.

Another commenter stated that one change that the commenter has repeatedly requested but is not in here is an optional unit provision based on each individual processor contract per field. With each field being individually identified by its own contract number this should be easily implemented and should increase participation.

Response: This issue has been reviewed extensively by FCIC. In the situation the commenter outlined, their processor contracts are by field, and they want insurance by field. This would allow a producer to separate their Actual Production History (APH) by field instead of having an average production for the unit. This could add complexity to the program and significantly increase the frequency of losses, which could require significant premium rate increases to maintain actuarial soundness. Further, processors, contractors, and grower groups have been asked to supply the data to show revenue increases and benefits to the program supporting this proposed unit structure. To date, nothing has been provided.

Comment: Commenter stated that Insurance Providers have some concerns on how this change from “standardized tons” to “pounds of raw sugar” will affect the insureds’ APH. The conversion from standardized tons to pounds of raw sugar is not clear at this time. Insureds will need to recertify their production history to align with the conversion from standardized tons to pounds of raw sugar.

The commenter assumes calculations are as follows:

Current procedure:
Assume that 150 tons of beets harvested on 20 acres with a 14.5% sugar content.

Sugar percentage is 17.2% in the special provisions.

$14.5\% / 17.2\% = .843$ factor.

$150 \text{ tons} * .843 \text{ factor} = 126.4 \text{ tons.}$

$126.4 \text{ tons} / 20 \text{ acres} = 6.3$ standardized tons/acre that gets reported for APH.

Actual sugar content of beets would be:
 $150 \text{ tons} * 2,000 \text{ lbs.} = 300,000 \text{ lbs. of beets.}$

$300,000 \text{ lbs.} * 14.5\% \text{ sugar} = 43,500 \text{ lbs. of actual raw sugar in the beets.}$
 $43,500 \text{ lbs.} / 20 \text{ acres} = 2,175 \text{ lbs./acre actual raw sugar per acre.}$

Please clarify which of the following methods will be utilized for converting existing APH databases to pounds of raw sugar and note the difference in the APH conversion and the actual sugar content calculations in this example.

1. $(6.3 \text{ tons} / \text{acre APH} * 2,000 \text{ lbs.}) * 17.2\% = 2,167.2 \text{ lbs. raw sugar/acre APH.}$

Or convert total production for the 20 acres:

2. $126.4 \text{ standardized tons} * 2,000 \text{ lbs.} = 252,800 \text{ lbs. of beets.}$

$252,800 \text{ lbs.} * 17.2\% \text{ sugar from the SP} = 43,481.6 \text{ lbs. of raw sugar.}$

$43,481.6 \text{ lbs. of raw sugar} / 20 \text{ acres} = 2,174 \text{ lbs. APH.}$

The example above is based on information included in the Evaluations and Recommended Improvements for the Sugar Beets Crop Insurance Program which was submitted by Watts and Associates, Inc.

Plant Count Method Appraisals (Weight Method not applicable until the factory accepts sugar beets) completed prior to the processor accepting beets at the factory are not based on the percent of raw sugar present in the sugar beets at the time of the appraisal. Guidance is needed in the policy to convert appraised production based on the plant count method to “pounds of raw sugar.”

Response: The conversion is based on total production, thus example number 2 is the correct calculation. Additionally, FCIC has developed and released procedures and training materials for insurance companies detailing how to apply this conversion for insured producers including the Frequently Asked Questions at <https://www.rma.usda.gov/News-Room/Frequently-Asked-Questions/Sugar-Beet>.

Comment: A commenter stated that section 3 is changing standardized tons to pounds of raw sugar. It is unclear to the commenter how this calculation of pounds of raw sugar is made or how well it correlates to standardized tons.

Another commenter stated the commenter broadly supports FCIC’s proposal to change the basis of insurance from “standardized tons” to pounds of raw sugar, simplifying the program and better aligning it with commercial practice. The commenter

did raise a concern, however, regarding the implementation of this important change. The shift from standardized tons to pounds of raw sugar will be very visible to farmer-producers and could cause considerable confusion, particularly in its first year. Insurance coverage will look different. The mathematical relationship between a producer's "old" coverage and "new" coverage may be far from obvious at first. Even traditional price elections may be confusing when now stated in the terms of pounds versus tons, as growers, agents, and other stakeholders try to make comparisons with prior-year levels.

To avoid this problem, the commenter believes a well-planned, well-coordinated public outreach and education process will be essential, including outreach to farmers so they will understand the new system, training for agents so they can effectively explain it, training for AIP loss adjusters and underwriters to minimize mistakes, and the development of simple-to-use tools or applications allowing producers quickly and easily to compare prior coverage in "standardized tons" to their new coverage in raw sugar pounds.

The commenter would be pleased to assist RMA in this process, be it in arranging outreach to the commenter's farmer members, getting producer feedback on training materials, developing Question-and-Answer sheets, providing farmer-level input for web-based applications, or in any other manner that might be helpful to the agency and the commenter's members.

Response: FCIC has developed and released procedures and training materials for insurance companies detailing how to apply this conversion for insured producers including the Frequently Asked Questions at <https://www.rma.usda.gov/News-Room/Frequently-Asked-Questions/Sugar-Beet> and the Sugar Beet Loss Adjustment Standards Handbook at <https://www.rma.usda.gov/-/media/RMAweb/Handbooks/Loss-Adjustment-Standards---25000/Sugar-Beet/2019-25450-1H-Sugar-Beet-Loss-Adjustment-Standards.ashx>. The change in unit of measure from standardized tons to pounds of raw sugar was made to better align with the sugar industry in how producers are paid and for program consistency with sugarcane. Below is a comparison example of the new unit of measure (pounds of raw sugar), followed by previous unit of measure (standardized tons), and final example is converting standardized tons to pounds of raw sugar. The examples show the conversions and how the end

guarantee should be the same or within a few pounds of their previous APH guarantee. The new APH calculation of taking net tons to pounds of raw sugar: (20 net paid tons * 2,000 lbs.) * 0.180 insured's average percent of raw sugar) = 7,200 pounds of raw sugar. The previous APH calculation of taking net tons to standardized tons: [20 net tons * (0.180 / 0.170)] = 21.2 standardized tons. The conversions from standardized tons to pounds of raw sugar is calculated: (21.2 standardized tons * 2,000 pounds) * 0.170 = 7,208 pounds of raw sugar.

Comment: Commenter stated in regard to Section 3; changing standardized tons to pounds of raw sugar. Commenter would like clarification of how this calculation will be made, and how well it will correlate to standardized tons. Also concerned as to how an unharvested portion of a field would be appraised for APH on a raw sugar basis.

Another commenter is concerned as to how an unharvested portion of a field would be appraised for APH purposes on a raw sugar basis.

Response: FCIC has developed and released procedures and training materials for insurance companies detailing how to apply this conversion for insured producers as well as how to appraise unharvested acreage.

The change in unit of measure from standardized tons to pounds of raw sugar was made to better align with the sugar industry in how producers are paid and for program consistency with sugarcane. Below is a comparison example of the new unit of measure (pounds of raw sugar), followed by previous unit of measure (standardized tons), and final example is converting standardized tons to pounds of raw sugar. The examples show the conversions and how the end guarantee should be the same or within a few pounds of their previous APH guarantee. The new APH calculation of taking net tons to pounds of raw sugar: (20 net paid tons * 2,000 lbs.) * 0.180 insured's average percent of raw sugar) = 7,200 pounds of raw sugar. The previous APH calculation of taking net tons to standardized tons: [20 net tons * (0.180 / 0.170)] = 21.2 standardized tons. The conversions from standardized tons to pounds of raw sugar is calculated: (21.2 standardized tons * 2,000 pounds) * 0.170 = 7,208 pounds of raw sugar. Additional examples of the conversion can be found in the Frequently Asked Questions at <https://www.rma.usda.gov/News-Room/Frequently-Asked-Questions/Sugar-Beet>.

Appraising unharvested production is located in the Sugar Beet Loss Adjustment Standards Handbook in PART 4 Appraisals. The appraisal worksheet instructions are located in Exhibit 3. This information can be found at <https://www.rma.usda.gov/-/media/RMAweb/Handbooks/Loss-Adjustment-Standards---25000/Sugar-Beet/2019-25450-1H-Sugar-Beet-Loss-Adjustment-Standards.ashx>.

Comment: A commenter requested to recognize that the loads from each day of early harvest must be calculated separately.

As of now, RMA says it is going to convert databases using the sugar factor from the 2018 Special Provisions. This may be to the producer's benefit. The agent should have already adjusted the tons for percent sugar when they completed the production report. When you run the numbers, we have identified cases where the pounds of sugar production will be spot-on and other times when the pounds of sugar will increase for the producer from what would be if you multiplied tons by actual sugar.

RMA has indicated that they will distribute a draft of the Special Provisions for 2019 for industry review.

Response: FCIC is aware that each day of early harvest will have to be calculated separately. Whenever the conversion is done there are some instances where the production goes up slightly, some that stay the same, and some that go down slightly. The difference occurs because of rounding. The insured has the option to do the conversion of standardized tons to pounds of raw sugar, or they can recertify their previous years' production in pounds of raw sugar.

Comment: The commenter stated that section 3 is also removing the stage guarantees. The commenter thinks this is a good thing for their growers.

Another commenter is pleased to see the removal of stage guarantees in the new Sugar Beet Crop Insurance Provisions. Having played a lead role in urging RMA originally to institute a Sugar Beet Stage Guarantee Removal Pilot Program over a decade ago, the commenter believes the consistent high levels of participation in the program underscore the general acceptance of the concept by sugar beet producers. Sugar beets are one of the last major crops to see stage guarantees eliminated from their coverage, reflecting an updated underwriting approach, and the commenter views this as an important step forward for the program.

Response: FCIC thanks the commenters and appreciates their input.

Comment: Commenters stated in regard to 3(a): Consider deleting this subsection, which appears to be unnecessary.

- CCIP Basic Provisions section 3(b)(1)(iii) already states that the insured must select the same “Percentage of the available price election . . .” and “. . . If different prices are provided by type or variety, . . . the same price percentage will apply to all types and varieties.”

- Also, should a separate and unique price election be offered for the certified organic practice, then defaulting to the Basic Provisions will ensure that there is no conflict with the crop provisions whereby more than one price election may be applicable, albeit each at the same percentage to the maximum price offered.

Response: FCIC thanks the commenter and is deleting section 3(a).

Comment: Commenter stated in regard to 3(b) [which would be re-designated as section 3 if 3(a) is deleted]: Consider revising this to: “The unit of measure for production is pounds of raw sugar, determined by multiplying the quantity of sugar beets by the percentage of raw sugar.” This clarifies the determination of “pounds of raw sugar,” regardless of whether the production amount pertains to the guarantee or appraisal/indemnity calculations.

Response: FCIC is re-designating section 3(a) as section 3. Percentage of raw sugar is already defined and there is procedure in place referring to the calculations.

Comment: Instead of “reserving” this section, commenter suggests using it to add the following language that is similar to other crop policies that require the insured crop to be grown under a processor contract, and will facilitate the insurance provider’s timely determination of proper acreage and liability/coverage:

“Report of Acreage. In addition to the requirements of section 6 of the Basic Provisions, you must provide a copy of all sugar beet processor contracts to us on or before the acreage reporting date.”

For example: If a sugar beet contract pertains to 40 acres of sugar beets and the acreage report shows 41.2 acres planted, then the insurance provider has the proactive opportunity to verify with the sugar beet processor whether or not all production from the 41.2 acres of planted sugar beets will be accepted by the processor and if an amended contract is needed.

Another commenter stated that the deleted phrase that is being moved to the “processor contract” definition states that the processor contract must

be executed on or before the acreage reporting date. Please consider adding language requiring that the insured “. . . must provide a copy of all processor contracts to us [the AIP] on or before the acreage reporting date . . .” as in section 6 [Report of Acreage] in the Processing Tomato Crop Provisions [the rest of that reads: “. . . in all counties, unless otherwise specified in the Special Provisions.”].

Section 12(b) of the Sugar Beet CP requires the insured to “. . . provide a copy of your processor contract, or corporate resolution if you are the processor” as part of the insured’s “Duties In The Event of Damage or Loss”, but the Sugar Beet policy does not have such a requirement when there is not a claim.

The requirement to provide a copy of the processor contract(s) whether or not there is a claim could be set up as in the Processing Tomato CP (and others), with the addition of section 6, Report of Acreage, since the current Sugar Beet section 6 is being removed.

Response: FCIC has replaced the reserved section 6 with report of acreage detailing the requirement that the insured provide a copy of all production agreements.

Comment: Commenter stated in regard to 7(a)(3): [Revised to replace “. . . a sugar beet processor contract executed before the acreage reporting date . . .” with “. . . a contract . . .”, with the deadline now included in the new definition of “processor contract”.] Commenter Suggests “. . . a processor contract . . .” to match the definition and avoid any confusion with a crop insurance “contract” as defined in the Basic Provisions.

Response: FCIC agrees and has replaced contract with production agreement in section 7(a)(3).

Comment: Commenter stated in reference to 7(b)(4): [Ed.] Consider adding quotation marks around the word “processor”, as done in 7(b)(1).

Response: FCIC revised by adding quotation marks around the word processor.

Comment: A commenter requested that sugar beets that are planted in back to back years be insurable. The commenter stated that this would be most helpful for the commenter’s farm in Imperial Valley, CA where the commenter’s alternate crops to plant are limited.

Another commenter is requesting sugar beets to be insurable back to back.

Another commenter stated that they are writing to request the FCIC/RMA consider allowing Sugar Beet fields to be insurable if grown on acreage that was planted in the most recent previous

crop year. Currently in Imperial County, CA it is a common practice to grow Sugar Beets on the same field twice in consecutive years.

The commenter stated that this is an industry standard, and the Sugar Processor allows this, and considers this a standard farming practice. All acreage farmed on a field in the first year, and on the following crop year are of the same quality and tonnage. Therefore, any acreage farmed on back to back fields should not be excluded from the Insurance policy.

Another commenter stated to please allow for Sugar Beets to be insurable back to back years. The beet companies allow us to grow back to back because it is within proper plant health standards, and therefore we’d like to be able to be insured for each and every crop that is within reasonable health standards. If the beet company itself believes it’s healthy and safe to grow back to back, the commenter is not sure why the insurance standards would be different.

Another commenter stated that the commenter has been growing sugar beets in California for the last 40 years. In all of those years, it has been an accepted cultural practice to grow them in back to back years. The sugar companies that the commenter contracts with do not prohibit the commenter from that practice. The commenter sees no reason why the FCIC should deny the commenter’s ability to obtain crop insurance on those fields that are planted back to back.

Another commenter stated that they are requesting Sugar Beets to be insurable in back to back years. This is very important to the commenter’s farming operations and planning. The commenter believes the request speaks for itself on why it is so important.

Two commenters stated that they would like to see the option for Sugar Beets to be insurable for back to back years.

Response: The Crop Provisions as written in sections 8(a)(1) and 8(a)(3) do allow for back to back planting if it is specified in the Special Provisions for the county and if it is an allowable rotation outlined in the Special Provisions. These requests have been forwarded to the regional offices for review and further consideration. Other local or county-based concerns can be addressed to the RMA regional office. Any interested person may find contact information for the applicable regional office on RMA’s website at <https://www.rma.usda.gov/RMALocal/Field-Offices/Regional-Offices>.

Comment: The commenter stated that in regard to section 9(b) that they

approve of the deletion of this language in 9(b) that dealt with the end of insurance period for all units being when production delivered equals the amount of production stated in the contract. This language was unclear, difficult to administer and the commenter was unsure what exactly it accomplished.

Another commenter stated that the commenter agrees with deleting the language currently in 9(b) stating that “. . . the insurance period ends for all units when the production delivered to the processor equals the amount of production stated in the sugar beet processor contract.” This language was difficult to administer and unclear as to what exactly it accomplished.

Response: FCIC thanks the commenter and appreciates their input.

Comment: The commenter is pleased to see the inclusion of provisions providing RMA with greater flexibility to update insurance dates and other factors. In particular, the commenter appreciates RMA's responsiveness in recent years to shifting the basis for calculating replant payments from a formula tied to annual price elections to a dollar amount based on actual costs—a process now formalized in the new policy. Such steps toward greater flexibility and responsiveness are always important and appreciated.

Response: FCIC thanks the commenter and appreciates their input.

Comment: The term “final stage” remains in the language. It should be removed. It should state “at least 90 percent (90%) of the production guarantee . . .”

Response: FCIC has removed the language “final stage”.

Comment: Commenter stated clarification is needed on how the appraisal would be calculated when being completed for a replant determination to know if the appraised production would exceed 90% of the insured's guarantee. Currently the calculation is based on tons with no conversion for pounds of raw sugar.

Response: FCIC has updated the plant count appraisal method in the procedures to be calculated in pounds of raw sugar per acre.

Comment: Commenter recommends the following edits be made to 13(d), to clarify and reference defined terms.

“Harvested production or unharvested production that is appraised after the earliest delivery date that the processor accepts harvested production and that meets the minimum acceptable standards contained in the processor contract or corporate resolution will be converted to pounds of raw sugar by multiplying the tons of

such production by 2,000 and by the average percentage of raw sugar to determine the production to count. The average percentage of raw sugar will be determined from tests performed at the time of crop delivery or sample acquisition (appraisal).

(1) If individual tests of raw sugar content are not made at the time of delivery, the average percentage of raw sugar may be based on the results of previous tests performed by the processor during the crop year if it is determined that such results are representative of the total production.

(2) If not representative, the average percentage of raw sugar will equal the raw sugar content percent shown in the actuarial documents.”

Following the recommendation to recognize other institutions that may determine the ‘percentage of raw sugar’, stating who performs the analytic tests is not necessary within this section since they are identified within the revised/recommended definition. ‘Unharvested’ production as determined by an appraisal would not constitute crop delivery; thus clarification is added to specify the time frame associated with percentage of raw sugar determinations for samples obtained from field appraisals. This also keeps consistent usage of the term ‘percentage of raw sugar’. Recommend referring to the ‘actuarial documents’ rather than the ‘Special Provisions’ for where the county average percentage of raw sugar can be found.

Response: FCIC revised to further clarify that the average percentage of raw sugar will be determined from tests performed by the processor or other laboratories approved by us (the AIP) at the time of crop delivery or sample acquisition (appraisal).

FCIC further clarified that if individual tests of raw sugar content are not made at the time of delivery, the average percent of raw sugar may be based on the results of your (the insured's) previous tests.

Comment: The provision notes that the raw sugar percentage will be included to the extent that a raw sugar test may not be performed or deemed unacceptable. Commenter would like to have the latter scenario more clearly clarified under the rules as well. It's not readily apparent to the commenter under what circumstances it would be “deemed unacceptable” nor is it clear the extent to which such a distinction could harm the commenter's production calculations in a given year. Please clarify what you mean.

Response: FCIC thanks the commenter and appreciates their input. FCIC will not further define “deemed

unacceptable” as this is not currently in the crop provisions.

Comment: Commenter stated regarding section 13(d)(2), and in particular the phrase “. . . the raw sugar content percent shown in the Special Provisions”, it will be imperative for RMA to review and update this parameter (as currently contained within the actuarial documents) for each and all sugar beet county programs. For some states, e.g., Idaho, Oregon, Washington (Pacific Northwest), Montana, North Dakota and Wyoming, their 2018 percent sugar values are established on a regional basis. A region-wide percent sugar better aligns each policyholder's determined standard tons with a single nation-wide price election. In contrast, other states, e.g., Minnesota, have variable county percent sugar values, which appear out of sync with their recent base period average. As the primary function of the ‘county average percent sugar’ has changed from being a key component in adjusting to standard tons, to instead as a default value of ‘last resort’, it is important for each county's percentage of raw sugar value to be current and reflective of the actual county instead of the region or district.

Response: FCIC reviews the county average percentage sugar at regional level with data based on RMA history, sugar percentage data from the sugar beet processor, and NASS data. Regional Offices also consider APH and loss implications in order to ensure this percentage is actuarially sound. Additionally, FCIC only will use this percentage in total loss determinations.

Comment: A commenter stated that in regard to section 13(d)(1) and 13(e)(1): Both state based on previous tests performed by the processor during the crop year. The commenter questions if that is based on all beets delivered to processor from all producers (in the county or otherwise) or just from the producer in question. Although this language was in the previous provisions it still seems unclear what basis is to be used to ascertain the percent of raw sugar that should be used in these situations.

Another commenter stated in regard to 13(d)(1) & (e)(1): These both include the statement “. . . based on the results of previous tests performed by the processor during the crop year . . .” It is unclear if that is based on all beets delivered to processor from all producers (in the county or otherwise) or just from the producer in question. Although this language was in the previous crop provisions, it still seems unclear what basis is to be used to

ascertain the percent of raw sugar that should be used in these situations.

Response: FCIC is revising the Crop Provisions to specify that the previous tests are based on the previous tests from the insured producer.

Comment: Commenter stated in regard to section 13, adding an early harvest adjustment, it appears to apply a penalty to the farmer when they are required by the processor to harvest a portion of a crop early, especially when damage has occurred from an insurable event. There is not clear enough guidance to insurance providers to have even application of these provisions, too much left to the discretion of the insurers could weaken coverage and participation.

Another commenter stated that section 13 is adding an early harvest adjustment. This change seems to apply a penalty to the commenters' growers when the growers are required by the processor to harvest some beets early, especially when there is damage from an insurable loss. An argument can easily be made that this provision will provide less clear guidance to insurance providers rather than clearer guidance resulting in uneven application of the provisions. It seems this is a blatant attempt to limit the loss payments to growers.

Another commenter stated in reference to 13(f)(3): It is unclear if the early harvest adjusted production should be limited to APH. If the producer is having a good year, he/she will not be happy with that. If part of the unit is early harvested, the early harvested acres could be capped at the APH of the remaining harvested acres. If all of the unit is early harvested, the sugar content from previous tests performed by the processor could be used. This may not include lost tonnage, however. Maybe capping at APH is ok.

Another commenter stated that while "early harvest factor" allows producers to add a one-percent-per-day adjustment to their "production to count" for crops harvested prior to "full maturity," it cannot result in an annual "production to count" in excess of the insured crop's current APH. The commenter suggests that this APH cap be removed or adjusted.

The commenter's principal concern is that an APH cap fails to account for the fact that sugar beet yields, measured both in tonnage and sugar content, have been rising sharply in recent years due to adoption of new technologies, principally new bioengineered seeds and seed treatments. As a result, sugar beet APHs, which generally reflect a ten-year average of yields, often lag well behind current crop potentials. For

instance, according to USDA's National Agricultural Statistical Service (NASS), over the past dozen years, sugar beet yields have grown (a) from a national average 25.5 to 32.8 tons per acre of beets and (b) from 3.79 to 4.87 tons per acre of actual sugar, increases of over 28 percent overall and of over 2.3 percent per year. In some regions, the growth has been even sharper.

NATIONAL GROWTH IN SUGAR BEET YIELDS

Crop year	Yield per harvested acre/tons	Sugar per harvested acre/tons
2007/2008	25.5	3.79
2008/2009	26.8	4.15
2009/2010	25.9	3.98
2010/2011	27.7	4.03
2011/2012	23.8	4.04
2012/2013	29.3	4.22
2013/2014	28.4	4.15
2014/2015	27.3	4.27
2015/2016	30.9	4.47
2016/2017	32.8	4.53
2017/2018	31.7	4.71
2018/2019	32.8	4.87

Source: NASS, data as of 9/17/2018.

This lag in APHs behind production trends has been recognized by FCIC though its approval of the privately-developed Trend-Adjusted APH Yield program for a number of crops.

Capping the impact of an early harvest adjustment at a farmer's current APH thus creates an unintended penalty. It creates a ceiling below a crop's actual potential, and it hinders the ability of a farmer's yield history to catch up with rising yield trendlines. In regions where early-harvest has occurred over the years without the benefit of an early-harvest factor, this lag of APHs behind current trendlines is especially pronounced. Given that the one-percent-per-day formula itself is based on sound underwriting data reflecting real-world experience, the commenter suggests either eliminating the APH cap entirely as unneeded or adjusting it to a more reasonable level of 125 percent of APH.

Another commenter stated that Insurance Providers have concerns about capping the production after the early harvest adjustment is applied to the APH. Capping the production would not allow the insured to capture the true production potential of the crop given the new seed technology that has become available. Some APH databases still have conventional seed use included when now Roundup Ready seed is the primary use.

Response: The rule added an early harvest adjustment in response to sugar beet processors requesting a portion of

contracted acres be harvested early. Early harvested beets are often lower in weight and sugar content, resulting in what could appear to be a production loss that would lower the producer's future Actual Production History (APH). A solution was requested to prevent an early harvest from reducing a producer's future guarantee. The rule added an early harvest adjustment, which increases the producer's yield(s) on their early harvested acreage for that year's harvest, preventing a decline in the producer's future insurable yield due to early harvest. However, the early harvest adjustment was limited to not exceed the unit's approved APH. Additionally, FCIC had developed and released procedures detailing guidance for applying the early harvest adjustment including the Frequently Asked Questions at <https://www.rma.usda.gov/News-Room/Frequently-Asked-Questions/Sugar-Beet> and the Sugar Beet Loss Adjustment Handbook at <https://www.rma.usda.gov/-/media/RMAweb/Handbooks/Loss-Adjustment-Standards-25000/Sugar-Beet/2019-25450-1H-Sugar-Beet-Loss-Adjustment-Standards.ashx>.

After further analysis, FCIC determined that due to upward trending yields, the maximum adjustment could be overly punitive. Therefore, FCIC is revising the limit for the early harvest adjustment to not result in a yield greater than the higher of the producer's approved APH yield or the actual yield of the sugar beets harvested after full maturity from the unit. This change will better reflect the unit's production capabilities, especially in instances of a bumper crop because it uses the actual yield from the unit if that yield is higher than the approved APH yield.

Comment: A commenter stated that in reference to 13(f)(3): This provision indicates that the early dig adjustment cannot result in production to count in excess of the insured's actual production history. Should "actual production history" be replaced by "approved yield" as this is the defined term found in the CCIP Basic Provisions as well as the basis for establishing coverage under this policy? Also, what happens if you have a scenario where this occurs? Do you not use the early dig adjustment at all or do you limit the production to count to the approved yield? The commenter would recommend that this provision be further clarified so that there is no misunderstanding for how this should be handled when this situation occurs.

Response: FCIC is revising the limit for the early harvest adjustment to not result in a yield greater than the higher of the producer's approved APH yield or

the actual yield of the sugar beets harvested after full maturity from the unit. This change will better reflect the unit's production capabilities, especially in instances of a bumper crop because it uses the actual yield from the unit if that yield is higher than the approved APH yield. Regarding the scenario the commenter outlined, the adjustment will still be made, but it will be limited to the higher of the approved actual production history yield or the actual yield of the sugar beets harvest after full maturity from the unit.

Comment: Is this 'capping' clause referring to the insured's actual yield of "full maturity" beets for the current crop year or the highest value within the insured's APH database history?

Response: The "capping clause" refers to the insured's approved actual production history yield, but after further analysis, FCIC determined that due to upward trending yields, the maximum adjustment could be overly punitive. Therefore, FCIC is revising the limit for the early harvest adjustment to not result in a yield greater than the higher of the producer's approved APH yield or the actual yield of the sugar beets harvested after full maturity from the unit. This change will better reflect the unit's production capabilities, especially in instances of a bumper crop because it uses the actual yield from the unit if that yield is higher than the approved APH yield.

Comment: The commenter stated on 13(f) that the Risk Management Agency (RMA) has proposed adding an early dig factor to increase the production to count for both claims and APH purposes once a certain threshold has been reached as indicated in the actuarial documents. The commenter does agree that this type of production adjustment is needed for sugar beets when the crop is harvested early. It would be beneficial for everyone reviewing these provisions to know what these thresholds are as a part of this published rule so that the commenter would be able to review and comment on the proposed threshold as a part of these comments.

Another commenter stated in regard to 13(f), RMA has proposed adding an early dig factor to increase the production to count for both claims and APH purposes once a certain threshold has been reached as indicated in the actuarial documents. Commenter agrees that this type of production adjustment is needed for sugar beets when the crop is harvested early. It would be beneficial for everyone reviewing these provisions to know what these thresholds are as a part of this published rule so that we would be able to review and comment on the proposed threshold as a part of

these comments. It would also be helpful to know what the proposed calendar dates for the end of the insurance period for the different states are in order to be able to adequately comment on the full maturity date derived using the 45-day period used for the early dig factor.

Response: FCIC thanks the commenter and appreciates their input. The threshold and calendar dates for the end of insurance period have been made publicly available in the actuarial documents. FCIC does not produce actuarial documents as part of the rule making process and therefore did not provide the threshold or calendar dates for the end of insurance period in the rule. These requests have been forwarded to the regional offices for review and further consideration. Other local or county-based concerns can be addressed to the RMA regional office. Any interested person may find contact information for the applicable regional office on RMA's website at <https://www.rma.usda.gov/RMALocal/Field-Offices/Regional-Offices>.

Comment: The commenter stated as framed in the new Crop Insurance Provisions, the "early harvest factor" adjustment will apply only if the percentage of insured acreage harvested before full maturity exceeds a threshold level specified in the FCICs annual actuarial documents. The concern behind this provision, as the commenter understands it, is that applying the factor to very small fractions of a field could complicate its implementation, raising costs. The commenter appreciates RMA's decision to place the actual threshold level in its actuarial documents—rather than freezing it in policy terms—since this will make it easier to adjust in the future as experience is gained over time.

If a threshold is to be imposed, however, the commenter believes it must be set initially at a level that reflects farm-level realities. The commenter discussed this issue with members from various regions of the country and found that early harvest practices vary widely. For instance, some processors that require early harvest deliveries will spread the burden among large numbers of members to minimize the impact on each one. This could result in early harvests quotas of, say, 10 percent or so on each farm. In other situations, growers will be encouraged to harvest "openings" or small portions of fields during the early harvest. In other cases, early harvest can include entire fields or larger portions. In addition, the commenter understands that much of this data burden for implementing the

new process will rest on sugar beet processing companies who record deliveries on a regular basis, and that crop insurance industry professionals, including agents and AIP staff, generally have access to automated systems to facilitate reporting.

Given these factors, particularly the wide range of farming practices, the commenter urges RMA initially to set the threshold at a relatively low level, 5 percent. This would allow RMA, AIPs, processors, and producers to gain experience on how the early harvest adjustment operates in a wide range of conditions. The commenter also urges RMA to review its experience after the first two years to see if any adjustment in the threshold is justified.

Another commenter stated in regard to 13(f), commenter agrees with the changes allowed when harvesting prior to full maturity. However, due to the workload involved when a small acreage is involved or a small fraction of a unit, consider establishing the percentage of the unit entered in the Special Provisions to be more than 25% and maybe up to 50% of unit acreage before this increase factor would be allowed.

Since most of the time the early harvested acreage is minimal with only end rows or point rows harvested early, the overall impact to the production to count is minimal in relation to the whole unit (and to the extra work involved to adjust each load by each date). However, when the acreage exceeds 25% of the unit it starts to become relevant, and as the acreage approaches 50% it can become very significant. Perhaps 33% of a unit's acreage would be a good place to begin increasing production. If so, suggest that if more than one-third of the unit's acreage is harvested prior to full maturity, then the production from those acres could be increased; if less than one-third was harvested early, no adjustment would be allowed.

Another commenter stated in regard to 13(f), going with a percentage of acreage before applying an early harvest adjustment might be a good idea in theory, but when a notice of claim is submitted in the middle or after harvest, there really is no way to determine the acres harvested early, other than taking the farmer's word for it. Early harvest tickets will reflect the tons per truckload and the date, but there is no way to ascertain early harvested acreage.

Another commenter stated that clarification is needed on how to track the early harvested acres. The current settlement and summary sheets available do not show the individual loads with the delivery dates. The actual

weight tickets would have to be requested. These receipts are prone to fading, are misplaced during harvest, and can be difficult to read. Additional time may be needed by the processors to allow them to include the additional information needed to the settlement and summary sheets.

Another commenter stated regarding the reference in (f) to “. . . exceeds the threshold specified in the actuarial documents . . .” and the language in (f)(1) & (3): What is the tentative/proposed threshold amount which is to be specified in the actuarial documents? Is it to be a percentage of the unit's total planted acreage, or a percentage of the unit's total insured acreage, *i.e.*, planted and prevented planted? And what will the percentage be: 5%, 10%, or something else?

Another commenter stated that in reference to section 13(f) that the commenter agrees with the changes allowed when harvesting prior to full maturity. However due to the workload involved (agents, insured's, AIP's) when dealing with small acreages or small fractions of a unit, the commenter would like to see the percentage of the unit entered in the Special Provisions to be more than 25% and maybe up to 50% of unit acreage before this increase factor would be implemented. Since most of the time the early harvested acreage is minimal with only end rows or point rows harvested early, the overall impact to the production to count is minimal in relation to the whole unit (and to the extra work involved to adjust each load by each date). However, when the acreage exceeds 25% of the unit, it starts to become relevant. As the acreage approaches 50% it can become very significant. Perhaps 33% (one third) of a unit's acreage would be a good place to begin increasing production. So, a suggestion the commenter has is, if more than one third of the unit acreage is harvested prior to full maturity, then production from those acres could be increased using the factor provided. If less than $\frac{1}{3}$ of a unit's acreage was harvested early, no adjustment would be allowed.

Response: FCIC thanks the commenters and appreciates their input. The threshold was initially set low (at 10 percent), as suggested by one of the commenters. FCIC will continually monitor this threshold and update as needed. Additionally, the amount of production harvested early will be determined from processor production records obtained by the insured. It is the insureds' responsibility to provide acceptable production records to the AIP.

Comment: The commenter stated in 13(f)(1): That the commenter predicated on what the commenter believes the calendar date for the end of insurance period will be based on prior years. The commenter does not believe that 45 days prior to the end of the insurance period for the date of full maturity is accurate for all areas where sugar beets are grown. The commenter suggests that 30 days prior to the end of the insurance period would be more appropriate in Colorado, Nebraska and Wyoming. Using 45 days in these states would result in a September 16 full maturity date. The beets will continue to mature past this date and sugar content increases dramatically after a hard freeze. The average frost date for western Nebraska is September 20 and probably a few days later in Colorado. Using 30 days prior to the end of the insurance period date would be October 1. Early harvest started on September 5 this year. An 11% production adjustment (1% per day from harvest beginning to September 16) would not make this production whole by the full maturity date. This could also be an issue for Idaho as the local sugar beet company in this region requires some growers to start digging early to help get the factories up and running, which usually begins after September 1. Most growers finish harvest by October 31st and there is a penalty by the local sugar beet company if they harvest beets after November 5th. The commenter would recommend that RMA further review the full maturity dates for each state and consider increasing the production by 2% per day (rather than 1% per day) if the producer digs early, which would be similar to the factor used in the potato policy.

Another commenter stated that regarding the interaction between section 9 calendar date of the end of insurance (EOI) and the early harvest dates derived according to 13(f)(1), please refer to the attached Excel file for detailed information. The 'NASS harvest dates' tab tallies the beginning, most active, and ending harvest dates for each state, and are representative of the 2009-time period. The '4 state progress' tab tallies the NASS weekly harvest progress reports from the four major sugar beet states, representing each state's average percent harvested during crop years 2012 through 2016; these dates and percentages corroborate the harvest dates for the 2009-time period remain applicable to current years' activities.

If the November 15 calendar EOI date is to remain unchanged (for 2019) then the 45-day default works quite well in capturing the 'early harvest' phase for

the states of Minnesota and North Dakota. However, for the other states (not withstanding California) the 45-day default significantly misses 'early harvest' activities in states like Idaho and Michigan. <<Refer to cells C72 to K73 within the 'NASS harvest dates' sheet >>

If the calendar EOI dates are re-established for 2019, and if October 31 is used for Minnesota and North Dakota, then a 35-day time window may be more appropriate for these two states. If a November 10 EOI were established for Idaho, Michigan and Colorado, then a 35-day window would seem to function reasonably as well.

Additional challenges are foreseen for the states of Oregon, Montana, Nebraska, and Wyoming. Their 'Beginning to Active Beginning' harvest phases are relatively short in duration and could represent minimal if any harvest before full maturity based on the county's location or district differences (*e.g.*, Wyoming's Big Horn Basin versus its Southeast region).

Without knowing what EOI dates are changing for 2019, and which counties will have variance to the 45-day default, it is essentially impossible to properly evaluate these interacting policy components.

Another commenter stated there also are concerns about how to determine the early dig factor. The policy changes do not address the definition or date for early harvest. The definition and date could be different based on location. This may have to be addressed in the county special provisions. Early harvest is mandatory per the processor contract and not voluntary. The insured can choose which acres to harvest during early dig.

Another commenter stated that depending on what the calendar date for the end of insurance period will be, commenter questions if 45 days prior to the end of the insurance period for the date of full maturity is accurate for all areas where sugar beets are grown. Commenter would recommend that RMA further review the full maturity dates for each state and consider increasing the production by 2% per day (rather than 1% per day) if the producer digs early, which would be similar to the factor used in the potato policy.

As an example, in Colorado, Nebraska, and Wyoming, with an EOI of 11/15, the language in section 13(f) might be ok. That is 1% per day starting with 10/1. That means a producer would get 25% for beets harvested on September 5, the beginning of early harvest. Also, subsection 13(f)(1) allows for a number of days prior to EOI other

than 45. It states “unless otherwise specified in the SP.”

Another commenter stated, as this whole subsection is new procedure for the crop, what are the proposed variances that will be noted in the Special Provisions? Which states and counties? Can the number of days be less than or greater than the default of 45 days?

Another commenter stated regarding the slated change to remove the calendar date for the EOI period from section 9 and display that information solely within the actuarial documents (AIB Date Table), this has significant impacts particularly with respect to the new element within section 13(f), *i.e.*, early harvest production adjustments. Are there to be revisions to the EOI date for select regions? Notwithstanding California’s Imperial County, essentially all remaining states or regions with active sugar beet processing facilities have a November 15th date as their EOI date. Comparing this November 15 date with the most current NASS ‘Usual Planting and Harvesting dates’ for sugar beets [October 2010] suggests significant adjustments are warranted for the calendar EOI dates. Example: Minnesota and North Dakota typically conclude harvest during the last week of October; this constitutes approximately three weeks of extended coverage after harvest is routinely complete.

The final rule notes the administrative advantages to establishing and displaying the calendar EOI date within the actuarial documents, but without being informed of what date changes are to be made for 2019 it is impossible for policyholders and insurance providers to evaluate the impact on potential early harvest adjustments.

Response: The Crop Provisions as written in section 13(f)(1) states that the Special Provisions can specify exceptions for the 45 days prior to the calendar date for the end of insurance provision. These requests have been forwarded to the regional offices for review and further consideration. Other local or county-based concerns can be addressed to the RMA regional office. Any interested person may find contact information for the applicable regional office on RMA’s website at <https://www.rma.usda.gov/RMALocal/Field-Offices/Regional-Offices>.

Additionally, FCIC set the increasing production rate to 1% per day by gathering data from multiples stakeholders and continues to collect more data from implementation of the Crop Provisions.

Comment: The commenter appreciates RMA’s intent that the early harvest adjustment not apply where a

grower experiences actual damage resulting in a claim from rain, flood, drought, freeze, or some other covered hazard. Hence, the provision specifies that “an adjustment will not be made if the sugar beets are damaged by an insurance cause of loss and leaving the crop in the field would reduce production.” The inclusion of that final clause—“leaving the crop in the field would reduce production”—raises a question, however, whether the factor might inadvertently limit or annul a producer’s legitimate insurance claim in some cases.

For instance, one serious problem faced by sugar beet producers is root rot, a condition caused by excess moisture. Root rot not only damages beets in the field, but also continues to damage surrounding beets after they are delivered to a processor. As a result, these beets cannot be effectively stored for extended periods, and processors often ask that they be delivered early to avoid later problems. Nevertheless, if left in the field, beets affected by root rot do not necessarily continue to deteriorate and may bounce back to some extent.

If a field is affected by root rot early in the growing season, reducing yields below the crop’s insurance guarantee, and the crop is subsequently delivered early because of a requirement of the processor, it appears the early harvest adjustment could reduce the size of a farmers claim, or potentially raise “production to count” above the deductible. Similarly, the existence of the factor could act as a disincentive for growers to deliver the affected beets early, creating damage during storage. Clarification of the provision is needed to avoid such unintended results.

Response: FCIC will not further specify the causes of loss in the crop provisions as specifying the causes of loss could have unintended consequences since impacts could differ by region and event. Loss adjusters will determine, on a case-by-case basis, the insurable cause of loss and if the early harvest adjustment is to be applied. FCIC is aware that there may be some disagreements between AIPs and the insured or inconsistencies between AIPs. Controversial claims procedure is already in place if an insured does not agree with the AIP’s final loss adjustment determination. This procedure allows the claim to be referred from the loss adjuster to the AIP in order to resolve the claim, when the insured disagrees with the loss adjuster. Additionally, the Common Crop Insurance Policy, Basic Provisions provides a process for insureds and AIPs to settle disputes, including

disputes with loss adjustment determinations, such as mediation and arbitration.

Additionally, depending on situations that develop around harvest time, bulletins may be issued to address specific situations that arise. FCIC will continue to monitor the performance of this provision and can address additional program changes that may be needed in future crop provision and procedural revisions.

Comment: Commenter stated in reference to 13(f)(3): Change the semicolon at the end to a period.

Response: FCIC changed the semicolon at the end of the section to a period.

Comment: Commenter stated about 13(e): Much more has changed in this section than just the correction to show raw sugar instead of standardized tons.

This paragraph is for production that did not meet the specifications in the contract and was damaged by an insured cause of loss. The production will be based on the tons delivered times the average sugar. Any damage should result in lower tons and/or sugar. Since the production did not meet the terms of the contract, presumably the processor will not accept it. Therefore, there should be a way to put a salvage value on it. (The LMP definition has been removed.)

If the production is damaged by an uninsured cause of loss, then it is presumed that an appraisal for uninsured causes would be done for unharvested production and a determination would be made for harvested production. See section 13(c)(1)(ii).

The instructions for appraising sugar beets for replant qualifications (Exhibit 7 in the LASH) appear to be adequate. Nothing should change here except APH will now be expressed in pounds of raw sugar instead of tons. The calculation was APH/Plant population (for 1/100 of an acre). The appraisal then multiplied this by the remaining population and compared it to 90% of the APH × coverage level. (One could actually take APH out of this equation and it would still be valid.)

Another commenter stated in regards to 13(e)(1): The way this currently reads, if due to an insurable cause of loss the beets will not meet the minimum acceptable standards in the processor contract, then the AIP would count ALL of the production (“by multiplying the tons of such damaged beets by 2000 and by the average percent of raw sugar . . .”). That does not seem to be fair to an insured. If the beets are damaged to the point that the processor will not accept them and the beets are destroyed,

then there should be no production to count. Additionally, the wording in the previous sugar beet policy contained what might be called a “salvage value” in that, if such damaged beets could not meet the terms of the processor contract, but did have some value, then that value should be used by converting it back to production to count.

Recommend retaining this “salvage value” language, although reworded slightly to accommodate the change from standardized tons to pounds of raw sugar. Also revise the language to reflect zero production to count in situations where it does not meet the standards and is destroyed.

Additionally, the 2018 Sugar Beet Loss Adjustment Standards Handbook has several examples of these types of situations and those examples should also be retained (with changes to pounds of raw sugar).

Another commenter believes the language needs to be adjusted to reflect zero production to count in situations where it does not meet the standards and is destroyed. Additionally, the 2018 Sugar Beet Loss Adjustment Standards Handbook has several examples of these types of situations and those examples should also be retained (with changes to pounds of raw sugar).

Another commenter stated that in regard to section 13(e): Much more has changed in this section than just the correction to show raw sugar instead of standardized tons, as summarized in the regulations. The way this currently reads, if due to an insurable cause of loss the beets will not meet the minimum acceptable standards in the processor contract then the insurance provider would still count ALL of them (by multiplying the tons of such damaged beets by 2000 and by the average percent of raw sugar). That does not seem to be fair to an insured. If the beets are damaged so that the processor will not accept and the beets are destroyed, then there should be no production to count.

Another commenter stated that the wording in the previous sugar beet policy contained what the commenter might call a salvage value in that, if such damaged beets could not meet the terms of the processor contract but did have some value—then that value should be used by converting it back to production to count. The commenter believes this salvage value language should remain although reworded slightly to accommodate the change from standardized tons to pounds of raw sugar.

Response: Section 13(e) is to address sugar beets that are damaged but are still accepted by the processor. FCIC agrees

that the salvage value language should be maintained in the crop provisions and is adding language back into the provisions as outlined in 13(g) to provide that if harvested production is damaged due to an insurable cause of loss and is rejected by the processor, but is sold to a salvage buyer at a reduced price: Compute the pounds of raw sugar of the sold production by dividing the gross dollar amount paid by the salvage buyer by the established price.

FCIC is also adding the following language in section 13(h) to address the zero production to count scenarios, providing that if production is damaged due to an insurable cause of loss to the extent that the processor will not accept the production, such as the production did not meet the standards contained in the production agreement; and there are no salvage markets for the production, then there would be no value for production and there would be no production to count provided the production is destroyed in a manner acceptable to us.

Additionally, salvage value and zero production to count language has been maintained in the Sugar Beet Loss Adjustment Standards Handbook to address both situations at <https://www.rma.usda.gov/-/media/RMAweb/Handbooks/Loss-Adjustment-Standards--25000/Sugar-Beet/2019-25450-1H-Sugar-Beet-Loss-Adjustment-Standards.ashx>.

Comment: The commenter supports the addition of a new “early harvest factor” adjustment to the Sugar Beet Crop Insurance Provisions. Sugar beets differ from other major crops in that they are grown almost exclusively under contract to regionally-based grower-owned processing companies. Producers deliver their harvested beets to the processor, which then refines them into pure sugar. The timing of each farmer’s delivery of their raw beets to the processing factory is critical to its efficient operation. As a result, producers are often required to harvest and deliver portions of a crop prior to its full maturity, before the crop’s tonnage and sugar content have reached normal peak levels. The result can be an unintended penalty, through no fault of the individual farmer, against the annual yield (called “production to count”) that the farmer can count toward his or her historical APH, the basis for determining future coverage.

The “early harvest factor” adjustment addresses this problem by allowing a producer, if required to harvest early, to adjust the “production to count” for that portion of the crop for purposes of calculating their future APH. The adjustment is equal to 1 percent per day

for each day prior to full maturity, and “full maturity” is defined as 45 days before the end of the insurance period. The size of the adjustment is based on an extensive set of data assembled by outside counsel for ASGA from each of the grower owned processing companies, showing the precise amount by which tonnage and sugar content vary during the early-harvest period.

The commenter believes this new process will benefit many sugar beet producers while protecting the underwriting soundness of the FCIC program. That said, the commenter wishes to comment on three operational points that could have a significant effect on its performance.

Response: FCIC thanks the commenter and appreciates their input.

Comment: The changes being implemented by the 2019 Sugar Beet Crop Provisions rewrite have several significant elements that are not fully disclosed in the final rule as many are now to be solely contained in the actuarial documents (of which no drafts are provided), e.g., calendar date for EOI, variances to the Early Harvest default date, updated percentages of raw sugar, etc. Without knowing what changes will be made it is impossible to adequately review and comment. For the reasons outlined above, it is recommended that this CFR rule change be delayed until the 2020 crop year and tentative actuarial document references are available for review.

Postponing the proposed changes until the 2020 crop year would allow time for:

- The Special Provisions, CIH, and LASH to be updated;
- The AIPs to receive the clarification needed to convert the APH from standardized tons to pounds of raw sugar; and
- The sugar beet processors to update the software to capture any additional information that may be needed for claims to be processed when the early dig factor needs to be applied.

Response: FCIC thanks the commenter and appreciates their input.

Comment: Commenter is frustrated that the commenter is unable to see any comments on this at all. If insurance regulators or sugar beet farmers are supposed to take an active role in the rule-making process, comments should be made public. This may be one of many rules being promulgated, but there is no reason to treat this any differently than another rule. You should re-open the notice and comment section again and allow comments to be made public.

Response: FCIC is summarizing public comments received and addressing those comments in this final

rule and is opening the rule for further public comment.

Effective Date and Notice and Comment

In general, the Administrative Procedure Act (APA, 5 U.S.C. 553) requires that a notice of proposed rulemaking be published in the **Federal Register** for interested persons to be given an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation and requires a 30-day delay in the effective date of rules, except when the rule involves a matter relating to public property, loans, grants, benefits, or contracts. This rule involves matters relating to contracts and therefore the requirements in section 553 do not apply. Although not required by APA, FCIC has chosen to request comments on this rule.

The Office of Management and Budget (OMB) designated this rule as not major under the Congressional Review Act, as defined by 5 U.S.C. 804(2). Therefore, FCIC is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review. Accordingly, this rule is effective November 30, 2019.

Executive Orders 12866, 13563, 13771 and 13777

Executive Order 12866, “Regulatory Planning and Review,” and Executive Order 13563, “Improving Regulation and Regulatory Review,” 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 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13777, “Enforcing the Regulatory Reform Agenda,” established a federal policy to alleviate unnecessary regulatory burdens on the American people.

The Office of Management and Budget (OMB) designated this rule as not significant under Executive Order 12866, “Regulatory Planning and Review,” and therefore, OMB has not reviewed this rule.

Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs,” requires that in order to manage the private costs required to comply with Federal regulations that for every new significant or economically significant regulation issued, the new

costs must be offset by the elimination of at least two prior regulations. As this rule is designated as not significant, it is not subject to Executive Order 13771.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by SBREFA, generally requires an agency to prepare a regulatory analysis of any rule whenever an agency is required by APA or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because as noted above, this rule is exempt from APA and no other law requires that a proposed rule be published for this rulemaking initiative.

Clarity of the Regulation

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this rule, we invite your comments on how to make the rule easier to understand. For example:

- Are the requirements in the rule clearly stated? Are the scope and intent of the rule clear?
- Does the rule contain technical language or jargon that is not clear?
- Is the material logically organized?
- Would changing the grouping or order of sections or adding headings make the rule easier to understand?
- Could we improve clarity by adding tables, lists, or diagrams?
- Would more, but shorter, sections be better? Are there specific sections that are too long or confusing?
- What else could we do to make the rule easier to understand?

Environmental Review

In general, the environmental impacts of rules are to be considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347) and the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508). FCIC conducts programs and activities that have been determined to have no individual or cumulative effect on the human environment. As specified in 7 CFR 1b.4, FCIC is categorically excluded from the preparation of an Environmental Analysis or Environmental Impact Statement unless the FCIC Manager (agency head) determines that an action may have a significant environmental effect. The FCIC Manager has

determined this rule will not have a significant environmental effect. Therefore, FCIC will not prepare an environmental assessment or environmental impact statement for this action and this rule serves as documentation of the programmatic environmental compliance decision.

Executive Order 12372

Executive Order 12372, “Intergovernmental Review of Federal Programs,” requires consultation with State and local officials that would be directly affected by proposed Federal financial assistance. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened Federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule related notice regarding 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities in this rule are excluded from the scope of Executive Order 12372.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, “Civil Justice Reform.” This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. Before any judicial actions may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR part 11 are to be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, “Federalism.” The policies contained in this rule do not have any substantial direct effect on 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, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of 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 or 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.

FCIC has assessed the impact of this rule on Indian Tribes and determined that this rule does not, to our knowledge, have Tribal implications that require Tribal consultation under E.O. 13175. The regulation changes do not have Tribal implications that preempt Tribal law and are not expected have a substantial direct effect on one or more Indian Tribes. If a Tribe requests consultation, FCIC will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified in this rule are not expressly mandated by Congress.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104-4) requires Federal agencies to assess the effects of their regulatory actions of State, local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including cost benefits analysis, for proposed and final rules with Federal mandates that may result in expenditures of \$100 million or more in any 1 year for State, local or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of 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 UMRA.

Federal Assistance Program

The title and number of the Federal Domestic Assistance Program listed in the Catalog of Federal Domestic Assistance to which this rule applies is No. 10.450—Crop Insurance.

Paperwork Reduction Act of 1995

In accordance with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, subchapter I), the rule does not change the information collection approved by OMB under control numbers 0563-0053.

E-Government Act Compliance

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

List of Subjects in 7 CFR Part 457

Acreage allotments, Crop insurance, Reporting and recordkeeping requirements.

Final Rule

For the reasons discussed above, FCIC amends 7 CFR part 457, effective for the 2020 and succeeding crop years in states with a November 30 contract change date and for the 2021 and succeeding crop years in all other states, as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l) and 1506(o).

- 2. Amend § 457.109 as follows:
 - a. In section 1:
 - i. Remove the definition of “Initially planted”;
 - ii. Add definitions for “Percentage of raw sugar” and “Pound” in alphabetical order;
 - iii. Revise definition of “Practical to replant”;
 - iv. Remove the definition of “Processor contract”; and
 - v. Add definitions for “Production agreement” and “Ton” in alphabetical order;
 - b. Revise sections 2 and 3;
 - c. Add section 6;
 - d. In section 7:
 - i. Revise paragraphs (a)(3) and (b)(2); and
 - ii. In paragraph (b)(4), add quotation marks around the term “processor”;
 - e. Revise section 12; and
 - f. In section 13:
 - i. Revise paragraphs (d) introductory text, (d)(1), (e) introductory text, and (e)(1);
 - ii. Revise paragraphs (f)(2) and (3); and
 - iii. Add paragraphs (f)(4) and (5), (g), and (h).

The revisions and additions read as follows:

§ 457.109 Sugar Beet Crop Insurance Provisions.

* * * * *

1. Definitions

* * * * *

Percentage of raw sugar. Quantity of sugar determined from analytical tests

of samples performed by the processor or other laboratories approved by us.

* * * * *

Pound. Sixteen (16) ounces avoirdupois.

Practical to replant. In addition to the definition in section 1 of the Basic Provisions, it will not be considered practical to replant if production from the replanted acreage cannot be delivered under the terms of the production agreement, or 30 days after the initial planting date for all counties where a late planting period is not applicable, unless replanting is generally occurring in the area.

* * * * *

Production agreement. A written contract between you and the processor, executed on or before the acreage reporting date, which is in effect for the crop year, containing at a minimum:

- (1) Your commitment to plant, grow, and deliver the sugar beet production to the processor; and
- (2) The processor’s commitment to purchase the production stated in the contract.

* * * * *

Ton. Two thousand (2,000) pounds avoirdupois.

2. Unit Division

In addition to the requirements of section 34 of the Basic Provisions, basic units may be divided into optional units only if you have a production agreement that requires the processor to accept all production from a number of acres specified in the production agreement. Acreage insured to fulfill a production agreement which provides that the processor will accept a designated amount of production or a combination of acreage and production will not be eligible for optional units.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities.

The production guarantee will be expressed in pounds of raw sugar.

* * * * *

6. Report of Acreage

In addition to the requirements of section 6 of the Basic Provisions, you must provide a copy of all production agreements to us on or before the acreage reporting date. Insured Crop

- (a) * * * * *
- (3) That are grown under a production agreement and are not excluded from the production agreement at any time during the crop year; and

* * * * *

(b) * * * * *

(2) The Board of Directors or officers of the processor must have adopted and

executed a corporate resolution that contains essentially the same terms as a production agreement. Such corporate resolution will be considered a production agreement under the terms of the sugar beet crop insurance policy;
* * * * *

12. Duties in the Event of Damage or Loss

In accordance with the requirements of section 14 of the Basic Provisions, representative samples of the unharvested crop must be at least 10 feet wide and extend the entire length of each field in the unit. The samples must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

13. Settlement of Claim

* * * * *

(d) Harvested production or unharvested production that is appraised after the earliest delivery date that the processor accepts harvested production and that meets the minimum acceptable standards contained in the production agreement or corporate resolution will be converted to pounds of raw sugar by multiplying the tons of such production by 2,000 and by the average percentage of raw sugar to determine the production to count. The average percentage of raw sugar will be determined from tests performed by the processor or other laboratories approved by us at the time of delivery or sample acquisition (appraisal).

(1) If individual tests of raw sugar content are not made at the time of delivery, the average percent of raw sugar may be based on the results of your previous tests performed by the processor or other laboratories approved by us during the crop year if it is determined that such results are representative of the total production.
* * * * *

(e) Harvested production or unharvested production that is appraised after the earliest delivery date that the processor accepts harvested production and that does not meet the minimum acceptable standards contained in the production agreement or corporate resolution due to an insured peril will be converted to pounds of raw sugar by multiplying the tons of such damaged production by 2,000 and by the average percent of raw sugar contained in such production. The average percentage of raw sugar will be determined from tests performed by the processor or other laboratories approved by us at the time of crop delivery or sample acquisition (appraisal).

(1) If individual tests of raw sugar content are not made at the time of delivery, the average percent of raw sugar may be based on the results of your previous tests performed by the processor or other laboratories approved by us during the crop year if it is determined that such results are representative of the total production.
* * * * *

(f) * * *

(2) The adjustment will not be made if the sugar beets are damaged by an insurable cause of loss and leaving the crop in the field would reduce production.

(3) The adjustment cannot result in a yield greater than the higher of your approved actual production history yield or the actual yield of the production harvested after full maturity from the unit.

(4) The adjustment will only be made if early harvest is required in the production agreement, or the processor requests early harvest prior to full maturity.

(5) If the production agreement does not require early harvest and the processor has not requested early harvest, and the processor:

(i) Accepts the early harvested production, the early harvested production will be counted but no early harvest adjustment will apply.

(ii) Does not accept the early harvested production, the production to count will be the production guarantee for the acreage harvested early.

(g) If harvested production is damaged due to an insurable cause of loss and is rejected by the processor but is sold to a salvage buyer at a reduced price: Compute the pounds of raw sugar of the sold production by dividing the gross dollar amount paid by the salvage buyer by the established price.

(h) If production is damaged due to an insurable cause of loss to the extent that the processor will not accept the production, such as the production did not meet the standards contained in the production agreement; and there are no salvage markets for the production, then there would be no value for production and there would be no production to count provided the production is destroyed in a manner acceptable to us.
* * * * *

Martin R. Barbre,
Manager, Federal Crop Insurance Corporation.

[FR Doc. 2019-25844 Filed 11-27-19; 8:45 am]

BILLING CODE 3410-08-P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 1, 2, 37, 40, 50, 51, 52, 55, 71, 72, 73, 74, 100, 140, and 150

[NRC-2019-0170]

RIN 3150-AK37

Organizational Changes and Conforming Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to reflect internal organizational changes and make conforming amendments. These changes include removing all references to the Office of New Reactors because that office has merged with the Office of Nuclear Reactor Regulation, changing the names of divisions that are affected by the reorganization of the Office of Nuclear Material Safety and Safeguards, and making conforming amendments throughout the regulations to reflect the office merger and the office reorganization. This document is necessary to inform the public of these non-substantive amendments to the NRC's regulations.

DATES: This final rule is effective on December 30, 2020.

ADDRESSES: Please refer to Docket ID NRC-2019-0170 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2019-0170. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: Carol.Gallagher@nrc.gov.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents Collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr.resource@nrc.gov.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Jill Shepherd, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1230; email: *Jill.Shepherd@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is amending its regulations in parts 1, 2, 37, 40, 50, 51, 52, 55, 71, 72, 73, 74, 100, 140, and 150 of title 10 of the *Code of Federal Regulations* (10 CFR) to reflect internal organizational changes and conforming amendments. These changes include removing all references to the Office of New Reactors because that office has merged with the Office of Nuclear Reactor Regulation, changing the names of divisions that are affected by the reorganization of the Office of Nuclear Material Safety and Safeguards, and making conforming amendments throughout the regulations to reflect the office merger and the office reorganization. This document is necessary to inform the public of these non-substantive amendments to the NRC's regulations.

II. Summary of Changes

10 CFR Part 1

Remove Section. Section 1.44 is removed in its entirety because the Office of New Reactors has merged with the Office of Nuclear Reactor Regulation.

10 CFR Parts 1, 2, 37, 50, 51, 52, 55, 73, 100, and 140

Remove Office Name. In §§ 1.32(b), 2.101, 2.102, 2.103, 2.105(e)(1), 2.106(a), 2.107(c), 2.108, 2.110, 2.318(b), 2.337(g), 2.340, 2.403, 2.603, 2.621, 2.629(a), 2.811(c), 37.7(a), 50.30(a), 50.55a(z), 50.61, 50.70(b), and 50.75(h), appendices G, H, and J to 10 CFR part 50, §§ 51.4, 51.40(c)(1), 51.58, 51.105(a)(5), 51.105a, 51.107(a)(5), 51.121(a), 52.15(a), 52.35, 52.75(a), 55.5, 73.4(a), 100.4, 140.5, and 140.6(a), this final rule removes all references to the Office of New Reactors and its director, because that office has merged with the Office of Nuclear Reactor Regulation.

10 CFR Part 2

Correct Title Name and Division. In § 2.4, this final rule updates the definition of “Commission adjudicatory employee” by replacing the title Associate General Counsel for Licensing and Regulation to read as the Deputy General Counsel for Rulemaking and Policy Support. This title and division were renamed to reflect the reorganization of the Office of Nuclear Material Safety and Safeguards and the

merger of the Office of New Reactors with the Office of Nuclear Reactor Regulation.

Remove Word and Phrases That Are No Longer Applicable. In §§ 2.101 and 2.340, this final rule removes the word “appropriate” and various iterations of the phrase “or as appropriate” when referring to the Director, because the reference is now to only one Director.

Correct Division Name. In § 2.802(b), this final rule corrects the title Division of Rulemaking to read as the Division of Rulemaking, Environmental, and Financial Support. The division was renamed during the reorganization of the Office of Nuclear Material Safety and Safeguards.

Correct Division Name. In § 2.811(e), this final rule corrects the title Division of New Reactor Licensing to read as the Division of New and Renewed Licenses. The division was renamed when the Office of New Reactors merged with the Office of Nuclear Reactor Regulation.

10 CFR Parts 2, 50, 51, and 52

Remove Office Name. In §§ 2.643(a), 50.10(e)(1), 51.107(d), 52.1(a), 52.91(a), and 52.155(a), this final rule removes all references to the Director of New Reactors (an erroneous version of the Director of the Office of New Reactors) because that office has now merged with the Office of Nuclear Reactor Regulation.

10 CFR Parts 2 and 51

Correct Branch, Division, and Office Names. In §§ 2.811(e) and 51.121(d), this final rule corrects the titles Rules, Announcements, and Directives Branch and Rules, Announcements, and Directives Branch, Office of Administration, to read as the Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards. The division was renamed during the reorganization of the Office of Nuclear Material Safety and Safeguards, the branch was relocated, and the branch name was not corrected following an earlier reorganization.

10 CFR Parts 40, 72, 73, 74, and 150

Correct Division Name. In §§ 40.64(a) and (b)(2), 72.76(a), 72.78(a), 73.46(i)(1), 74.13(a), 74.15(a), 150.16(a)(1), and 150.17(a), this final rule corrects the titles Division of Fuel Cycle Safety, Safeguards, and Environmental Review and Division of Fuel Cycle Safety Safeguards, and Environmental Review to read as the Division of Fuel Management. These two divisions were merged during the reorganization of the

Office of Nuclear Material Safety and Safeguards.

10 CFR Part 51

Correct Branch, Division, and Office Names. In § 51.40(c)(4), this final rule updates contact information and corrects the title Rules and Directives Branch, Office of Administration, to read as the Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards. The division was renamed during the reorganization of the Office of Nuclear Material Safety and Safeguards, the branch was relocated, and the branch name was not corrected following an earlier reorganization.

10 CFR Part 55

Correct Division Name. In § 55.5(b)(3), this final rule corrects the title Division of Policy and Rulemaking to read as the Division of Advanced Reactors and Non-Power Production and Utilization Facilities. The division was renamed when the Office of New Reactors merged with the Office of Nuclear Reactor Regulation.

10 CFR Part 71

Correct Division Name. In § 71.17(c)(3), this final rule corrects the title Division of Spent Fuel Storage and Transportation to read as the Division of Fuel Management. The division was renamed during the reorganization of the Office of Nuclear Material Safety and Safeguards.

10 CFR Parts 71 and 72

Correct Division Name. In §§ 71.1(a), 71.95(c), 71.101(c)(1), 72.4, 72.16(a), and 72.44(f), this final rule corrects the title Division of Spent Fuel Management to read as the Division of Fuel Management. The division was renamed during the reorganization of the Office of Nuclear Material Safety and Safeguards.

10 CFR Part 150

Correct Division Name. In §§ 150.16(a)(2) and 150.17(b)(2), this final rule corrects the title Division of Fuel Cycle Safety and Safeguards to read as the Division of Fuel Management. The division was renamed during the reorganization of the Office of Nuclear Material Safety and Safeguards.

III. Rulemaking Procedure

Under section 553(b) of the Administrative Procedure Act (5 U.S.C. 553(b)), an agency may waive the requirements for publication in the

Federal Register of a notice of proposed rulemaking and opportunity for comment if it finds, for good cause, that it is impracticable, unnecessary, or contrary to the public interest. As authorized by 5 U.S.C. 553(b)(3)(B), the NRC finds good cause to waive notice and opportunity for comment on these amendments because notice and opportunity for comment are unnecessary. The amendments will have no substantive impact and are of a minor and administrative nature dealing with corrections to certain CFR sections or are related only to management, organization, procedure, and practice. These changes include removing all references to the Office of New Reactors because that office has merged with the Office of Nuclear Reactor Regulation, changing the names of divisions that are affected by the reorganization of the Office of Nuclear Material Safety and Safeguards, and making conforming amendments throughout the regulations to reflect the office merger and the office reorganization. The NRC is exercising its authority under 5 U.S.C. 553(b) to publish these amendments as a final rule. The amendments are effective on December 30, 2019. These amendments do not require action by any person or entity regulated by the NRC and do not change the substantive responsibilities of any person or entity regulated by the NRC.

IV. Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in 10 CFR 51.22(c)(2), which categorically excludes from environmental review rules that are corrective or of a minor, nonpolicy nature and do not substantially modify existing regulations. Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

V. Paperwork Reduction Act

This final rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the

collection displays a currently valid Office of Management and Budget control number.

VI. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31883).

VII. Backfitting and Issue Finality

The NRC has determined that the organizational changes and conforming amendments in this final rule do not constitute backfitting and are not inconsistent with any of the issue finality provisions in 10 CFR part 52. The changes and amendments are non-substantive in nature, including removing all references to the Office of New Reactors because that office has merged with the Office of Nuclear Reactor Regulation, changing the names of divisions that are affected by the reorganization of the Office of Nuclear Material Safety and Safeguards, and making conforming amendments throughout the regulations to reflect the office merger and the office reorganization. The organizational changes and conforming amendments impose no new requirements and make no substantive changes to the regulations. The organizational changes and conforming amendments do not involve any provisions that would impose backfits, as defined in 10 CFR chapter I, or would be inconsistent with the issue finality provisions in 10 CFR part 52. For these reasons, the issuance of the rule in final form would not constitute backfitting or represent a violation of any of the issue finality provisions in 10 CFR part 52. Therefore, the NRC has not prepared any additional documentation for this rulemaking addressing backfitting or issue finality.

VIII. Congressional Review Act

This final rule is not a rule as defined in the Congressional Review Act (5 U.S.C. 801–808).

IX. Agreement State Compatibility

Under the “Agreement State Program Policy Statement” approved by the Commission on October 2, 2017, and published in the **Federal Register** on October 18, 2017 (82 FR 48535), NRC

program elements (including regulations) are placed into Compatibility Categories A, B, C, D, NRC, or Adequacy Category Health and Safety (H&S). Compatibility Category A program elements are those program elements that are basic radiation protection standards and scientific terms and definitions that are necessary to understand radiation protection concepts. An Agreement State should adopt Category A program elements in an essentially identical manner in order to provide uniformity in the regulation of agreement material on a nationwide basis. Compatibility Category B program elements are those program elements that apply to activities that have direct and significant effects in multiple jurisdictions. An Agreement State should adopt Category B program elements in an essentially identical manner. Compatibility Category C program elements are those program elements that do not meet the criteria of Category A or B but contain the essential objectives that an Agreement State should adopt to avoid conflict, duplication, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a national basis. An Agreement State should adopt the essential objectives of the Category C program elements. Compatibility Category D program elements are those program elements that do not meet any of the criteria of Category A, B, or C and, therefore, do not need to be adopted by Agreement States for purposes of compatibility. Compatibility Category NRC program elements are those program elements that address areas of regulation that cannot be relinquished to the Agreement States under the Atomic Energy Act of 1954, as amended, or provisions of title 10 of the *Code of Federal Regulations*. These program elements should not be adopted by the Agreement States. Adequacy Category H&S program elements are program elements that are required because of a particular health and safety role in the regulation of agreement material within the State and should be adopted in a manner that embodies the essential objectives of the NRC program.

The final rule is a matter of compatibility between the NRC and the Agreement States, thereby providing consistency among Agreement State and NRC requirements. The compatibility categories are designated in the following table.

COMPATIBILITY TABLE

Section	Change	Subject	Compatibility	
			Existing	New
Part 37				
§ 37.7(a)	Amend	Communications	D	D.
Part 40				
§ 40.64	Amend	Reports	NRC	NRC.
Part 71				
§ 71.1	Amend	Communications and records	D	D.
§ 71.17(c)(3)	Amend	General license: NRC-approved package	B	B.
§ 71.95	Amend	Reports	D	D.
§ 71.101(c)(1)	Amend	Quality assurance requirements	C	C.
Part 150				
§ 150.16(a)(2)	Amend	Submission to Commission of nuclear material transaction reports	NRC	NRC.
§ 150.17(b)(2)	Amend	Submission to Commission of nuclear material status reports	NRC	NRC.

List of Subjects

10 CFR Part 1

Flags, Organization and functions (Government Agencies), Seals and insignia.

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Confidential business information, Freedom of information, Environmental protection, Hazardous waste, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 37

Byproduct material, Criminal penalties, Exports, Hazardous materials transportation, Imports, Licensed material, Nuclear materials, Penalties, Radioactive materials, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 40

Criminal penalties, Exports, Government contracts, Hazardous materials transportation, Hazardous waste, Nuclear energy, Nuclear materials, Penalties, Reporting and recordkeeping requirements, Source material, Uranium, Whistleblowing.

10 CFR Part 50

Administrative practice and procedure, Antitrust, Backfitting, Classified information, Criminal penalties, Education, Emergency planning, Fire prevention, Fire

protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalties, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements, Whistleblowing.

10 CFR Part 51

Administrative practice and procedure, Environmental impact statements, Hazardous waste, Nuclear energy, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

10 CFR Part 52

Administrative practice and procedure, Antitrust, Combined license, Early site permit, Emergency planning, Fees, Incorporation by reference, Inspection, Issue finality, Limited work authorization, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Penalties, Reporting and recordkeeping requirements, Standard design, Standard design certification.

10 CFR Part 55

Criminal penalties, Manpower training programs, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements.

10 CFR Part 71

Criminal penalties, Hazardous materials transportation, Incorporation by reference, Intergovernmental relations, Nuclear materials, Packaging and containers, Penalties, Radioactive materials, Reporting and recordkeeping requirements.

10 CFR Part 72

Administrative practice and procedure, Hazardous waste, Indians, Intergovernmental relations, Nuclear energy, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

10 CFR Part 73

Criminal penalties, Exports, Hazardous materials transportation, Incorporation by reference, Imports, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 74

Accounting, Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear energy, Nuclear materials, Packaging and containers, Penalties, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Special nuclear material.

10 CFR Part 100

Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 140

Criminal penalties, Extraordinary nuclear occurrence, Insurance, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements.

10 CFR Part 150

Criminal penalties, Hazardous materials transportation, Intergovernmental relations, Nuclear energy, Nuclear materials, Penalties, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR chapter I:

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

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

Authority: Atomic Energy Act of 1954, secs. 23, 25, 29, 161, 191 (42 U.S.C. 2033, 2035, 2039, 2201, 2241); Energy Reorganization Act of 1974, secs. 201, 203, 204, 205, 209 (42 U.S.C. 5841, 5843, 5844, 5845, 5849); Administrative Procedure Act (5 U.S.C. 552, 553); Reorganization Plan No. 1 of 1980, 5 U.S.C. Appendix (Reorganization Plans).

§ 1.32 [Amended]

- 2. In § 1.32(b), remove “the Office of New Reactors,”.

§ 1.44 [Removed and Reserved]

- 3. Remove and reserve § 1.44.

PART 2—AGENCY RULES OF PRACTICE AND PROCEDURE

- 4. The authority citation for part 2 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 29, 53, 62, 63, 81, 102, 103, 104, 105, 161, 181, 182, 183, 184, 186, 189, 191, 234 (42 U.S.C. 2039, 2073, 2092, 2093, 2111, 2132, 2133, 2134, 2135, 2201, 2231, 2232, 2233, 2234, 2236, 2239, 2241, 2282); Energy Reorganization Act of 1974, secs. 201, 206 (42 U.S.C. 5841, 5846); Nuclear Waste Policy Act of 1982, secs. 114(f), 134, 135, 141 (42 U.S.C. 10134(f), 10154, 10155, 10161); Administrative Procedure Act (5 U.S.C. 552, 553, 554, 557, 558); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note.

Section 2.205(j) also issued under 28 U.S.C. 2461 note.

Section 2.205(j) also issued under Sec. 31001(s), Pub. L. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note).

§ 2.4 [Amended]

- 5. In § 2.4, in the definition for *Commission adjudicatory employee*, paragraph (6), remove “the Associate General Counsel for Licensing and Regulation” and add in its place “the

Deputy General Counsel for Rulemaking and Policy Support”.

§ 2.101 [Amended]

- 6. In § 2.101:

- a. In paragraph (a)(1), remove “the Director, Office of New Reactors,”;
- b. In paragraph (a)(3) introductory text, remove “Director, Office of New Reactors,”;
- c. In paragraph (a)(3)(i), remove “Director, Office of New Reactors,”;
- d. In paragraph (a)(3)(ii), remove “the Director, Office of New Reactors or Director, Office of Nuclear Reactor Regulation, as appropriate,” and add in its place the title “the Director, Office of Nuclear Reactor Regulation,”;
- e. In paragraph (a)(3)(iii), wherever it appears, remove “Director, Office of New Reactors,”;
- f. In paragraph (a)(3)(iii), remove the phrase “or, as appropriate,” and add in its place the phrase “as appropriate,”;
- g. In paragraphs (a)(4) and (5), wherever it appears, remove “Director, Office of New Reactors,”;
- h. In paragraph (b), remove “Director, Office of Nuclear Material Safety and Safeguards or as appropriate,” and add in its place “Director, Office of Nuclear Material Safety and Safeguards,”;
- i. In paragraph (d), remove “Director, Office of New Reactors,”; and
- j. In paragraphs (e)(3), (e)(6) through (8), and (f), wherever it appears, remove the phrase “as appropriate”.

§§ 2.102, 2.103, 2.105, 2.106, 2.107, 2.108, 2.318, and 2.337 [Amended]

- 6. In §§ 2.102, 2.103, 2.105, 2.106, 2.107, 2.108, 2.318, and 2.337, wherever it appears, remove “Director, Office of New Reactors,”.

§ 2.110 [Amended]

- 8. In § 2.110:
- a. In paragraph (b), remove “the Director, Office of New Reactors, or Director, Office of Nuclear Reactor Regulation, as appropriate” and add in its place “the Director, Office of Nuclear Reactor Regulation,” and
- b. In paragraph (c)(1), remove “the Director, Office of New Reactors or Director, Office of Nuclear Reactor Regulation, as appropriate” and add in its place the title “the Director, Office of Nuclear Reactor Regulation,”.

§ 2.340 [Amended]

- 9. In § 2.340:
- a. Wherever it appears, remove “the Commission, the Director, Office of Nuclear Reactor Regulation, or the Director, Office of New Reactors, as appropriate” and add in its place the titles “the Commission or the Director, Office of Nuclear Reactor Regulation, as appropriate”;

- b. In paragraph (e)(1), second sentence, remove “, or as appropriate”;
- c. In paragraph (e)(1), third sentence, remove “or as appropriate”;
- d. In paragraph (e)(2)(i), remove “the Commission or the Director, Office of Nuclear Material Safety and Safeguards, or as appropriate,” and add in its place “the Commission or the Director, Office of Nuclear Material Safety and Safeguards, as appropriate,”;
- e. In paragraph (e)(2)(ii), wherever it appears, remove “the Commission, the Director, Office of Nuclear Material Safety and Safeguards, or as appropriate,” and add in its place “the Commission or the Director, Office of Nuclear Material Safety and Safeguards, as appropriate,”;
- f. In the paragraph (i) introductory text, remove “The Commission, the Director, Office of New Reactors, or the Director, Office of Nuclear Reactor Regulation, as appropriate,” and add in its place “The Commission or the Director, Office of Nuclear Reactor Regulation, as appropriate,”;
- g. In paragraphs (i)(1) and (k)(1), remove “appropriate Director” and add in its place “Director”;
- h. In paragraph (j) introductory text, remove “The Commission, the Director of the Office of New Reactors, or the Director of the Office of Nuclear Reactor Regulation, as appropriate,” and add in its place “The Commission or the Director, Office of Nuclear Reactor Regulation, as appropriate,”;
- i. In paragraphs (j)(1) through (3), remove “appropriate director” and add in its place “Director”;
- j. In paragraph (k) introductory text, remove “The Commission or the Director, Office of Nuclear Material Safety and Safeguards, or as appropriate,” and add in its place “The Commission or the Director, Office of Nuclear Material Safety and Safeguards, as appropriate,”.

§ 2.403 [Amended]

- 10. In § 2.403, remove “the Commission, the Director, Office of New Reactors or Director, Office of Nuclear Reactor Regulation, as appropriate” and add in its place “the Commission or the Director, Office of Nuclear Reactor Regulation, as appropriate,”.

§§ 2.603 and 2.621 [Amended]

- 11. In §§ 2.603 and 2.621:
- a. Wherever it appears, remove “the Director of the Office of New Reactors or the Director of the Office of Nuclear Reactor Regulation, as appropriate,” and add in its place “the Director of the Office of Nuclear Reactor Regulation”;
- b. Wherever it appears, remove “The Director of the Office of New Reactors

or the Director of the Office of Nuclear Reactor Regulation, as appropriate,” and add in its place “The Director of the Office of Nuclear Reactor Regulation”.

§ 2.629 [Amended]

■ 12. In § 2.629(a), remove “the Director of the Office of New Reactors or the Director of the Office of Nuclear Reactor Regulation, as appropriate,” and add in its place “the Director of the Office of Nuclear Reactor Regulation”.

§ 2.643 [Amended]

■ 13. In § 2.643(a), remove “the Director of New Reactors or the Director of Nuclear Reactor Regulation” and add in its place “the Director of the Office of Nuclear Reactor Regulation”.

§ 2.802 [Amended]

■ 14. In § 2.802(b) introductory text, remove “Division of Rulemaking” and add in its place “Division of Rulemaking, Environmental, and Financial Support”.

■ 15. In § 2.811:

■ a. In paragraph (c), remove “the Director, Office of New Reactors,”;

■ b. In paragraph (e), first sentence, remove “Division of New Reactor Licensing” and add in its place “Division of New and Renewed Licenses”;

■ c. Revise the second sentence in paragraph (e).

The revision reads as follows:

§ 2.811 Filing of standard design certification application; required copies.

* * * * *

(e) * * * A prospective applicant also may telephone the Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards, toll free on 1–800–368–5642 on these subject matters. * * *

PART 37—PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2 QUANTITIES OF RADIOACTIVE MATERIAL

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

Authority: Atomic Energy Act of 1954, secs. 11, 53, 81, 103, 104, 147, 148, 149, 161, 182, 183, 223, 234, 274 (42 U.S.C. 2014, 2073, 2111, 2133, 2134, 2167, 2168, 2169, 2201, 2232, 2233, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); 44 U.S.C. 3504 note.

§ 37.7 [Amended]

■ 17. In § 37.7(a), remove “; Director, Office of New Reactors;”.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

■ 18. The authority citation for part 40 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 62, 63, 64, 65, 69, 81, 83, 84, 122, 161, 181, 182, 183, 184, 186, 187, 193, 223, 234, 274, 275 (42 U.S.C. 2092, 2093, 2094, 2095, 2099, 2111, 2113, 2114, 2152, 2201, 2231, 2232, 2233, 2234, 2236, 2237, 2243, 2273, 2282, 2021, 2022); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Uranium Mill Tailings Radiation Control Act of 1978, sec. 104 (42 U.S.C. 7914); 44 U.S.C. 3504 note.

§ 40.64 [Amended]

■ 19. In § 40.64(a) and (b)(2), remove “Division of Fuel Cycle Safety, Safeguards, and Environmental Review” and add in its place “Division of Fuel Management”.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

■ 20. The authority citation for part 50 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 101, 102, 103, 104, 105, 108, 122, 147, 149, 161, 181, 182, 183, 184, 185, 186, 187, 189, 223, 234 (42 U.S.C. 2014, 2131, 2132, 2133, 2134, 2135, 2138, 2152, 2167, 2169, 2201, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Nuclear Waste Policy Act of 1982, sec. 306 (42 U.S.C. 10226); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note; Sec. 109, Pub. L. 96–295, 94 Stat. 783.

§ 50.10 [Amended]

■ 21. In § 50.10(e)(1) introductory text, remove “Director of New Reactors or the Director of Nuclear Reactor Regulation” and add in its place “Director of the Office of Nuclear Reactor Regulation”.

§ 50.30 [Amended]

■ 22. In § 50.30:
 ■ a. In paragraph (a)(2), remove “Director, Office of New Reactors,”; and
 ■ b. In paragraph (a)(6), remove “the Director, Office of New Reactors, or”.

§ 50.55a [Amended]

23. In § 50.55a(z) introductory text, remove “, or Director, Office of New Reactors, as appropriate”.

§ 50.61 [Amended]

■ 24. In § 50.61, wherever it appears, remove “or Director, Office of New Reactors, as appropriate”.

§ 50.70 [Amended]

■ 25. In § 50.70:

■ a. In paragraph (b)(1), remove “or Director, Office of New Reactors, as appropriate”; and

■ b. In paragraph (b)(2), remove “the Director, Office of New Reactors, or”.

§ 50.75 [Amended]

■ 26. In § 50.75, wherever it appears, remove “Director, Office of New Reactors,”.

Appendices G, H, and J to Part 50 [Amended]

■ 27. In appendices G, H, and J to part 50:

■ a. Wherever it appears, remove “or the Director, Office of New Reactors, as appropriate”; and

■ b. Wherever it appears, remove “or Director, Office of New Reactors, as appropriate”.

PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

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

Authority: Atomic Energy Act of 1954, secs. 161, 193 (42 U.S.C. 2201, 2243); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); National Environmental Policy Act of 1969 (42 U.S.C. 4332, 4334, 4335); Nuclear Waste Policy Act of 1982, secs. 144(f), 121, 135, 141, 148 (42 U.S.C. 10134(f), 10141, 10155, 10161, 10168); 44 U.S.C. 3504 note.

Sections 51.20, 51.30, 51.60, 51.80, and 51.97 also issued under Nuclear Waste Policy Act secs. 135, 141, 148 (42 U.S.C. 10155, 10161, 10168).

Section 51.22 also issued under Atomic Energy Act sec. 274 (42 U.S.C. 2021) and under Nuclear Waste Policy Act sec. 121 (42 U.S.C. 10141).

Sections 51.43, 51.67, and 51.109 also issued under Nuclear Waste Policy Act sec. 114(f) (42 U.S.C. 10134(f)).

§ 51.4 [Amended]

■ 29. In § 51.4, in the definition for *NRC Staff Director*, remove “Director, Office of New Reactors;”.

■ 30. In § 51.40:

■ a. In paragraph (c)(1), remove “or Director, Office of New Reactors, as appropriate”; and

■ b. Revise paragraph (c)(4).

The revision reads as follows:

§ 51.40 Consultation with NRC staff.

* * * * *

(c) * * *

(4) *Rulemaking:* ATTN: Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission,

Washington, DC 20555-0001, telephone (800) 368-5642.

* * * * *

§ 51.58 [Amended]

■ 31. In § 51.58:

■ a. In paragraph (a), first sentence, remove “, the Director of the Office of New Reactors,” and add in its place the word “or”;

■ b. In paragraph (a), last sentence, remove “the Director of the Office of New Reactors, the Director of the Office of Nuclear Reactor Regulation,” and add in its place the title “the Director of the Office of Nuclear Reactor Regulation”; and

■ c. In paragraph (b), remove “the Director of the Office of New Reactors or”.

§§ 51.105 and 51.105a [Amended]

■ 32. In §§ 51.105 and 51.105a, wherever it appears, remove “Director, Office of New Reactors or Director, Office of Nuclear Reactor Regulation, as appropriate” and add in its place “Director, Office of Nuclear Reactor Regulation”.

§ 51.107 [Amended]

■ 33. In § 51.107:

■ a. Wherever it appears, remove “Director of New Reactors or the Director of Nuclear Reactor Regulation, as applicable” and add in its place the title “Director, Office of Nuclear Reactor Regulation”; and

b. In paragraph (a)(5), remove “Director, Office of New Reactors or Director, Office of Nuclear Reactor Regulation, as appropriate” and add in its place “Director, Office of Nuclear Reactor Regulation”.

■ 34. In § 51.121:

■ a. In paragraph (a), remove “Director, Office of Nuclear Reactor Regulation or Director, Office of New Reactors, as appropriate,” and add in its place “Director, Office of Nuclear Reactor Regulation,”; and

■ b. Revise paragraph (d).

The revision reads as follows:

§ 51.121 Status of NEPA actions.

* * * * *

(d) *Rulemaking*: ATTN: Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (800) 368-5642.

* * * * *

PART 52—LICENSES, CERTIFICATIONS, AND APPROVALS FOR NUCLEAR POWER PLANTS

■ 35. The authority citation for part 52 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 103, 104, 147, 149, 161, 181, 182, 183, 185, 186, 189, 223, 234 (42 U.S.C. 2133, 2134, 2167, 2169, 2201, 2231, 2232, 2233, 2235, 2236, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); 44 U.S.C. 3504 note.

§ 52.1 [Amended]

■ 36. In § 52.1(a), in the definition for *Limited work authorization*, remove “Director of New Reactors or the”.

§ 52.15 [Amended]

■ 37. In § 52.15(a), remove “the Director, Office of New Reactors, or the Director, Office of Nuclear Reactor Regulation, as appropriate” and add in its place “the Director, Office of Nuclear Reactor Regulation”.

§ 52.35 [Amended]

■ 38. In § 52.35, remove “Director, Office of New Reactors or Director, Office of Nuclear Reactor Regulation, as appropriate,” and add in its place “Director, Office of Nuclear Reactor Regulation,”.

§ 52.75 [Amended]

■ 39. In § 52.75(a), remove “Director, Office of New Reactors or Director, Office of Nuclear Reactor Regulation, as appropriate” and add in its place “Director, Office of Nuclear Reactor Regulation”.

§ 52.91 [Amended]

■ 40. In § 52.91(a), remove “the Director of New Reactors or the Director of Nuclear Reactor Regulation” and add in its place “the Director of the Office of Nuclear Reactor Regulation”.

§ 52.155 [Amended]

■ 41. In § 52.155(a), remove “Director of New Reactors or the Director of Nuclear Reactor Regulation, as appropriate” and add in its place the title “Director, Office of Nuclear Reactor Regulation”.

PART 55—OPERATORS’ LICENSES

■ 42. The authority citation for part 55 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 107, 161, 181, 182, 183, 186, 187, 223, 234 (42 U.S.C. 2137, 2201, 2231, 2232, 2233, 2236, 2237, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); Nuclear Waste Policy Act of 1982, sec. 306 (42 U.S.C. 10226); 44 U.S.C. 3504 note.

Section 55.61 also issued under Atomic Energy Act secs. 186, 187 (42 U.S.C. 2236, 2237).

§ 55.5 [Amended]

■ 43. In § 55.5:

■ a. In paragraphs (a)(1) and (b)(1), remove “or Director, Office of New Reactors, as appropriate”;

■ b. In paragraph (b)(2), remove “Director, Office of New Reactors or Director, Office of Nuclear Reactor Regulation, as appropriate,” and add in its place “Director, Office of Nuclear Reactor Regulation,”; and

■ c. In paragraph (b)(3), remove “Division of Policy and Rulemaking” and add in its place “Division of Advanced Reactors and Non-Power Production and Utilization Facilities”.

PART 71—PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

■ 44. The authority citation for part 71 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 53, 57, 62, 63, 81, 161, 182, 183, 223, 234, 1701 (42 U.S.C. 2073, 2077, 2092, 2093, 2111, 2201, 2232, 2233, 2273, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Nuclear Waste Policy Act of 1982, sec. 180 (42 U.S.C. 10175); 44 U.S.C. 3504 note.

Section 71.97 also issued under Sec. 301, Pub. L. 96-295, 94 Stat. 789 (42 U.S.C. 5841 note).

§§ 71.1, 71.95, and 71.101 [Amended]

■ 45. In §§ 71.1, 71.95, and 71.101, wherever it appears, remove “Division of Spent Fuel Management” and add in its place “Division of Fuel Management”.

§ 71.17 [Amended]

■ 46. In § 71.17(c)(3), remove “Division of Spent Fuel Storage and Transportation” and add in its place “Division of Fuel Management”.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 47. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act

of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

§§ 72.4, 72.16, and 72.44 [Amended]

■ 48. In §§ 72.4, 72.16, and 72.44, wherever it appears, remove “Division of Spent Fuel Management” and add in its place “Division of Fuel Management”.

§ 72.76 [Amended]

■ 49. In § 72.76(a), remove “Division of Fuel Cycle Safety Safeguards, and Environmental Review” and add in its place “Division of Fuel Management”.

§ 72.78 [Amended]

■ 50. In § 72.78(a), remove “Division of Fuel Cycle Safety, Safeguards, and Environmental Review” and add in its place “Division of Fuel Management”.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

■ 51. The authority citation for part 73 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 53, 147, 149, 161, 170D, 170E, 170H, 170I, 223, 229, 234, 1701 (42 U.S.C. 2073, 2167, 2169, 2201, 2210d, 2210e, 2210h, 2210i, 2273, 2278a, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note.

Section 73.1 also issued under Nuclear Waste Policy Act secs. 135, 141 (42 U.S.C. 10155, 10161).

Section 73.37(b)(2) also issued under Sec. 301, Public Law 96–295, 94 Stat. 789 (42 U.S.C. 5841 note).

Section 73.37(f) also issued under Sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note).

§ 73.4 [Amended]

■ 52. In § 73.4(a), remove “Director, Office of New Reactors,”.

§ 73.46 [Amended]

■ 53. In § 73.46(i)(1), remove “Division of Fuel Cycle Safety, Safeguards, and Environmental Review” and add in its place “Division of Fuel Management”.

PART 74—MATERIAL CONTROL AND ACCOUNTING OF SPECIAL NUCLEAR MATERIAL

■ 54. The authority citation for part 74 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 53, 57, 161, 182, 223, 234, 1701 (42 U.S.C. 2073, 2077, 2201, 2232, 2273, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); 44 U.S.C. 3504 note.

§§ 74.13 and 74.15 [Amended]

■ 55. In §§ 74.13 and 74.15, wherever it appears, remove “Division of Fuel Cycle Safety, Safeguards, and Environmental Review” and add in its place “Division of Fuel Management”.

PART 100—REACTOR SITE CRITERIA

■ 56. The authority citation for part 100 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 103, 104, 161, 182 (42 U.S.C. 2133, 2134, 2201, 2232); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); 44 U.S.C. 3504 note.

§ 100.4 [Amended]

■ 57. In § 100.4, remove “or Director, Office of New Reactors, as appropriate”.

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

■ 58. The authority citation for part 140 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 161, 170, 223, 234 (42 U.S.C. 2201, 2210, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); 44 U.S.C. 3504 note.

§ 140.5 [Amended]

■ 59. In § 140.5, remove “Director, Office of New Reactors,”.

§ 140.6 [Amended]

■ 60. In § 140.6(a), remove “Director, Office of New Reactors,”.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

■ 61. The authority citation for part 150 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 53, 81, 83, 84, 122, 161, 181, 223, 234, 274 (42 U.S.C. 2014, 2201, 2231, 2273, 2282, 2021); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note.

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under Atomic Energy Act secs. 11e(2), 81, 83, 84 (42 U.S.C. 2014e(2), 2111, 2113, 2114).

Section 150.14 also issued under Atomic Energy Act sec. 53 (42 U.S.C. 2073).

Section 150.15 also issued under Nuclear Waste Policy Act sec. 135 (42 U.S.C. 10155, 10161).

Section 150.17a also issued under Atomic Energy Act sec. 122 (42 U.S.C. 2152).

Section 150.30 also issued under Atomic Energy Act sec. 234 (42 U.S.C. 2282).

§§ 150.16 and 150.17 [Amended]

■ 62. In §§ 150.16 and 150.17:
■ a. Wherever it appears, remove “Division of Fuel Cycle Safety,

Safeguards, and Environmental Review” and add in its place “Division of Fuel Management”;

■ b. Wherever it appears, remove “Division of Fuel Cycle Safety and Safeguards” and add in its place “Division of Fuel Management”.

Dated at Rockville, Maryland, this 22nd day of November, 2019.

For the Nuclear Regulatory Commission.

Helen Chang,

Acting Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2019–25847 Filed 11–27–19; 8:45 am]

BILLING CODE 7590–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

Truth in Lending (Regulation Z) Annual Threshold Adjustments (Credit Cards, HOEPA, and Qualified Mortgages)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule; correction.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) published a final rule in the *Federal Register* on August 1, 2019 amending the regulation text and official interpretations for Regulation Z, which implements the Truth in Lending Act (TILA), to include annual calculations for dollar amounts for several provisions in Regulation Z. This document corrects an error in one of the amendments to the official interpretation for Regulation Z.

DATES: Effective January 1, 2020.

FOR FURTHER INFORMATION CONTACT: Kristen Phinnessee, Senior Counsel, Office of Regulations, at (202) 435–7700. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Bureau is issuing this document to correct an error in one of the amendments to the official interpretation for Regulation Z. The Bureau finds that there is good cause to publish this correction without seeking public comment.¹ Public comment is unnecessary because the Bureau is correcting an inadvertent, technical error about which there is minimal, if any, basis for substantive disagreement. Because no notice of proposed

¹ See 5 U.S.C. 553(b)(B).

rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.² The Bureau has determined that these corrections do not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring OMB approval under the Paperwork Reduction Act.³

II. Correction

In FR Doc. 2019–16300 appearing on page 37565 in the **Federal Register** of Thursday, August 1, 2019, the following correction is made:

Supplement I to Part 1026—Official Interpretations [Corrected]

■ 1. On page 37567, in the third column, in Supplement I to part 1026, Section 1026.32—Requirements for High-Cost Mortgages, paragraph 32(a)(1)(ii), part 1.vi., “For 2020, \$21,980, reflecting a 2 percent increase in the CPI–U from June 2018 to June 2019, rounded to the nearest whole dollar” is corrected to read “For 2020, \$1,099, reflecting a 2 percent increase in the CPI–U from June 2018 to June 2019, rounded to the nearest whole dollar.”

Dated: November 21, 2019.

Thomas Pahl,

Policy Associate Director, Bureau of Consumer Financial Protection.

[FR Doc. 2019–25812 Filed 11–27–19; 8:45 am]

BILLING CODE 4810–AM–P

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 121, 124, 125, 126, 127, 129, and 134

RIN 3245–AG86

National Defense Authorization Acts of 2016 and 2017, Recovery Improvements for Small Entities After Disaster Act of 2015, and Other Small Business Government Contracting

AGENCY: U.S. Small Business Administration.

ACTION: Final rule.

SUMMARY: The U.S. Small Business Administration (SBA or Agency) is amending its regulations to implement several provisions of the National Defense Authorization Acts (NDAA) of 2016 and 2017 and the Recovery Improvements for Small Entities After Disaster Act of 2015 (RISE Act), as well

as to clarify existing regulations. This rule clarifies that contracting officers have the authority to request information in connection with a contractor’s compliance with applicable limitations on subcontracting clauses; provides exclusions for purposes of compliance with the limitations on subcontracting for certain contracts performed outside of the United States, for environmental remediation contracts, and for information technology service acquisitions that require substantial cloud computing; requires a prime contractor with a commercial subcontracting plan to include indirect costs in its subcontracting goals; establishes that failure to provide timely subcontracting reports may constitute a material breach of the contract; clarifies the requirements for size and status recertification; and limits the scope of Procurement Center Representative (PCR) reviews of Department of Defense acquisitions performed outside of the United States and its territories. This rule also authorizes agencies to receive double credit for small business goaling achievements as announced in SBA’s scorecard for local area small business set-asides in connection with a disaster. Finally, SBA is removing the kit assembler exception to the non-manufacturer rule.

DATES: This rule is effective on December 30, 2019.

FOR FURTHER INFORMATION CONTACT:

Brenda Fernandez, Office of Policy, Planning and Liaison, 409 Third Street SW, Washington, DC 20416; (202) 205–7337; brenda.fernandez@sba.gov.

SUPPLEMENTARY INFORMATION:

Introduction

SBA published a proposed rule regarding these changes in the **Federal Register** on December 4, 2018 (83 FR 62516), inviting the public to submit comments on or before February 4, 2019. SBA received extensive responses on the proposed rule from 38 entities, which comprised almost 250 specific comments. One commenter requested additional time to submit comments. SBA declined to provide an extension of the comment period on grounds of administrative efficiency, since this rule implements statutory requirements and makes other changes of critical importance to small businesses. SBA’s discussion below summarizes the proposed rule, the comments related to each section of the proposed rule, and SBA’s responses.

Summary of Proposed Rule, Comments, and SBA’s Responses

I. National Defense Authorization Act for Fiscal Year 2016, Public Law 114–92, 129 Stat. 726, November 25, 2015 (NDAA of 2016)

Posting Notice of Substantial Bundling

Section 863 of the NDAA of 2016 amended section 15(e)(3) of the Small Business Act (15 U.S.C. 644(e)(3)) to provide that if the head of a contracting agency determines that an acquisition plan involves a substantial bundling of contract requirements, the head of the contracting agency shall publish a notice of such determination on a public website within 7 days of making such determination. Section 863 also amended section 44(c)(2) of the Small Business Act (15 U.S.C. 657q(c)(2)) to provide that upon determining that a consolidation of contract requirements is necessary and justified, the Senior Procurement Executive (SPE) or Chief Acquisition Officer (CAO) shall publish a notice on a public website that such determination has been made. An agency may not issue the solicitation any earlier than 7 days after publication of the notice. The SPE or CAO must also publish the justification along with the solicitation. The requirement may be delegated. SBA proposed to amend § 125.2(d) by adding new paragraphs (d)(1)(v) and (d)(7) to implement these changes. Specifically, SBA proposed that the notice be published on the contracting agency’s website. SBA received three comments on these proposed new paragraphs and all three supported the proposal to require public notification of a consolidation determination. Based on agency comments, SBA is adopting a final rule that requires publication of the notice on the Government Point of Entry website because this will be a more efficient and effective mechanism to notify the public. Notice provided through one Government website, which already serves as the means for most procurement-related notices, will likely be viewed by a larger portion of the public than through an individual agency website.

II. National Defense Authorization Act for Fiscal Year 2017, Public Law 114–328, 130 Stat. 2000, December 23, 2016 (NDAA of 2017)

Procurement Center Representative Reviews

Section 1811 of the NDAA of 2017 amended section 15(l) of the Small Business Act (15 U.S.C. 644(l)) to provide that PCRs may review any acquisition, even those where the

² 5 U.S.C. 603(a) and 604(a).

³ 44 U.S.C. 3501, *et seq.*

acquisition is set aside, partially set aside, or reserved for small business. SBA's current rules provide that PCRs will review all acquisitions that are not set aside or reserved for small business. These rules were intended to focus limited resources on acquisitions that were not already going to small business, but were not intended to prohibit a PCR from reviewing any acquisition as part of the PCR's role as an advocate for small business. SBA proposed to amend § 125.2(b)(1)(i) to provide that PCRs may review any acquisition regardless of whether it is set aside, partially set aside, or reserved for small business or other socioeconomic categories. SBA believes that this change will enable PCRs to advocate for total set-asides or partial set-asides when appropriate and necessary. This provision merely gives to the SBA PCR the authority to review set-aside actions where he or she deems it appropriate. It is not the intent that this will be done in every case. In fact, SBA believes that such a review will not generally be done. Where a PCR seeks to review a set-aside action, the PCR will notify the contracting officer. SBA expects its review to generally be limited to the issue presented, and SBA does not believe this will adversely affect the acquisition timeline. SBA received two comments on this proposed change. One supported the change and one opposed it. The commenter who opposed the proposed rule based his opposition on the perception that PCRs favor 8(a) firms over other small businesses. SBA deduced from this comment that the commenter was concerned that a PCR looking at all acquisitions will not assess whether a particular acquisition is appropriate for all of SBA's government contracting programs, but will instead default to assuming it should be awarded to an 8(a) firm. SBA disagrees that PCRs favor one small business program over another. PCRs seek to ensure that contracting officers consider all of SBA's small business programs, and that the market research performed supports the contracting officer's decision to use a particular program. This final rule adopts the proposed change, as it clarifies SBA's current position that PCRs may review any acquisition, which promotes more awards to small businesses.

Section 1811 of the NDAA of 2017 also amended section 15(l) of the Small Business Act to limit the scope of PCR review of solicitations for contracts or orders by or for the Department of Defense if the acquisition is conducted pursuant to the Arms Control Export

Act (22 U.S.C. 2762), is a humanitarian operation as defined in 10 U.S.C. 401(e), is for a contingency operation as defined in 10 U.S.C. 101(a)(13), is to be awarded pursuant to an agreement with the government of a foreign country in which Armed Forces of the United States are deployed, or where both the place of award and place of performance are outside of the United States and its territories. SBA proposed to amend § 125.2(b)(1)(i) to implement these amendments. Under the proposed rule, PCRs would still be able to review acquisitions awarded in the United States and its territories but performed outside of the United States and its territories, or awarded outside of the United States and its territories for performance in the United States or its territories, if the acquisition is not a foreign military sales, or in connection with a contingency operation, humanitarian and civic assistance provided in conjunction with military operations, or status of forces agreement. The proposed rule clarified that SBA considers performance to be outside of the United States and its territories if the acquisition is awarded and performed or delivered outside of the United States and its territories. If the acquisition is awarded in the United States and its territories or some performance or delivery occurs in the United States and its territories, SBA considers that to be performed in the United States and its territories. SBA received one comment in support of the proposed change. SBA continues to believe that the proposed language properly captures the intent of the statutory provision. As such, SBA adopts the proposed change in this final rule.

Material Breach of Subcontracting Plan

Section 1821 of the NDAA of 2017 amended section 8(d)(9) of the Small Business Act (15 U.S.C. 637(d)(9)) to provide that it shall be a material breach of a contract or subcontract when the contractor or subcontractor with a subcontracting plan fails to comply in good faith with the requirement to provide assurances that the offeror shall submit such periodic reports or cooperate in any studies or surveys as may be required by the Federal agency or the Administration in order to determine the extent of compliance by the offeror with the subcontracting plan. Such a breach may be considered in any past performance evaluation of the contractor. SBA proposed to revise § 125.3(d) to implement this provision.

SBA also proposed revising § 125.3(d) to reflect Section 1821's requirement that SBA must provide examples of

activities that would be considered a failure to make a good faith effort to comply with a small business subcontracting plan. Good faith effort considers a totality of the contractor's actions to provide the maximum practicable opportunity to small businesses to participate as subcontractors (including those in the socio-economic small business areas), consistent with the information and assurances provided in the subcontracting plan. A failure to exert good faith effort is predicated upon evidence that an other than small Federal prime contractor, required to have a subcontracting plan with negotiated small business concern goals approved by a Federal contracting officer, has failed to attain these goals as outlined in the plan, and that this failure may be attributable to a lack of good faith effort by the other than small prime contractor. The term SBC for purposes of this rule includes all categories of small business, including small disadvantaged businesses, veteran-owned small businesses, service-disabled veteran-owned small businesses, women-owned small businesses, small businesses in historically underutilized business zones, Historically Black Colleges and Universities (HBCU/Minority Institutions (MI)) (NASA only) and any successor small business designations. A failure to exert good faith efforts must take into account all actions, or lack thereof, the contractor took to promote subcontracting opportunities to small businesses to the extent agreed upon in the approved subcontracting plan. SBA also proposed to reorganize this section to reflect these new examples in § 125.3(d)(3)(ii).

SBA received eight comments regarding the proposed changes to clarify what good faith means. Six comments supported the proposed change and two comments opposed it. The six comments in support expressed appreciation for SBA's attempt to implement the statutory requirement as clearly and thoroughly as possible. Additionally, commenters noted that the proposed changes will provide greater protection to small businesses by outlining explicitly what they can expect from a large business that is making a good faith effort to comply with a small business subcontracting plan. Commenters also noted that the proposed changes will help agencies hold large business prime contractors accountable if they breach their small business subcontracting plans.

The two commenters opposing the proposed change expressed wariness about holding contractors to a precise

definition of good faith because other factors, besides those outlined in the proposed language, may affect a contractor's ability to meet its goals. While SBA understands these concerns, Congress's clear intent was that SBA implement a more robust and detailed definition of compliance. SBA does not intend, nor believe, that the expanded definition of good faith will be overly burdensome for contractors. In addition, the examples set forth in the rule are not intended to be inclusive. Factors beyond those identified in the rule may be considered in determining whether good faith efforts were made. One commenter specifically expressed concern that the examples would allow contractors to be found to have acted in bad faith without due process. SBA does not believe the proposed changes put contractors at risk of specious or capricious findings of bad faith. Contractors have the opportunity to correct substantiated findings of subcontracting compliance reviews, per the new § 125.3(d)(3)(ii)(F). Further, contractors retain their right to rebut and appeal determinations of non-compliance that would result in liquidated damages, a breach of contract finding, or an adverse past performance assessment. Both commenters in opposition suggested that SBA use the FAR language on good faith rather than drafting their own regulations. SBA's proposed changes mirror the FAR's language but primarily seek to implement Congress's intent.

SBA is making one change to the proposed rule in response to a comment noting that § 125.3(d)(3)(ii)(H) incorrectly states that a failure of good faith may be found if a contractor does not get a contracting officer's approval prior to changing small business subcontractors. Prime contractors must provide contracting officers with a written explanation of why they are changing a small business subcontractor, but the regulations do not require a contracting officer's prior approval. SBA has revised the regulation to reflect this correction.

The rule renumbers current § 125.3(d)(3)(i-iii) as § 125.3(d)(3)(i)(A-C) to better organize this section for clarity and ease of understanding. The final rule includes examples of good faith in the revised § 125.3(d)(3)(i), while examples of activities that would be considered a failure to make a good faith effort are included in the revised § 125.3(d)(3)(ii).

III. Recovery Improvements for Small Entities After Disaster Act of 2015, Public Law 114–88, 129 Stat. 686, November 25, 2015 (RISE Act)

Section 2108 of the RISE Act authorizes SBA to establish contracting preferences for small business concerns located in disaster areas and provide agencies with double credit for awards to small business concerns located in disaster areas. To implement the changes made by section 2108 of the RISE Act, SBA proposed to add a new part 129 to title 13 of the Code of Federal Regulations. SBA will implement section 2105, "Use of Federal surplus property in disaster areas," in a separate rulemaking.

Section 2108 of the RISE Act amends section 15 of the Small Business Act (15 U.S.C. 644) by adding a subsection (f), which authorizes procuring agencies to provide contracting preferences for small business concerns located in areas for which the President has declared a major disaster, during the period of the declaration. Section 2108 provides that this contracting preference shall be available for small business concerns located in disaster areas if the small business will perform the work required under the contract in the disaster area. Under § 6.208 of Federal Acquisition Regulation (FAR), contracting officers may set aside solicitations to allow only offerors residing or doing business in the area affected by a major disaster. Under existing FAR 26.202–1, such local area set-asides may be further set aside for small business concerns. SBA proposed to use the existing FAR definitions to provide that an agency will receive credit for an "emergency response contract" awarded to a "local firm" that qualifies as a small business concern under the applicable size standard for a "Major disaster or emergency area." FAR 26.201.

Section 2108 also provides that if an agency awards a contract to a small business located in a disaster area through a contracting preference, the value of the contract shall be doubled for purposes of determining compliance with the small business contracting goals described in section 15(g)(1)(A) of the Small Business Act. Proposed § 129.300 provided that agencies would receive double credit for awarding a contract through the use of a local small business or socioeconomic set-aside authorized by § 129.200 (*i.e.*, a set-aside restricted to SBCs, 8(a) Business Development (BD) Program Participants, Women-Owned Small Business (WOSB), Service-Disabled Veteran-Owned (SDVO) or HUBZone SBCs located in a disaster area). SBA believes

that agencies will enter accurate data into the Federal Procurement Data System (FPDS). SBA will provide the extra credit through the agency scorecard process. Local area set-aside and small business contract designations already exist in FPDS, and implementation has already occurred in FY 2017.

SBA received nine comments regarding the proposed addition of part 129. Eight of the comments support the proposed amendments. They supported Congress's intent to encourage small business contracting in areas adversely affected by disasters and believed that SBA's proposed part 129 accomplished Congress's intent. One commenter stated that it would be confusing to discern which type of procurement goal credit is subject to double credit, especially if the information provided in the SBA Procurement Scorecard differs from that in the Federal Procurement Database System (FPDS) or from the information on <https://www.usaspending.gov>, which tracks Federal procurement spending. While the amount of procurement goal credit for such awards will differ in the SBA Procurement Scorecard as compared to FPDS, the same contract identification information will be present. FPDS will identify those awards that are subject to double credit because they were awarded to firms in a disaster area. Although SBA understands the commenter's concern that implementing this double credit may be confusing, SBA believes that it is constrained by the statute which requires this double credit. As such, the final rule adopts part 129 as proposed.

IV. Other Small Business Government Contracting Amendments

Clarification That the Non-Manufacturer 500 Employee Size Standard Does Not Apply to Information Technology Value Added Resellers

On September 10, 2014, SBA proposed to eliminate the information technology value added reseller (ITVAR) exception to NAICS 541519, which had a size standard of 150 employees. 79 FR 53646. In the proposed rule, SBA specifically noted that elimination of the exception would result in these acquisitions, which are primarily for supplies, being subject to the non-manufacturer rule (NMR), which has a size standard of 500 employees. As a result of public comment, SBA altered the language in the ITVAR exception (13 CFR 121.201, footnote 18) to make it clear that the manufacturing performance or

limitations on subcontracting requirements and the NMR apply to acquisitions under the ITVAR exception, but retained the 150 employee size standard. 81 FR 4436 (January 26, 2016). By definition, contractors under the ITVAR exception are non-manufacturers, and it would make no sense for SBA to retain a 150-employee size standard if concerns could also qualify under the NMR 500 employee size standard. In a size appeal before the SBA Office of Hearings and Appeals, a firm tried to argue that the size standard under the ITVAR exception was the 500 employee non-manufacturer size standard. *Size Appeal of York Telecom Corporation*, SBA No. SIZ-5742 (May 18, 2016). The appeal was denied. *Id.* In response, SBA proposed to amend § 121.406(b)(1)(i) to clarify that the NMR size standard of 500 employees does not apply to acquisitions that have been assigned the ITVAR NAICS code 541519 exception, footnote 18. The size standard for any acquisition under 541519, footnote 18, is 150 employees for all offerors. SBA received six comments related to this proposed amendment: Five supported the clarification and one opposed it. The commenter opposed to the change suggested that SBA should increase the size standard for NAICS code 541519 from 150 to 500 employees because an increased number of ITVARs would lead to cost savings and a reduction of the Federal deficit. SBA does not agree with this analysis and is adopting the amendment as proposed. SBA does not believe that a non-manufacturer with close to 500 employees should be considered small.

Setting Aside an Order Under a Multiple Award Set-Aside Contract

On October 2, 2013, SBA published a final rule implementing 15 U.S.C. 644(r). 78 FR 61114. In that rule, SBA contemplated the set aside of orders for certain types of SBCs, such as HUBZone SBCs, 8(a) BD Program Participants, SDVO SBCs, or WOSBs. 78 FR 61114, 61124. SBA noted that at the time, the small business programs had major differences with respect to the application of the limitations on subcontracting and NMR requirements, and therefore it would be difficult for SBCs and agencies to determine the rules that applied to a particular order. SBA was also concerned about the possibility that SBCs could be deprived of an opportunity to compete for orders under a set-aside contract if an agency repeatedly set aside orders for other socioeconomic categories. Since that time, SBA has attempted to harmonize the application of the limitations on

subcontracting and NMR requirements for each of the various types of small business contracts. The concerns identified in the 2013 final rule have since been addressed to enable fair and proper implementation of order set-asides. Specifically, on May 31, 2016, SBA published a final rule to standardize the limitations on subcontracting and NMR requirements across socioeconomic programs. 81 FR 34243. In addition, some agencies have pursued the strategy of allowing order set-asides against set-aside multiple award contracts (MACs), including notification and incorporation of the clause at FAR 52.219-13, and agencies have reported that they have not encountered any industry concerns. In connection with this rule, SBA requested comment on whether SBA should allow agencies to set aside orders for a socioeconomic small business program (8(a), HUBZone, SDVO, WOSB) under a MAC that was awarded under a total small business set-aside. Because SBA believes that a change is appropriate at this time, SBA proposed to remove the term “Full and Open” from § 125.2(e)(6) to specifically afford discretion to an agency to set-aside one or more particular orders for HUBZone SBCs, 8(a) BD SBCs, SDVO SBCs or WOSBs, as appropriate, where the underlying MAC was initially set aside for small business. Set-asides under multiple award set-aside contracts may be implemented by agencies in different ways, including: (1) Establishing set-asides to socioeconomic programs at the order solicitation level under multiple award small business set-aside contracts, and (2) establishing socioeconomic set-aside pools at the master contract solicitation level for a multiple award small business set-aside contract. SBA requested comments on any burden or adverse impact associated with each of these two approaches. In addition, SBA was specifically interested in whether these two approaches could impact the ability for all types of small businesses (e.g., 8(a), HUBZone, WOSB, SDVOSB) to compete and receive orders.

SBA received twenty-two comments regarding this proposed change. Twelve of the comments support the proposed change and ten oppose the change. The comments that oppose the proposed amendment note that it is unfair to the original small business awardees of a MAC to allow socioeconomic small business program set-asides under those contracts where it was not originally contemplated. Additionally, those who oppose this proposed change note that allowing such set-asides under small

business MACs will reduce the number of offerors for the orders that are set-aside for socioeconomic small business program participants. The comments in opposition also note that small businesses would be discouraged from bidding on MACs because they would have no way of knowing if any future orders would be set aside for their socioeconomic status. SBA believes these concerns should be assuaged by the fact that the rule would not affect already-awarded MACs, unless set-asides were already contemplated in the solicitation. Going forward, small businesses would know at the time of offer what kind of set-asides, if any, were available at the time of award and on future orders. SBA believes this type of forecasting and notification to offerors would also address the concerns of commenters opposed to the proposed change because they do not believe it is fair to the “original” small businesses that submit offers on a MAC. The rule would apply only to future contracts and thus potential offerors will know in advance if it is worthwhile to submit an offer.

SBA received one comment requesting clarification on whether a contracting officer can set aside orders for a contract if the contract was not set aside for small businesses. SBA’s current regulation at § 125.2(e)(6)(i) provides that contracting officers can “set-aside orders against Multiple Award Contracts that were competed on a full and open basis.” The proposed rule revised this provision to say that contracting officers can “set aside orders against Multiple Award Contracts, including contracts that were set aside for small businesses.” SBA is adopting the amendment as proposed.

SBA received one comment regarding the two alternative approaches discussed in the proposed rule for implementing this change: Using small business pools or small business set-asides at the order level. The commenter supports both proposed approaches but notes that category management has a negative impact on small businesses. No comments were received which identify any burdens associated with either approach. SBA is adopting the amendment as proposed.

Recertification of Size and Status

SBA’s rules require recertification of size and status for all long-term (over 5 years) contracts. This includes indefinite delivery contracts under which orders will be placed at a future date and contracts that had not been set aside for small business but were awarded to a small business. Thus, SBA proposed to amend §§ 125.18(f),

126.601(i), and 127.503(h) to clarify that a concern must recertify its status on full and open contracts. In addition, SBA added a new paragraph to §§ 124.521 and 124.1015 to reflect the status eligibility and recertification requirements for 8(a) participants and SDB concerns, which are already present in the SDVO, HUBZone, and WOSB regulations. This change provides greater consistency among the status recertification requirements for small business program contracts. One result of these changes is that a prime contractor relying on similarly situated entities (an SDVOSB prime with an SDVOSB subcontractor, for example) to meet the applicable performance requirements may not count the subcontractor towards its performance requirements if the subcontractor recertifies as an entity other than that which it had previously certified.

SBA received 32 comments on the proposed change to certification requirements. Twenty-five opposed, three supported, and four sought clarification. Many of the comments that opposed this provision expressed concerns that the requirement would be overly burdensome and would add “complexities to an already difficult compliance system.” Several commenters specifically disagreed with the proposed change to the 8(a) and SDB certification requirements. One commenter noted it takes firms up to four years to demonstrate satisfactory past performance and thus by the time they were eligible for a contract, they would not be able to perform on any options. Several others pointed out that the 8(a) program is different from SBA’s other government contracting programs. SBA recognizes these concerns but does not believe that this provision fails to acknowledge the unique features of the 8(a) program. Congress intended that 8(a) program participation be limited to nine years. SBA already permits long-term contracts to extend for up to five years past the completion of a Participant’s program term in the 8(a) program. Allowing firms to work on options indefinitely would conflict with Congress’s clear desire for 8(a) Participants to leave the program and go on to successfully and independently participate in the government contracting arena. Further, SBA did not contemplate the proposed rules as a forced attempt to bring the 8(a) program requirements into alignment with the other programs, but rather as an opportunity to consider all the programs holistically. SBA respectfully disagrees with commenters who do not believe consistency between programs is a

worthy goal. Consistency better enables small businesses and contracting officers to understand and comply with SBA’s requirements, ensuring that eligible small businesses are equipped to bid on contracts that have been appropriately set aside. SBA is adopting the proposed changes as final.

Indirect Costs in Commercial Subcontracting Plans

Other than small business concerns that have a commercial subcontracting plan report on performance through a summary subcontract report (SSR), and SBA’s rules currently require that a contractor using a commercial subcontracting plan must include all indirect costs in its SSR. However, SBA’s rules do not require contractors to include indirect costs in their commercial subcontracting plan goals, which leads to inconsistencies when comparing the SSR to the commercial subcontracting plan. SBA proposed to revise § 125.3(c)(1)(iv) to require that prime contractors with commercial subcontracting plans must include indirect costs in the commercial subcontracting plan goals. This will allow agencies to negotiate more realistic commercial subcontracting plans and monitor performance through the SSR. SBA received one comment in support of this change and is adopting the proposed rule as final.

Subcontracting Compliance Reviews

SBA proposed revisions to the nomenclature it uses regarding subcontracting compliance reviews in order to better align title 13 of the CFR with the FAR. Currently, the rating terminology differs between SBA’s rating system under § 125.3(f)(3) (for an SBA Compliance Review) and that used pursuant to FAR 42.1503 (for a past performance evaluation including small business subcontracting under FAR 52.219–9). SBA believes the difference in terminology leads to confusion for Government personnel and industry partners attempting to ascertain the value of a rating. As such, in § 125.3(f)(3), SBA proposed to revise the terms used to rate firms from “Outstanding,” “Highly Successful,” or “Acceptable” to “Exceptional,” “Very Good,” and “Satisfactory,” respectively. SBA received three comments in support of this change and, therefore, is adopting the proposed revisions as final.

Independent Contractors—Employees/ Subcontractors

SBA’s size regulations provide that SBA considers “all individuals employed on a full-time, part-time, or other basis” to be employees of the firm

whose size is at issue. 13 CFR 121.106(a). “This includes employees obtained from a temporary employee agency, professional employee organization, or leasing concern.” *Id.* Further, “SBA will consider the totality of the circumstances, including criteria used by the IRS for Federal income tax purposes, in determining whether individuals are employees of a concern.” *Id.* In determining what it means to be employed on an “other” basis, SBA issued Size Policy Statement No. 1. 51 FR 6099 (February 20, 1986). The Size Policy Statement sets forth 11 criteria SBA will consider in determining whether an individual should be treated as an employee. If an individual meets one or more of the criteria, he or she may be treated as an employee. Pursuant to this guidance, an individual contractor paid through a 1099 may be properly treated as an employee for purposes of SBA’s regulations (including SBA’s regulations governing performance of work or limitations on subcontracting requirements). The reason for such treatment was to prevent a firm that exceeded an applicable employee-based size standard from “firing” a specific number of employees in order to get below the size standard, but to then hire them back or “subcontract” to them as independent contractors. SBA did not want to encourage firms to attempt to evade SBA’s size regulations.

Historically, SBA has said that if an individual qualifies as an “employee” under part 121 of SBA’s regulations for purposes of determining size, then SBA should consider that individual to be an employee of the firm for the performance of work (or now limitations on subcontracting) requirements of 13 CFR 125.6 (or 124.510). It would not be equitable to say that a given individual counts against a firm in determining size (because he/she is considered an “employee” of the firm) and then to say that that same individual also counts against the firm for the limitations on subcontracting requirements (because he/she is not considered an “employee” of the firm). Thus, for a contract that is assigned a NAICS code having an employee-based size standard, an independent contractor could be deemed an “employee” of the concern for which he/she is doing work. If such an individual is considered an employee for size purposes, he/she would also be considered an employee for limitations on subcontracting purposes.

SBA’s regulation at 13 CFR 125.6(e)(3) has caused some confusion as to how to properly treat independent contractors for purposes of the limitations on

subcontracting provisions. That provision provides that, "Work performed by an independent contractor shall be considered a subcontract, and may count toward meeting the applicable limitations on subcontracting where the independent contractor qualifies as a similarly situated entity." (Emphasis added). This provision was meant to apply to service or construction contracts. For service contracts, work performed by an independent contractor would be considered a subcontract, so that a service contractor could not claim that a non-similarly situated entity independent contractor should be considered an employee of the service contractor. For example, for a WOSB service contract, SBA did not want a WOSB prime contractor to pass performance of the contract to one or more independent contractors that would not themselves qualify as WOSBs. The provision identifies that an independent contractor could qualify as a "similarly situated entity" and meet the limitations on subcontracting that way, but would not permit a service contractor to effectively avoid meeting the limitations on subcontracting by claiming that independent contractors were in fact employees of the firm.

The proposed rule revised § 125.6(e)(3) to clarify SBA's intent regarding both contracts assigned a NAICS code with an employee-based size standard and those assigned a NAICS code with a receipts-based size standard. Under the proposed rule, where a contract is assigned a NAICS code with an employee-based size standard, an independent contractor would be deemed an employee of the firm under the terms of the Size Policy Statement. Where a contract is assigned a NAICS code with a receipts-based size standard, an independent contractor could not be considered an employee of the firm for which he or she is performing work, but, rather, would be deemed a subcontractor. In either case, as a subcontractor, an independent contractor may be considered a "similarly situated entity" and work performed by the independent contractor would then count toward meeting the applicable limitation on subcontracting.

SBA received thirteen comments on the proposed change. Ten opposed, two sought clarification, and one was supportive. The comments in opposition all expressed concern that the proposed rule was confusing, and that SBA's intent was unclear and could be viewed as contradictory. Several pointed out that small businesses would need to devote unnecessary time and

effort towards assessing whether an independent contractor counted as an employee or a subcontractor for a procurement. One commenter pointed out the difficulty for businesses performing contracts under both employee-based and revenue-based NAICS codes. SBA recognizes these concerns and concludes that it would be needlessly time-consuming and difficult for small businesses, especially those performing under multiple NAICS codes, to apply the rule consistently. SBA agrees with the commenters who pointed out that looking to § 121.106(a), which lays out the analysis of whether an individual is an employee or a subcontractor, makes sense for all NAICS codes and contracts. As such, SBA has revised the proposed rule to clarify that contractors should apply the analysis in § 121.106(a) to determine whether independent contractors are employees or subcontractors, and that in situations where the independent contractor is a subcontractor, their work may be counted toward the applicable limitation on subcontracting if they are a similarly situated entity.

Limitation on Subcontracting Compliance

Congress has expressed its strong support for small business government contracting, and has provided agencies with numerous tools to set aside acquisitions for exclusive competition among, or in some cases award contracts on a sole source basis to, SBCs, 8(a) BD Program Participants, HUBZone SBCs, WOSBs, Economically Disadvantaged Women-Owned (EDWOSB) SBCs, and SDVO SBCs. 15 U.S.C. 631(a), 637(a), (m), 644(a), (j), 657a, 657f. As a condition of these preferences, small businesses are limited in their ability to subcontract to other than small business concerns, so that small businesses perform a certain percentage of the work. These limitations on subcontracting appear in solicitations and contract clauses for small business set-aside and sole-source awards. As with all contract administration, it is the responsibility of the contracting officer to monitor compliance with the terms and conditions of a contract. (FAR 1.602-2, including the limitations on subcontracting clause). SBA proposed language to clarify that contracting officers have the discretion to request information from contractors to demonstrate compliance with limitations on subcontracting clauses. The Government Accountability Office (GAO) has noted in reports that contracting officers have not been monitoring compliance with the limitations on subcontracting. "Contract

Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight," GAO-06-399, April 2006; "8(a) Subcontracting Limitations: Continued Noncompliance with Monitoring Requirements Signals Need for Regulatory Change," GAO-14-706, September 2014; and "Federal Contracting: Monitoring and Oversight of Tribal 8(a) Firms Need Attention," GAO-12-84, January 2012. The type of information that small business prime contractors may be requested to provide to demonstrate compliance with the limitations on subcontracting could be copies of subcontracts for a particular procurement or an email that lists the amount that the prime contractor has paid to its subcontractors for a particular procurement and whether those subcontractors are similarly situated entities. In addition, SBA proposed to require information demonstrating compliance with the applicable limitations on subcontracting from all prime contractors performing set-aside and sole source contracts awarded through SBA's small business programs when the prime contractor intends to rely on similarly situated subcontractors to comply with the limitations on subcontracting. 79 FR 77955 (December 29, 2014). SBA did not adopt such a requirement in the final rule but indicated that it intended to seek comment on this issue. 81 FR 34243 (May 31, 2016).

SBA proposed adding new § 125.6(e)(4) to clarify that contracting officers may request information regarding limitations on subcontracting compliance, and to clarify that it is not required for every contract. SBA requested comment on whether all small business prime contractors performing set-aside or sole source contracts should be required to demonstrate compliance with limitations on subcontracting to the contracting officer, and if so, how often should this be required, such as annually or quarterly.

SBA received 17 comments with a range of suggestions. Nine commenters opposed regular mandatory reporting requirements. Five comments supported a requirement that contractors must demonstrate limitations on subcontracting compliance annually. One commenter thought compliance should be demonstrated once per base period. Another suggested once during the base period, once during each subsequent option period, and at completion. A third suggested that contracting officers should ask for evidence of compliance if they believe "there is reason for additional evidence

to be submitted.” Comments about what type of evidence would suffice similarly ranged among several options. Two commenters suggested using the same type of evidence required for mentor-protégé joint venture performance of work requirements. Two others suggested copies of subcontracting agreements or a list of subcontractors paid that note which subcontractors are similarly situated. Several commenters, both those in favor of a mandatory reporting rule and those opposed, thought if and when such evidence was required, contracting officers should have discretion to request the documents they deem relevant. On balance, SBA agrees that contracting officers are best positioned to assess if, how, and when additional scrutiny of contractors’ limitations on subcontracting compliance would be helpful. As such, the final rule does not require limitations on subcontracting compliance reporting but, rather, indicates that contracting officers have the discretion to request demonstration of compliance at any point during performance or upon completion of a contract. The rule includes examples of what documentation could adequately demonstrate compliance but is not intended to be an exhaustive list.

Exclusions From the Limitations on Subcontracting

SBA’s limitations on subcontracting regulations provide that for a set-aside service contract, the prime contractor must agree that it will not pay more than 50% of the amount paid from the Government to firms that are not similarly situated. 13 CFR 125.6(a)(1). Unlike supply and construction contracts, where materials are excluded, no costs are specifically excluded under a service contract, other than for mixed contracts where the non-service portion, such as incidental supplies, are excluded. SBA has received several requests from industry for exclusions related to specific types of contracts, and one related to all industries. Some have advocated that certain other direct costs, such as airline tickets and hotel costs, be excluded from the calculation of the amount paid under the contract. In addition, in certain types of contracts or industries, there are factors that may complicate compliance with the limitations on subcontracting, potentially hindering agencies from setting aside acquisitions for small business concerns.

For example, for certain contracts performed outside of the United States, contractors must use non-U.S. local organizations or independent contractors to perform consulting

services regarding a particular foreign country. These individuals are not located in the United States, do not reside in the United States, and are not likely to be employees of a United States small business concern. SBA proposed to clarify how to determine whether work performed by certain required contractors should be considered. Specifically, SBA proposed that work performed by an independent contractor under a contract that was awarded pursuant to the Foreign Assistance Act of 1961 could be excluded from determining limitations on subcontracting compliance. 22 U.S.C. 2151 *et seq.* SBA received one comment on this provision. The commenter disagreed with the proposed language in § 125.6(a)(1) because it allowed but did not mandate that work performed by individuals on contracts outside the United States pursuant to the Foreign Assistance Act of 1961 could be excluded from determining limitations on subcontracting compliance. The commenter suggested using language indicating that such exclusion is mandatory. In addition, the commenter noted that not all work performed outside the United States for which some portion of local performance is required is done under the Foreign Assistance Act of 1961. SBA agrees that any work required to be done by local foreign contractors should be excluded from any limitations on subcontracting determination (*i.e.*, should be excluded from the “total value of the contract” in determining whether a small business did not subcontract more than the limitations on subcontracting percentage) and has changed the text of § 125.6(a)(1) to reflect that.

In the environmental remediation industry (NAICS 562910), a large part of the cost of the contract is tied to the transportation and disposal of hazardous, toxic, and radiological waste. According to some SBCs in this industry that have contacted SBA, given the fact that these services are highly regulated and capital intensive, these particular transportation services can generally be performed only by other than small business concerns. For example, all the disposal facilities in the United States are large businesses, and most railroads and shipping companies that transport hazardous waste are other than small business concerns. This rule proposed to exclude transportation and disposal services from the limitations on subcontracting compliance determination where small business concerns cannot provide the disposal or transportation services. Similarly, where the Government acquires media services

from small business concerns, the placement of the content in the media may require large payments to the other than small business concerns, even though that is not the principal purpose of the acquisition. SBA proposed to exclude these media purchases from the limitations on subcontracting determination.

In a prior rulemaking, SBA determined that remote hosting on servers or networks, or cloud computing, should be considered a service and therefore the NMR would not apply. 13 CFR 121.1203(d)(3). Due to the costs and scale involved, cloud computing is generally provided by other than small business concerns. SBA proposed to exclude cloud computing from the limitations on subcontracting calculation, where the small business concern will perform other services that are the primary purpose of the acquisition. Of course, where cloud computing itself is the primary purpose of the procurement, the limitations on subcontracting could not be met by a small business, and, therefore, such a procurement should not be set aside or reserved for small business.

Of the 17 comments received regarding excluding direct costs to the extent they are not the principal purpose of the acquisition, nearly all supported SBA’s intent behind the proposed rule. Eleven commenters supported the proposed language without additional change. Four commenters supported the categories SBA included in the proposed rule, but opposed the rule on the basis that it was not broad enough and requested that SBA exclude all other direct costs from limitations on subcontracting compliance calculations. SBA does not believe that all direct costs should be excluded from the limitations on subcontracting determination. In addition, SBA does not believe that the statutory language would support such a change.

Based on the positive feedback from industry, the final rule at 125.6(a)(1) adopts the language that specifies that the above-mentioned industries are excluded from limitations on subcontracting compliance calculations. The regulatory text provides that direct costs may be excluded to the extent they are not the principal purpose of the acquisition and small business concerns do not provide the service, “such as” in the four identified industries (airline travel, work performed by a transportation or disposal entity under a contract assigned the environmental remediation NAICS code (562910), cloud computing services, or mass

media purchases). The regulatory text is not meant to be inclusive. It allows a small business in another industry in a similar situation to the four identified to also demonstrate that certain direct costs should be excluded because they are not the principal purpose of the acquisition and small business concerns do not provide the service.

One commenter requested clarification as to whether SBA intended for only services to be excluded. As discussed, supply and construction contracts already have industry-specific exclusions, so this provision is intended to bridge a gap that SBA saw regarding service contracts.

Subcontracting to a Small Business Under a Socioeconomic Program Set-Aside

In the context of socioeconomic set-aside or sole-source service contracts, the ostensible subcontractor rule applies when a small business is unduly reliant on an other than small business subcontractor, or when the other than small subcontractor will perform primary and vital parts of the contract. In such cases, assuming that an exception to joint venture affiliation does not apply, SBA will treat the small business prime contractor and its subcontractor as joint venturers. If the subcontractor is other than small, the prime contractor is ineligible for award due to this affiliation. SBA has become aware of service contract set-asides for the SDVO, HUBZone, 8(a) or WOSB programs where the prime contractor subcontracts most or all of the actual performance to a small business that is small for the applicable NAICS code but not eligible to compete for award of the prime contract and thus not a similarly situated entity as that term is defined at § 125.1.

Under SBA's joint venture rules, 13 CFR 121.103(h)(3)(i), a joint venture can qualify as small if each member of the joint venture is small. In the scenario described above, the size regulation would not prevent the joint venture from being eligible for the contract (*i.e.*, where both parties to a joint venture are small, the joint venture itself is small). There is no existing regulatory mechanism for an unsuccessful offeror, the SBA, or a contracting officer to protest a socioeconomic set-aside or sole-source award to a prime contractor that is unduly reliant on a small, but not similarly situated entity, subcontractor. The underlying premise that ostensible subcontractors and their prime contractors should be treated as joint ventures is still SBA's policy. Firms that

are performing contracts in a manner more consistent with a joint venture than a prime/sub relationship should follow the requirements of SBA's regulations regarding socioeconomic joint ventures.

The performance of a set-aside or sole source service contract by a small business concern that is not eligible to compete for the prime contract is contrary to the intent and purpose of the statutory authorities for socioeconomic category set-aside and sole source procurements. Thus, SBA proposed language at §§ 124.503(c)(1)(v), 124.507(b)(2), 125.18(f), 125.29(c), 126.601(i), 126.801(a), 127.504(c), and 127.602 to allow SBA to make a determination concerning a small business program participant's overreliance on a non-similarly situated subcontractor as part of an eligibility or status protest determination. SBA's intent was to evaluate these contractor relationships under the established ostensible subcontractor test. If SBA finds that the subcontractor is an ostensible subcontractor, SBA will treat the arrangement between the contractors as a joint venture that does not comply with the formal requirements necessary to receive and perform the socioeconomic program set-aside or sole-source award as a joint venture.

SBA received 32 comments on the proposed change to the rules on subcontracting to a small business under a socioeconomic set-aside. Several commenters opposed the change because they believed that subcontracting to a small business, even if it is not a similarly situated entity, still benefits the small business community. While SBA encourages benefits that accrue to the small business community as a whole, Congress's clear intent in authorizing separate and distinct Government contracting programs was to bolster specific socioeconomic groups' ability to successfully compete for and perform on Government contracts. SBA would be subverting Congress's intent if it focused on rules that benefit the overall small business community at the expense of the groups identified by Congress as meriting focus. As such, SBA continues to believe that it is constrained by statute to ensure that the eligible prime contractor together with one or more other similarly situated small businesses is performing the primary and vital requirements of a contract by meeting the applicable limitation of subcontracting percentage.

Other commenters protested on the basis that requiring small business prime contractors to ensure that their subcontractors are similarly situated

entities would be overly burdensome. Again, SBA appreciates this concern, but it does not outweigh SBA's mandate to protect the interests of participants in its Government contracting programs.

Another commenter recommended that instead of applying the ostensible subcontractor standard in this context, SBA should merely require that the 8(a)/HUBZone/WOSB/SDVOSB contractor be able to demonstrate that it, together with any similarly situated entity, will meet the limitations on subcontracting provisions. SBA agrees that if the awardee together with similarly situated entities will meet the limitations on subcontracting provisions, SBA would not have to look further to determine who is doing the primary and vital parts of a contract. The final rule adopts the proposed language recognizing that where a subcontractor that is not similarly situated performs primary and vital requirements of a set-aside or sole-source service contract or order, or where a prime contractor is unduly reliant on a small business that is not similarly situated to perform the set-aside service or sole-source contract or order, the prime contractor is not eligible for award of an SDVO, WOSB, HUBZone or 8(a) contract. However, the final rule also specifies that SBA will not find that a prime contractor is unduly reliant on one or more non-similarly situated subcontracts where the prime contractor can demonstrate that it, together with any similarly situated entity, will meet the limitations on subcontracting provisions set forth in § 125.6.

Finally, one commenter recommended a comparable change to § 134.1003 with respect to protests of SDVO eligibility for contracts awarded by the Department of Veterans Affairs (VA). Specifically, the commenter believed that similar treatment should be afforded to a firm that was verified as an SDVO small business by VA's Center for Verification and Evaluation (CVE), received a VA contract that was restricted to CVE-verified SDVO small business concerns, and then subcontracted primary and vital portions of the contract to a non-CVE-verified business concern, whether or not small. SBA agrees, and has added a new paragraph to § 134.1003 that would authorize a protest challenging whether the prime contractor is unusually reliant on a subcontractor that is not CVE verified, or a protest alleging that such subcontractor is performing the primary and vital requirements of a VA procurement contract.

Kit Assemblers

SBA proposed to remove specific rules related to kit assemblers and the NMR, which are currently contained at 13 CFR 121.406(c). The existing kit assembler rule requires that 50 percent of the total value of the items in the kit must be manufactured by small business concerns, but excludes items manufactured by other than small business concerns if the contracting officer specifies the item for the kit. This rule has led to confusion concerning how to calculate total value, and whether a waiver of the non-manufacturer rule can or must be requested in order to supply items manufactured by other than small concerns. If the majority of items in a kit are made by small business concerns, then the acquisition can be set aside for small business without the need to request a waiver. If the majority of items in a kit are not made by small business concerns, then an individual or class waiver of one or more of the items is necessary for the acquisition to be set aside for small business concerns for acquisitions above the simplified acquisition threshold or for all other socioeconomic set-asides, regardless of value. In connection with this rule, SBA proposed to delete the kit assembler exception and instead apply the multiple item rule in § 121.406(e) to kit assembler acquisitions. Like all other acquisitions, the NMR will not apply to small business set-asides with a value at or below the simplified acquisition threshold. SBA received four comments on this proposed change, evenly split between those opposed and those in support. The comments opposed did so because they believe kit assemblers should be excluded from the limitations on subcontracting compliance calculation, along with the other identified groups in the proposed rule at § 125.6. The proposed rule did not contemplate exclusions beyond those already identified. The commenters supporting the change believe that applying the multiple item rule in § 121.406(e) to kit assemblers makes sense and makes a separate rule for kit assemblers unnecessary. The rule adopts the proposed language as final.

Clarification on Size Determinations

SBA proposed to remove language that has caused confusion on when size is determined. The general rule is that size is determined at the time of initial offer including price, with the understanding that there are some exceptions such as architecture and engineering procurements, and certain unpriced indefinite delivery indefinite

quantity (IDIQ) contracts. However, § 121.404(a) also contains the parenthetical, “(or other formal response to the solicitation).” Some parties have misread this to mean formal responses that are after the initial offer, such as final proposal revisions. The clear intent of SBA’s general rule is to give both firms and the Government certainty that size will be determined at the time of the initial response, including price. Offer covers bids and proposals, and SBA recognizes that in simplified acquisitions the initial response may be acceptance of the Government’s offer. Thus, SBA proposed adding a paragraph at § 121.404(a)(1)(iv), to articulate an exception to the general rule for when size is determined. When an agency uses an IDIQ multiple award contract that does not require offers for the contract to include price, size will be determined on the date of initial offer for the IDIQ contract, which may not include price. This proposed change reflects the statutory change found at section 825 of the National Defense Authorization Act for Fiscal Year 2017, 114 Public Law 328, (December 23, 2016), and section 876 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, 115 Public Law 232, (August 13, 2018). SBA also amended 121.404(g)(5) to reflect the proposed change to 121.103(h)(4) (removing “and therefore affiliates”).

SBA received 13 comments on the proposed changes to § 121.404. Three of these opposed the changes, but all three referenced SBA’s current rule requiring recertification at the time of a merger or acquisition at § 121.404(g)(2)(i). SBA did not propose to revise that provision. Of the ten comments that pertained to the proposed changes, all ten were supportive of the changes. Commenters appreciated the clarification and believe that the proposed language will reduce confusion and uncertainty for small businesses. SBA is adopting the proposed language as final.

SBA proposed to amend § 121.103(h)(4) to clarify that when two or more small businesses either form a joint venture or are treated as joint venturers due to their relationship as prime and subcontractor, the joint venture exception to affiliation found at § 121.103(h)(3)(i) applies if both firms are considered small for the size standard associated with the procurement. SBA proposed to remove the phrase “and therefore affiliates” from the ostensible subcontractor rule at § 121.103(h)(4) to clarify this point. To allow affiliation between firms that are considered joint venturers because of their ostensible subcontracting

relationship, even when each firm is individually small for the size standard associated with the procurement, would negate the purpose of § 121.103(h)(3)(i), which explicitly provides an exception to affiliation for such joint ventures.

The purpose of the ostensible subcontractor rule is to treat the relationship between a prime contractor and its subcontractor as a joint venture where the subcontractor performs primary and vital work for the procurement. SBA’s current joint venture rules do not aggregate the partners to a joint venture in determining the size of the joint venture, but rather permit a joint venture to qualify as small as long as each partner to the joint venture is individually small. Thus, a rule that equates a prime-sub relationship to that of a joint venture because the subcontractor is performing primary and vital work and then affiliates the two parties (*i.e.*, requiring them to aggregate their revenues or employees) is inconsistent with the joint venture size rules themselves. The phrase “and therefore affiliates” that SBA proposed to delete was a holdover from previous regulations that aggregated the receipts or employees of joint venture partners when determining whether a joint venture qualified as a small business. When SBA changed its size regulations to broaden the exclusion from affiliation for small business to allow two or more small businesses to joint venture for any procurement without being affiliated (*i.e.*, the joint venture would be considered small provided each of the joint venture partners individually qualified as small and SBA would not aggregate the receipts or employees of joint venture partners), SBA amended § 121.103(h)(3), but did not make a correspondingly similar change in § 121.103(h)(4). See 81 FR 34243, 34258 (May 31, 2016).

All 12 comments on § 121.103(h)(4) expressed confusion at the current disconnect between the ostensible subcontractor rule at § 121.103(h)(4) and the exception to affiliation for joint venture language at § 121.103(h)(3)(i). Commenters supported a clarification. SBA believes removing “and therefore affiliates” from § 121.103(h)(4) will clear up this confusion and is adopting the proposed change as final.

Clarification Where One Acceptable Offer Is Received on a Set-Aside

SBA proposed to add new § 125.2(a)(2) to clarify that a contracting officer may make an award under a small business or socioeconomic set-aside where only one acceptable offer is received. The decision to conduct a set-

aside is grounded in the contracting officer's expectation based on market research that he or she will obtain two or more fair market price offers from capable small business concerns. Pursuant to the FAR, the contracting officer must perform market research before issuing a solicitation to determine whether there are small businesses (including 8(a), HUBZone, SDVO SBCs, WOSBs) that can perform the requirement. 48 CFR 10.001(a)(2); 19.202-2. A contracting officer's "rule of two" determination is prospective. Whether there appear to be at least two small businesses that can perform a procurement at a fair price is an analysis that is done during acquisition planning and prior to the issuance of a solicitation. As long as the market research leads a contracting officer to conclude that the agency will receive acceptable offers from at least two small business concerns and award will be made at a fair market price, the "rule of two" is satisfied, no matter how many offers are actually received or how many offers remain after evaluations are conducted, a competitive range is established, or offerors are eliminated in some other fashion.

The FAR currently addresses small business set-asides below \$150,000, and provides, "If the contracting officer receives only one acceptable offer from a responsible small business concern in response to a set-aside, the contracting officer should make an award to that firm." FAR 19.502-2(a). There is no reason this policy should not apply to all set-asides above or below \$150,000. The contracting officer must determine that an offeror is responsible, and price is fair and reasonable before awarding any contract. FAR 9.103(a); 9.104-1; 14.408-2; and 15.304(c)(1). It would be inefficient and detrimental to the Government and offerors to arbitrarily prevent an award where a competition was conducted but only one offer was received. Such a policy would unreasonably prolong the procurement process, requiring a procuring agency to cancel one solicitation and re-procure using another where only one small business offer is received, and could cause contracting officers to limit the use of set-asides. SBA received no comments opposing this proposed change and adopts it as final in this rule.

Compliance With Executive Orders 12866, 13563, 12988, 13132, 13771, the Unfunded Mandates Reform Act of 1995, the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601-612)

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule is a "significant" regulatory action for purposes of Executive Order 12866. The benefits to small business from this rule far outweigh any associated costs. The rule makes several other changes needed to clarify ambiguities in or remedy perceived problems with the current regulations. These changes should make SBA's regulations easier for SBCs to use and understand. The change to § 121.404 clarifies when size for a Government contract is determined, which will reduce confusion for small business concerns. The change to § 121.406 clarifies that the size standard for information technology value added resellers is 150 employees, again to eliminate confusion among small business concerns. The changes to § 125.2(a) will benefit small business by clarifying that a contracting officer can award a contract to a small business under a set-aside if only one offer is received. The changes to § 125.2(b) implement section 1811 of the NDAA of 2017 and govern what acquisitions PCRs can review and would not impact small business concerns. The changes to § 125.2(d) implement section 863 of the NDAA of 2016 and direct contracting officers on how to notify the public about consolidation and substantial bundling and will not impact small business concerns. The changes to § 125.2(e) authorize agencies to set aside orders for socioeconomic programs where the contract was set aside for small business and will benefit firms that qualify for those set-asides. The changes to § 125.3 implement section 1821 of the NDAA of 2017 by providing examples of a failure to make a good faith effort to comply with small business subcontracting plans, and will benefit small businesses by providing such examples so that contracting officers can hold other than small prime contractors accountable for failing to make a good faith effort to comply with their small business subcontracting plan. The changes to § 125.3 also implement section 1821 by providing that the contracting officer should evaluate whether an other than small business complied with the requirement to report on small business subcontracting plan performance. The changes to § 125.6(a) will benefit small business concerns by allowing small

businesses to exclude certain costs from the calculation of the limitations on subcontracting. Without these changes, some agencies will not be able to set contracts aside for small business, because certain costs attributable to other than small concerns are too high. The changes to § 125.6 also help small businesses by clarifying the difference between an employee and an independent contractor. The changes to § 125.6 will impose some requirements on small business concerns to demonstrate compliance with the limitations on subcontracting, but only to the extent the information is not already in the possession of the government. Contractors may have this information readily available since it pertains to contract performance and subcontracting of that performance. These information requests are not mandatory, as the contracting officer simply has the discretion to request such information. Contracting officers already have the authority to request information on performance, and this change simply clarifies that the authority exists. Finally, the benefits to small business concerns of this rule substantially outweigh any minor costs imposed by the exercise of existing contracting authority. The addition of part 129 implements section 2108 of the RISE Act and benefits small businesses by providing agencies with an incentive to set aside contracts for small business concerns located in a disaster area. Accordingly, the next section contains SBA's Regulatory Impact Analysis. However, this is not a major rule under the Congressional Review Act, 5 U.S.C. 801, *et seq.*

Regulatory Impact Analysis

1. Is there a need for the regulatory action?

The rule implements section 863 of the National Defense Authorization Act of 2016, Public Law 114-92, 129 Stat. 726 (15 U.S.C. 644(e)(3)); section 2108 of the Recovery Improvements for Small Entities After Disaster Act of 2015 (RISE Act), Public Law 114-88, 129 Stat. 686 (15 U.S.C. 644(f)); and sections 1811 and 1821 of the National Defense Authorization Act of 2017, Public Law 114-328, 130 Stat. 2000 (15 U.S.C. 637(d), 644(l)). In addition, it makes several other changes needed to clarify ambiguities in or remedy perceived problems with the current regulations. These changes should make SBA's regulations easier to use and understand. With respect to contractors demonstrating compliance with the limitations on subcontracting, for decades the general rule has been that

on a set-aside contract, a small business or socioeconomic small business must generally perform some of the work (services, construction, or manufacturing). This helps ensure that the benefits of a small business set-aside contract flow to the recipients whom Congress intends to help by creating the set-aside authority. If performance of a set-aside contract is passed through to other than small business concerns, there may not be a need for set-asides in the first place, and the Government may be paying more for a good or service without any value added. These limitations on subcontracting appear as a clause in a set-aside contract and help to ensure that the intended beneficiaries of set-aside contracts are receiving those benefits. The contracting officer is responsible for monitoring compliance with clauses in a contract. FAR 1.602. Nothing in SBA's regulations or the FAR prohibits a contracting officer from requesting documents demonstrating compliance with the limitations on subcontracting clause. It is SBA's view that such authority exists, but that the authority is not clear or express. Without clarifying the authority or process, some contracting officers simply are not monitoring compliance. The result is that there may be increased fraud, waste, and abuse in the performance of contracts that are set aside for small business concerns, because subcontractors that are not eligible to receive the prime contract may be performing more work than section 46 of the Small Business Act (15 U.S.C. 657s), SBA regulations at 13 CFR 125.6, and FAR clause 52.219-14 permit. This type of fraud frustrates the policy goals associated with awarding contracts set aside for small business concerns.

In this rule, SBA clarifies that the contracting officer may request information to demonstrate a contractor's compliance with the limitations on subcontracting clause. SBA also clarifies that it is within the contracting officer's discretion to request such a showing of compliance, because in some cases it will not be necessary, such as when a small business performs the contract itself without the use of subcontractors or when information regarding compliance is already available to the Government. Through this rule, SBA intends to deter and reduce potential fraud, waste, and abuse, due to noncompliance with the limitations on subcontracting. Additionally, clarifying a contracting officer's authority to request that a small business concern demonstrate compliance with the limitations on

subcontracting is consistent with recommendations made by the U.S. Government Accountability Office (GAO) in several reports: "Contract Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight," GAO-06-399, April 2006; "8(a) Subcontracting Limitations: Continued Noncompliance with Monitoring Requirements Signals Need for Regulatory Change," GAO-14-706, September 2014; and "Federal Contracting: Monitoring and Oversight of Tribal 8(a) Firms Need Attention," GAO-12-84, January 2012.

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

The majority of the changes in this rule will have de minimis costs and qualitative benefits that are difficult to quantify: Protecting the integrity of the small business procurement system. The rule will provide exceptions to the limitations on subcontracting in certain service contracts where small businesses must use the services of other than small subcontractors in substantial amounts in order to fully perform a set-aside service contract. This will help small business by making acquisitions available for small business set-asides that would not otherwise be available. Many of the other clarifications in this rule will benefit small businesses by reducing confusion in the marketplace, but this benefit is difficult to quantify. The provision allowing agencies to receive double credit toward their small business procurement goals for awards to local small business concerns in the event of a disaster is intended to benefit local small businesses and provide employment and revenue to concerns located in an area devastated by a disaster. While the authority for contracting preferences for businesses located in a disaster area already exists in FAR subpart 26.2, small businesses located in these areas may receive a greater benefit under this rule due to the incentive for the procuring agency to receive double credit toward its small business procurement goals by utilizing this authority.

We believe that, pursuant to FAR 1.602-2, contracting officers already possess the authority to request information from a contractor concerning compliance with a clause in the contract at issue. In addition, on some contracts, compliance can already be reviewed or monitored by reviewing invoices. This rule clarifies that contracting officers have the authority to request information in connection with a contractor's compliance with

applicable limitations on subcontracting clauses. Approximately 53,000 firms received approximately 185,000 sole-source or set-aside awards in FY 2018. SBA is clarifying that a contracting officer may request information regarding compliance with prime contractors' limitations on subcontracting. In some cases, this information may not be necessary based on the nature of the contract and the invoices submitted. SBA estimates that less than ten percent of small business concerns and contracts will be subject to a request for this information (15,300 small business concerns and 18,500 contracts), and compliance should take on average less than an hour. Small businesses that do not issue subcontracts will not have anything to report. Small businesses may be able to easily report on any subcontracts, as information on subcontracting and paying subcontractors is routinely compiled as part of the normal accounting procedures for any business concern. Accounting or contract management personnel should be able to determine whether the firm issued any subcontracts in connection with the prime contract. SBA estimates an overall annual cost of approximately \$815,110 for small businesses to provide information on compliance with the limitations on subcontracting, as requested by the contracting officer. The difference between this figure and the \$600,120 figure cited in the rule reflects an adjustment in the hourly wage rate included as part of the calculation of the overall annual cost. After adding approximately 30% to the hourly wage rate to account for the cost of benefits, SBA arrived at \$815,110 as more accurately reflecting the estimated overall annual cost.

This rule will require an other than small prime contractor with a commercial subcontracting plan to include indirect costs in its subcontracting goals. Based on data from the Electronic Subcontracting Reporting System (eSRS), in FY 2018, approximately 1200 firms had commercial subcontracting plans. SBA estimates that approximately 95% of those 1200 firms include indirect costs in their subcontracting goals. Thus, this rule will impact approximately 60 firms. The burden will be de minimis, as the accounting or contract manager will know the firm's indirect costs. The benefit of requiring that indirect costs be included in subcontracting goals where a commercial subcontracting plan is utilized, is that it will increase the small business subcontracting goal and thus increase the amount of funds the prime

contractor will subcontract to small business concerns. Increasing the value and number of awards to small business concerns provides financial benefits to those firms, who may hire more staff and invest in more resources to support the increased demand. Furthermore, increasing the number and value of awards to small business concerns has macroeconomic and qualitative benefits to the national economy because small businesses are the foundation of the country's economic success.

This rule will establish that failure to provide timely subcontracting reports may constitute a material breach of the contract. These reports are already required by law at 13 CFR 125.3(a). This rule will make failure to provide the report a material breach of the contract, which could subject other than small business concerns to liquidated damages. SBA is not aware of any case where a firm has been subject to liquidated damages for failure to comply with a subcontracting plan. Thus, any costs will be de minimis. The benefit of this rule is that it will assist SBA and contracting officers with oversight of prime contractor compliance with subcontracting plans and should result in increased compliance with subcontracting plans.

This final rule requires recertification of status on full and open contracts. SBA intended for recertification to occur whenever an agency receives credit for an award towards its goals, and this rule is merely a clarification that socioeconomic recertification is required on all contracts, including full and open contracts. We estimate that approximately 150 firms a year recertify on full and open contracts. This will only impact firms that are acquired, merged, or where there is a novation or the firm grows to be other than small on a long-term contract. Agencies have goals for the award of prime contractor dollars to small and socioeconomic concerns. The purpose of recertification is to ensure that an agency does not receive small business credit for an award to an other than small concern.

This rule will limit the scope of PCR reviews of Department of Defense acquisitions performed outside of the United States and its territories. This applies to the Government and will not impose costs or burdens on the public.

This rule will remove the kit assembler exception to the non-manufacturer rule. This clarification requires agencies to request a waiver of the non-manufacturer rule for kits, in accordance with existing regulations. This will reduce confusion by having only one non-manufacturer rule

procedure for purposes of multi-item procurements.

3. What are the alternatives to this rule?

Many of the provisions contained in this rule are required to implement statutory provisions, thus there are no apparent alternatives for these regulations. With respect to the provision clarifying that contracting officers may request information on compliance with the limitations on subcontracting, SBA considered whether prime contractors should be required to provide this information on compliance with the limitations on subcontracting on all set-aside or sole source contracts. However, SBA believed that would unnecessarily burden small businesses, if compliance is already readily apparent to the contracting officer based on the type of contract, invoicing, or observation. We estimate the alternative considered, having all small businesses provide information on compliance, would have an annual cost of \$1,867,040. SBA decided to clarify instead that the contracting officer has the discretion to request such information to the extent such information is not already available. This will enable the contracting officer to request this information as he or she sees fit, to ensure that the benefits of the small business programs are flowing to the intended recipients.

Executive Order 13563

As far as practicable or relevant, SBA considered the requirements below in developing this rule.

1. Did the agency use the best available techniques to quantify anticipated present and future costs when responding to E.O. 12866 (e.g., identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes)?

To the extent possible, the Agency utilized the most recent data available in the Federal Procurement Data System—Next Generation, System for Award Management and Electronic Subcontracting Reporting System.

2. Public participation: Did the agency: (a) Afford the public a meaningful opportunity to comment through the internet on any proposed regulation, with a comment period that should generally consist of not less than 60 days; (b) provide for an “open exchange” of information among government officials, experts, stakeholders, and the public; (c) provide timely online access to the rulemaking docket on *Regulations.gov*; and (d) seek the views of those who are likely to be affected by rulemaking, even before issuing a notice of proposed rulemaking?

SBA published a proposed rule with a 60-day comment period, and the proposed rulemaking was posted on *www.regulations.gov* to allow the public to comment meaningfully on its provisions. In addition, the proposed rule was discussed with the Small Business Procurement Advisory Council, which consists of the Directors of the Office of Small and Disadvantaged Business Utilization. SBA also submitted the rule to multiple agencies with representatives on the FAR Acquisition Small Business Team prior to submitting the rule to OMB for interagency review. SBA received almost 250 specific comments to the proposed rule, which SBA considered in drafting this final rule.

3. Flexibility: Did the agency identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public?

Yes, this rule implements statutory provisions and clarifies certain SBA regulations, as requested by agencies and stakeholders. In addition, SBA clarifies that contracting officers may request information from their contractors to determine whether the contractor is complying with the limitations on subcontracting. This information may already be provided as part of invoicing under certain contracts, and in any event, the information should be readily provided by the contractor, as it simply pertains to what extent the prime contractor is subcontracting work under the contract. Clarifying that the contracting officer has the authority to request this information, instead of requiring all small businesses to submit reports, significantly reduces cost and burden.

Executive Order 12988

This action meets applicable standards set forth in section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce

burden. This action does not have any retroactive or preemptive effect.

Executive Order 13132

SBA has determined that this rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Executive Order 13771

This rule is expected to be an Executive Order 13771 regulatory action. Details on the estimated costs of this rule can be found in the rule's regulatory impact analysis.

Unfunded Mandates Reform Act of 1995

This rule will not result in an unfunded mandate that will result in expenditures by State governments of \$100 million or more (adjusted annually for inflation since 1995).

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

Small businesses, such as 8(a) BD Program Participants, HUBZone SBCs, WOSBs, Economically Disadvantaged Women-Owned (EDWOSBCs), and SDVO SBCs, are eligible to receive set-aside or sole source contracts. 15 U.S.C. 631(a), 637(a), (m), 644(a), (j), 657a, 657f. As a condition of these preferences, and to help ensure that small businesses actually perform a certain percentage of the work on a contract, the recipients of set-aside or sole source contracts are limited in their ability to subcontract to other than small business concerns by the limitations on subcontracting clauses in the particular contract. See, 48 CFR 52.219-3, 52.219-4, 52.219-7, 52.219-14, 52.219-18, 52.219-27, 52.219-29, 52.219-30. Contracting officers are responsible for ensuring contractor compliance with the terms of a contract (FAR 1.602-2). This rule will provide express authority for contracting officers to request information on contractors' compliance with the limitations on subcontracting requirements. SBA did not receive any comments on this information collection.

SBA sought review and approval from OMB for this information collection, as discussed in the proposed rule. SBA received a Notice of Office of Management and Budget Action on June 10, 2019, certifying OMB pre-approval of the information collection. SBA is not making any substantive changes to the information collection described in the proposed rule and submitted to OMB. The information collection is titled "Compliance with the Limitations on

Subcontracting" and has been assigned OMB Control Number 3245-400.

A summary description of the reporting requirement, description of respondents, and estimate of the annual burden is provided below. Included in the estimate is the time for reviewing requirements, gathering and maintaining the data needed, and submitting the report to the contracting officer.

Title: Compliance with the Limitations on Subcontracting.

OMB Control Number: 3245-0400.

Summary Description of Compliance Information: In order to show that it is in compliance with the limitations on subcontracting terms that are included in its set-aside or sole source contract, a small business concern may be required to submit certain information to the contracting officer. The specific information relevant to a particular contract will be identified by the contracting officer but could include, where applicable, identification of subcontractor, dollar amount of subcontract, and costs to be excluded from the limitations on subcontracting calculation (e.g., for contracts for supplies, materials).

Description of and Estimated Number of Respondents: Small business concerns that are awarded set-aside or sole source contracts. Based on FPDS data, SBA estimates that approximately 53,000 concerns receive approximately 185,000 small business sole source or set-aside awards in a fiscal year and that no more than ten percent (5,300) of concerns will be asked to provide information on compliance with the limitations on subcontracting for no more than ten percent (18,500) of the awards that have been received.

Estimated Annual Responses: 18,500.

Estimated Response Time per Respondent: 1 hour.

Total Estimated Annual Hour Burden: 18,500.

Estimated Costs Based on Respondent's Salary: \$44.06/hour (based on 2018 Median Pay for accountants and auditors, Bureau of Labor Statistics, plus an additional 30% to account for cost of benefits, as discussed in the Regulatory Impact Assessment).

Total Estimated Hour Annual Cost Burden: 18,500 hours × \$44.06/hour = \$815,110.

Regulatory Flexibility Act, 5 U.S.C. 601-612

Under the Regulatory Flexibility Act (RFA), this rule may have a significant on a substantial number of small businesses. Immediately below, SBA sets forth a final regulatory flexibility

analysis (FRFA) addressing the impact of the rule in accordance with section 603, title 5, of the United States Code. The FRFA examines the objectives and legal basis for this rule; the kind and number of small entities that may be affected; the projected recordkeeping, reporting, and other requirements; whether there are any Federal rules that may duplicate, overlap, or conflict with this final rule; and whether there are any significant alternatives to this final rule.

1. What are the need for and objective of the rule?

The rule implements section 863 of the National Defense Authorization Act of 2016, Public Law 114-92, 129 Stat. 726 (15 U.S.C. 644(e)(3)); section 2108 of the Recovery Improvements for Small Entities After Disaster Act of 2015 (RISE Act), Public Law 114-88, 129 Stat. 686 (15 U.S.C. 644(f)); and sections 1811 and 1821 of the National Defense Authorization Act of 2017, Public Law 114-328, 130 Stat. 2000 (15 U.S.C. 637(d), 644(l)). In addition, the rule makes several other changes needed to clarify ambiguities in or remedy perceived problems with the current regulations. These changes should make SBA's regulations easier to use and understand. The rule will make it easier for agencies to award set-aside contracts to SBCs. Failure to promulgate this rule could result in a loss of set-aside opportunities for SBCs.

The change to § 121.404 clarifies when size for a Government contract is determined, which will reduce confusion for small business concerns. The change to § 121.406 clarifies that the size standard for information technology value added resellers is 150 employees, again to eliminate confusion among small business concerns. The changes to § 125.2(a) will benefit small business by clarifying that a contracting officer can award a contract to a small business under a set-aside if only one offer is received. The changes to § 125.2(b) implement section 1811 of the NDAA 2017 and govern what acquisitions PCRs can review and would not impact small business concerns. The changes to § 125.2(d) implement section 863 of the NDAA of 2016 and direct contracting officers on how to notify the public about consolidation and substantial bundling and will not impact small business concerns. The changes to § 125.2(e) authorize agencies to set aside orders for socioeconomic programs where the contract was set aside for small business and will benefit firms that qualify for those set-asides. The changes to § 125.3 implement section 1821 of the NDAA of

2017 by providing examples of a failure to make a good faith effort to comply with small business subcontracting plans, and will benefit small businesses by providing such examples so that contracting officers can hold other than small prime contractors accountable for failing to make a good faith effort to comply with their small business subcontracting plan. The changes to § 125.3 also implement section 1821 by providing that the contracting officer should evaluate whether an other than small business complied with the requirement to report on small business subcontracting plan performance. The changes to § 125.6(a) will benefit small business concerns by allowing small businesses to exclude certain costs from the calculation of the limitations on subcontracting. Without these changes, some agencies will not be able to set contracts aside for small business, because certain costs attributable to other than small concerns are too high. The changes to § 125.6 also help small businesses by clarifying the difference between an employee and an independent contractor. The changes to § 125.6 will impose some information production requirements on small business concerns, but only to the extent the information is not already in the possession of the Government. Further, this information is readily available since it pertains to contract performance and subcontracting of that performance. These reports are not mandatory, as the contracting officer simply has the discretion to request such reports. Contracting officers already have the authority to request information demonstrating performance, and this change simply clarifies that the authority exists. Finally, the benefits to small business concerns of this rule substantially outweigh any minor costs imposed by the reporting authority. The addition of part 129 implements section 2108 of the RISE Act and benefits small businesses by providing agencies with an incentive to set aside contracts for small business concerns located in a disaster area.

With respect to the limitation on subcontracting to an ineligible small business under a socioeconomic set-aside (the new 13 CFR 124.507(b)(2)(vi), 125.29(c), 126.601(i), and 127.504(c)), the rule will impact very few firms. The vast majority of small business prime contractors self-perform the required percentage of work, or will subcontract to a similarly situated entity, as is allowed under FAR 52.219-3 (Notice of HUBZone Set-Aside or Sole Source Award), 52-219-27 (Notice of Service-Disabled Veteran-Owned Small

Business Set-Aside), and as will be allowed when SBA's rules on similarly situated entities (13 CFR 125.6) are implemented in the FAR. The benefits that will flow to the intended beneficiaries of a socio-economic set-aside far outweigh any impact on firms that have no intention of performing the contract or are not eligible to bid on that contract.

2. What are SBA's description and estimate of the number of small entities to which the rule will apply?

The rule will be applicable to all small business concerns participating in the Federal procurement market that seek to perform Government prime contracts or to perform subcontracts awarded by other than small concerns. SBA estimates that there are approximately 320,000 firms identified as small business concerns in the Dynamic Small Business Search database.

3. What are the projected reporting, recordkeeping, and other compliance requirements of the rule and an estimate of the classes of small entities which will be subject to the requirements?

The rule does not impose new recordkeeping requirements. Contractors already keep records on contract performance and subcontracting. Information may be required, but only to the extent the information is not available through invoices or existing progress reports. The rule clarifies that contracting officers may request access to information in connection with a contractor's compliance with applicable limitations on subcontracting clauses. Approximately 53,000 firms received sole source or set-aside awards in FY 2018. SBA is clarifying that a contracting officer may request information to ensure compliance with the limitations on subcontracting clause, and in some cases this information may not be necessary based on the nature of the contract and the invoices submitted. We estimate that less than ten percent of contracts would be subject to a request to provide this information (18,500), and compliance should take less than an hour for each of those contracts. Accounting or contract management personnel should be able to determine whether the firm issued any subcontracts in connection with the prime contract. We estimate an overall annual cost of approximately \$815,110. As discussed above in the Regulatory Impact Analysis, this figure differs from the figure included in the IRFA to reflect the increased hourly rate that is included as part of the cost analysis.

4. What are the relevant Federal rules which may duplicate, overlap or conflict with the rule?

We are not aware of any rules that duplicate, overlap or conflict with this rule. The FAR will have to be amended to implement portions of this rule. That will be done through a separate rulemaking.

5. What alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small entities?

Many of the changes are required to implement statute and impose requirements on contracting personnel, agencies or other than small concerns, and do not impact small business concerns. Further, many of the changes will benefit small business concerns by clarifying areas where there is confusion and by making it easier for agencies to set aside contracts and orders for small business and small socioeconomic concerns. As an alternative, SBA considered whether prime contractors should be required to provide information on compliance with the limitations on subcontracting on all set-aside or sole source contracts. However, that may unnecessarily burden small businesses, if compliance is already readily apparent to the contracting officer based on the type of contract, invoicing, or observation.

List of Subjects

13 CFR Part 121

Government procurement, Government property, Grant programs—business, Individuals with disabilities, Loan programs—business, Small businesses.

13 CFR Part 124

Administrative practice and procedure, Government procurement, Government property, Small businesses.

13 CFR Part 125

Government contracts, Government procurement, Reporting and recordkeeping requirements, Small businesses, Technical assistance.

13 CFR Part 126

Administrative practice and procedure, Government procurement, Reporting and recordkeeping requirements, Small businesses.

13 CFR Part 127

Government contracts, Reporting and recordkeeping requirements, Small businesses.

13 CFR Part 129

Administrative practice and procedure, Government contracts, Government procurement, Small businesses.

Accordingly, for the reasons stated in the preamble, SBA amends 13 CFR parts 121, 124, 125, 126, and 127 and adds 13 CFR part 129 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 1. The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 662, and 694a(9).

■ 2. Amend § 121.103 by revising the first sentence of paragraph (h)(4) to read as follows:

§ 121.103 How does SBA determine affiliation?

* * * * *

(h) * * *

(4) A contractor and its ostensible subcontractor are treated as joint venturers for size determination purposes. * * *

* * * * *

■ 3. Amend § 121.404 by revising paragraph (a) introductory text, adding paragraph (a)(1)(iv), and revising paragraph (g)(5) to read as follows:

§ 121.404 When is the size status of a business concern determined?

(a) SBA determines the size status of a concern, including its affiliates, as of the date the concern submits a written self-certification that it is small to the procuring activity as part of its initial offer or response which includes price.

(1) * * *

(iv) For an indefinite delivery, indefinite quantity (IDIQ), Multiple Award Contract, where concerns are not required to submit price as part of the offer for the IDIQ contract, size will be determined as of the date of initial offer, which may not include price.

* * * * *

(g) * * *

(5) If during contract performance a subcontractor that is not a similarly situated entity performs primary and vital requirements of a contract, the contractor and its ostensible subcontractor will be treated as joint venturers. See § 121.103(h)(4).

* * * * *

■ 4. Amend § 121.406 by:

- a. Revising paragraph (b)(1)(i);
- b. Removing paragraph (c); and
- c. Redesignating paragraphs (d) through (f) as paragraphs (c) through (e) respectively.

The revision reads as follows:

§ 121.406 How does a small business concern qualify to provide manufactured products or other supply items under a small business set-aside, service-disabled veteran-owned small business, HUBZone, WOSB or EDWOSB, or 8(a) contract?

* * * * *

(b) * * *

(1) * * *

(i) Does not exceed 500 employees (or 150 employees for the Information Technology Value Added Reseller exception to NAICS Code 541519, which is found at § 121.201, footnote 18);

* * * * *

PART 124—8(a) BUSINESS DEVELOPMENT/SMALL DISADVANTAGED BUSINESS STATUS DETERMINATIONS

■ 5. The authority citation for part 124 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(j), 637(a), 637(d), 644 and Pub. L. 99-661, Pub. L. 100-656, sec. 1207, Pub. L. 101-37, Pub. L. 101-574, section 8021, Pub. L. 108-87, and 42 U.S.C. 9815.

■ 6. Amend § 124.503 by revising paragraphs (c)(1)(iii) and (iv) and adding paragraph (c)(1)(v) to read as follows:

§ 124.503 How does SBA accept a procurement for award through the 8(a) BD program?

* * * * *

(c) * * *

(1) * * *

(iii) The Participant is small for the size standard corresponding to the NAICS code assigned to the requirement by the procuring activity contracting officer;

(iv) The Participant has submitted required financial statements to SBA; and

(v) The Participant can demonstrate that it, together with any similarly situated entity, will meet the limitations on subcontracting provisions set forth in § 124.510.

* * * * *

■ 7. Amend § 124.507 by:

- a. Removing the word “and” at the end of paragraph (b)(2)(iv);
- b. Removing the period at the end of paragraph (b)(2)(v) and adding in its place “; and”; and
- c. Adding paragraph (b)(2)(vi).

The addition reads as follows:

§ 124.507 What procedures apply to competitive 8(a) procurements?

* * * * *

(b) * * *

(2) * * *

(vi) Can demonstrate that it, together with any similarly situated entity, will

meet the limitations on subcontracting provisions set forth in § 124.510.

* * * * *

■ 8. Amend § 124.521 by adding paragraph (e) to read as follows:

§ 124.521 What are the requirements for representing 8(a) status, and what are the penalties for misrepresentation?

* * * * *

(e) *Recertification.* (1) Generally, a concern that is an eligible 8(a) Participant at the time of initial offer or response, which includes price, for an 8(a) contract, including a Multiple Award Contract, is considered an 8(a) Participant throughout the life of that contract. For an indefinite delivery, indefinite quantity (IDIQ), Multiple Award 8(a) Contract, where concerns are not required to submit price as part of the offer for the contract, a concern that is an eligible 8(a) Participant at the time of initial offer, which may not include price, is considered an 8(a) Participant throughout the life of that contract. This means that if an 8(a) Participant is qualified at the time of initial offer for a Multiple Award 8(a) Contract, then it will be considered an 8(a) Participant for each order issued against the contract, unless a contracting officer requests a new 8(a) eligibility determination in connection with a specific order. Where a concern later fails to qualify as an 8(a) Participant, the procuring agency may exercise options and still count the award as an award to a Small Disadvantaged Business (SDB).

(i) Where an 8(a) contract is novated to another business concern, or where the concern performing the 8(a) contract is acquired by, acquires, or merges with another concern and contract novation is not required, the concern must comply with the process outlined at §§ 124.105(i) and 124.515.

(ii) Where an 8(a) Participant that was initially awarded a non-8(a) contract that is subsequently novated to another business concern, the concern that will continue performance on the contract must certify its SDB status to the procuring agency, or inform the procuring agency that it does not qualify as an SDB, within 30 days of the novation approval. If the concern is not an SDB, the agency can no longer count the options or orders issued pursuant to the contract, from that point forward, towards its SDB goals.

(iii) Where an 8(a) Participant receives a non-8(a) contract, and that Participant acquires, is acquired by, or merges with another concern and contract novation is not required, the concern must, within 30 days of the transaction becoming final, recertify its SDB status

to the procuring agency, or inform the procuring agency that it no longer qualifies as an SDB. If the contractor is no longer a current 8(a) Participant, the contractor is not eligible for orders limited to 8(a) awardees. If the contractor is not an SDB, the agency can no longer count the options or orders issued pursuant to the contract, from that point forward, towards its SDB goals. The agency and the contractor must immediately revise all applicable Federal contract databases for which they directly certify information to reflect the new status.

(2) For the purposes of 8(a) contracts (including Multiple Award Contracts) with durations of more than five years (including options), a contracting officer must verify in DSBS whether a business concern continues to be an eligible 8(a) Participant no more than 120 days prior to the end of the fifth year of the contract, and no more than 120 days prior to exercising any option. Where a concern fails to qualify as an eligible 8(a) Participant during the 120 days prior to the end of the fifth year of the contract, the option shall not be exercised.

(3) Recertification does not change the terms and conditions of the contract. The limitations on subcontracting, nonmanufacturer and subcontracting plan requirements in effect at the time of contract award remain in effect throughout the life of the contract.

(4) Where the contracting officer explicitly requires concerns to qualify as eligible 8(a) Participants in response to a solicitation for an order, SBA will determine eligibility as of the date the concern submits its self-representation as part of its response to the solicitation for the order.

(5) A concern's status will be determined at the time of a response to a solicitation for a basic ordering agreement (BOA), basic agreement (BA), or blanket purchase agreement (BPA) and each order issued pursuant to the BOA, BA, or BPA.

■ 9. Amend § 124.1015 by adding paragraph (f) to read as follows:

§ 124.1015 What are the requirements for representing SDB status, and what are the penalties for misrepresentation?

* * * * *

(f) *Recertification.* (1) Generally, a concern that represents itself and qualifies as an SDB at the time of initial offer (or other formal response to a solicitation), which includes price, including a Multiple Award Contract, is considered an SDB throughout the life of that contract. For an indefinite delivery indefinite quantity (IDIQ), Multiple Award Contract, where

concerns are not required to submit price as part of their offer for the contract, a concern that represents itself and qualifies as an SDB at the time of initial offer, which may not include price, is considered an SDB throughout the life of that contract. This means that if an SDB is qualified at the time of initial offer for a Multiple Award Contract, then it will be considered an SDB for each order issued against the contract, unless a contracting officer requests a new SDB certification in connection with a specific order. Where a concern later fails to qualify as an SDB, the procuring agency may exercise options and still count the award as an award to an SDB. However, the following exceptions apply:

(i) Where a contract is novated to another business concern, the concern that will continue performance on the contract must certify its status as an SDB to the procuring agency, or inform the procuring agency that it does not qualify as an SDB, within 30 days of the novation approval. If the concern is not an SDB, the agency can no longer count the options or orders issued pursuant to the contract, from that point forward, towards its SDB goals.

(ii) Where a concern that is performing a contract acquires, is acquired by, or merges with another concern and contract novation is not required, the concern must, within 30 days of the transaction becoming final, recertify its SDB status to the procuring agency, or inform the procuring agency that it no longer qualifies as an SDB. If the contractor is not an SDB, the agency can no longer count the options or orders issued pursuant to the contract, from that point forward, towards its SDB goals. The agency and the contractor must immediately revise all applicable Federal contract databases for which they directly certify information to reflect the new status.

(2) For the purposes of contracts (including Multiple Award Contracts) with durations of more than five years (including options), a contracting officer must request that a business concern recertify its SDB status no more than 120 days prior to the end of the fifth year of the contract, and no more than 120 days prior to exercising any option.

(3) A business concern that did not certify itself as an SDB, either initially or prior to an option being exercised, may recertify itself as an SDB for a subsequent option period if it meets the eligibility requirements at that time.

(4) Recertification does not change the terms and conditions of the contract. The limitations on subcontracting, nonmanufacturer and subcontracting plan requirements in effect at the time

of contract award remain in effect throughout the life of the contract.

(5) Where the contracting officer explicitly requires concerns to recertify their status in response to a solicitation for an order, SBA will determine eligibility as of the date the concern submits its self-representation as part of its response to the solicitation for the order.

(6) A concern's status may be determined at the time of a response to a solicitation for an Agreement and each order issued pursuant to the Agreement.

PART 125—GOVERNMENT CONTRACTING PROGRAMS

■ 10. The authority citation for part 125 is revised to read as follows:

Authority: 15 U.S.C. 632(p), (q), 634(b)(6), 637, 644, 657(f), and 657r.

■ 11. Amend § 125.2 by:

- a. Revising paragraph (a);
- b. In paragraph (b)(1)(i)(A):
 - i. Revising the second sentence; and
 - ii. Adding a sentence at the end of the paragraph;
- c. Adding paragraph (d)(1)(v);
- d. Redesignating paragraph (d)(7) as paragraph (d)(8);
- e. Adding new paragraph (d)(7); and
- f. Revising the paragraph (e)(6) subject heading and paragraph (e)(6)(i).

The revisions and additions read as follows:

§ 125.2 What are SBA's and the procuring agency's responsibilities when providing contracting assistance to small businesses?

(a)(1) *General.* The objective of the SBA's contracting programs is to assist small business concerns, including 8(a) BD Participants, HUBZone small business concerns, Service-Disabled Veteran-Owned Small Business Concerns, Women-Owned Small Businesses and Economically Disadvantaged Women-Owned Small Businesses, in obtaining a fair share of Federal Government prime contracts, subcontracts, orders, and property sales. Therefore, these regulations apply to all types of Federal Government contracts, including Multiple Award Contracts, and contracts for architectural and engineering services, research, development, test and evaluation. Small business concerns must receive any award (including orders, and orders placed against Multiple Award Contracts) or contract, part of any such award or contract, any contract for the sale of Government property, or any contract resulting from a reverse auction, regardless of the place of performance, which SBA and the procuring or disposal agency determine to be in the interest of:

(i) Maintaining or mobilizing the Nation's full productive capacity;
 (ii) War or national defense programs;
 (iii) Assuring that a fair proportion of the total purchases and contracts for property, services and construction for the Government in each industry category are placed with small business concerns; or

(iv) Assuring that a fair proportion of the total sales of Government property is made to small business concerns.

(2) *One acceptable offer.* If the contracting officer receives only one acceptable offer from a responsible small business concern in response to any small or socioeconomic set-aside, the contracting officer should make an award to that firm.

(b) * * *

(1) * * *

(i) * * *

(A) * * * At the SBA's discretion, PCRs may review any acquisition to determine whether a set-aside or sole-source award to a small business under one of SBA's programs is appropriate and to identify alternative strategies to maximize the participation of small businesses in the procurement. * * * Unless the contracting agency requests a review, PCRs will not review an acquisition by or on behalf of the Department of Defense if the acquisition is conducted for a foreign government pursuant to section 22 of the Arms Control Export Act (22 U.S.C. 2762), is humanitarian or civic assistance provided in conjunction with military operations as defined in 10 U.S.C. 401(e), is for a contingency operation as defined in 10 U.S.C. 101(a)(13), is to be awarded pursuant to an agreement with the government of a foreign country in which Armed Forces of the United States are deployed, or where both the place of award and place of performance are entirely outside of the United States and its territories.

* * * * *

(d) * * *

(1) * * *

(v) Not later than 7 days after making a determination that an acquisition strategy involving a consolidation of contract requirements is necessary and justified under subparagraph (d)(1)(i) of this section, the Senior Procurement Executive (SPE) or Chief Acquisition Officer (CAO), or designee, shall publish a notice on the Government Point of Entry (GPE) that such determination has been made. Any solicitation for a procurement related to the acquisition strategy shall not be issued earlier than 7 days after such notice is published. Along with the publication of the solicitation, the SPE or CAO (or

designee) must publish in the GPE the justification for the determination, which shall include the information in paragraphs (d)(1)(i)(A) through (E) of this section.

* * * * *

(7) *Notification to public of rationale for substantial bundling.* If the head of a contracting agency determines that an acquisition plan for a procurement involves a substantial bundling of contract requirements, the head of a contracting agency shall publish a notice on the GPE that such determination has been made not later than 7 days after making such determination. Any solicitation for a procurement related to the acquisition plan may not be published earlier than 7 days after such notice is published. Along with the publication of the solicitation, the head of a contracting agency shall publish in the GPE a justification for the determination, which shall include the following information:

(i) The specific benefits anticipated to be derived from the bundling of contract requirements and a determination that such benefits justify the bundling;

(ii) An identification of any alternative contracting approaches that would involve a lesser degree of bundling of contract requirements;

(iii) An assessment of the specific impediments to participation by small business concerns as prime contractors that result from the bundling of contract requirements; and

(iv) The specific actions designed to maximize participation of small business concerns as subcontractors (including suppliers) at various tiers under the contract or contracts that are awarded to meet the requirements.

* * * * *

(e) * * *

(6) *Set-aside of orders against Multiple Award Contracts.* (i) Notwithstanding the fair opportunity requirements set forth in 10 U.S.C. 2304c and 41 U.S.C. 253j, the contracting officer has the authority to set aside orders against Multiple Award Contracts, including contracts that were set aside for small business. This includes order set-asides for 8(a) Participants, HUBZone SBCs, SDVO SBCs, and WOSBs (and where appropriate EDWOSBs).

* * * * *

- 12. Amend § 125.3 by:
- a. Revising the last sentence of paragraph (c)(1)(iv);
- b. Revising paragraph (d)(3);
- c. Adding paragraph (d)(11); and
- d. Revising the first sentence of paragraph (f)(3).

The revisions and addition read as follows:

§ 125.3 What types of subcontracting assistance are available to small businesses?

* * * * *

(c) * * *

(1) * * *

(iv) * * * A contractor authorized to use a commercial subcontracting plan must include all indirect costs in its subcontracting goals and in its SSR;

* * * * *

(d) * * *

(3) Evaluating whether the prime contractor made a good faith effort to comply with its small business subcontracting plan.

(i) Evidence that a large business prime contractor has made a good faith effort to comply with its subcontracting plan or other subcontracting responsibilities includes supporting documentation that:

(A) The contractor performed one or more of the actions described in paragraph (b) of this section, as appropriate for the procurement;

(B) Although the contractor may have failed to achieve its goal in one socioeconomic category, it over-achieved its goal by an equal or greater amount in one or more of the other categories; or

(C) The contractor fulfilled all of the requirements of its subcontracting plan.

(ii) Examples of activities reflective of a failure to make a good faith effort to comply with a subcontracting plan include, but are not limited, to:

(A) Failure to submit the acceptable individual or summary subcontracting reports in eSRS by the report due dates or as provided by other agency regulations within prescribed time frames;

(B) Failure to pay small business concern subcontractors in accordance with the terms of the contract with the prime;

(C) Failure to designate and maintain a company official to administer the subcontracting program and monitor and enforce compliance with the plan;

(D) Failure to maintain records or otherwise demonstrate procedures adopted to comply with the plan including subcontracting flow-down requirements;

(E) Adoption of company policies or documented procedures that have as their objectives the frustration of the objectives of the plan;

(F) Failure to correct substantiated findings from federal subcontracting compliance reviews or participate in subcontracting plan management training offered by the government;

(G) Failure to conduct market research identifying potential small business concern subcontractors through all reasonable means including outreach, industry days, or the use of federal database marketing systems such as SBA's Dynamic Small Business Search (DSBS) or SUBNet Systems or any successor federal systems;

(H) Failure to comply with regulations requiring submission of a written explanation to the contracting officer to change small business concern subcontractors that were used in preparing offers; or

(I) Falsifying records of subcontracting awards to SBCs.

* * * * *

(11) Evaluating whether the contractor or subcontractor complied in good faith with the requirement to provide periodic reports and cooperate in any studies or surveys as may be required by the Federal agency or the Administration in order to determine the extent of compliance by the contractor or subcontractor with the subcontracting plan. The contractor or subcontractor's failure to comply with this requirement in good faith shall be a material breach of such contract or subcontract and may be considered in any past performance evaluation of the contractor.

* * * * *

(f) * * *

(3) Upon completion of the review and evaluation of a contractor's performance and efforts to achieve the requirements in its subcontracting plans, the contractor's performance will be assigned one of the following ratings: Exceptional, Very Good, Satisfactory, Marginal or Unsatisfactory. * * *

* * * * *

■ 13. Amend § 125.6 by:

- a. Adding two sentences at the end of paragraph (a)(1);
- b. Adding a sentence at the end of paragraph (c) introductory text;
- c. Revising paragraph (e)(3); and
- d. Adding paragraph (e)(4).

The additions and revision read as follows:

§ 125.6 What are the prime contractor's limitations on subcontracting?

(a) * * *

(1) * * * Other direct costs may be excluded to the extent they are not the principal purpose of the acquisition and small business concerns do not provide the service, such as airline travel, work performed by a transportation or disposal entity under a contract assigned the environmental remediation NAICS code (562910), cloud computing services, or mass media purchases. In

addition, work performed overseas on awards made pursuant to the Foreign Assistance Act of 1961 or work required to be performed by a local contractor, is excluded.

* * * * *

(c) * * * A prime contractor may no longer count a similarly situated entity towards compliance with the limitations on subcontracting where the subcontractor ceases to qualify as small or under the relevant socioeconomic status.

* * * * *

(e) * * *

(3) For contracts where an independent contractor is not otherwise treated as an employee of the concern for which he/she is performing work for size purposes under § 121.106(a) of this chapter, work performed by the independent contractor shall be considered a subcontract. Such work will count toward meeting the applicable limitation on subcontracting where the independent contractor qualifies as a similarly situated entity.

(4) Contracting officers may, at their discretion, require the contractor to demonstrate its compliance with the limitations on subcontracting at any time during performance and upon completion of a contract if the information regarding such compliance is not already available to the contracting officer. Evidence of compliance includes, but is not limited to, invoices, copies of subcontracts, or a list of the value of tasks performed.

* * * * *

■ 14. Amend § 125.18 by:

- a. In paragraph (e)(1)(i), removing the phrase "an SDVO contract" and adding in its place the phrase "a contract";
- b. In paragraph (e)(1)(ii), removing the phrase "an SDVO SBC contract" and adding in its place the phrase "a contract"; and
- c. Adding paragraph (f).

The addition reads as follows:

§ 125.18 What requirements must an SDVO SBC meet to submit an offer on a contract?

* * * * *

(f) *Ostensible subcontractor.* Where a subcontractor that is not similarly situated performs primary and vital requirements of a set-aside or sole-source service contract or order, or where a prime contractor is unduly reliant on a small business that is not similarly situated to perform the set-aside or sole source service contract or order, the prime contractor is not eligible for award of an SDVO contract.

(1) When the subcontractor is small for the size standard assigned to the

procurement, this issue may be grounds for an SDVO status protest, as described in subpart D of this part. When the subcontractor is other than small, or alleged to be other than small for the size standard assigned to the procurement, this issue may be grounds for a size protest subject to the ostensible subcontractor rule, as described at § 121.103(h)(4) of this chapter.

(2) SBA will find that a prime SDVO contractor is performing the primary and vital requirements of a contract or order and is not unduly reliant on one or more non-similarly situated subcontracts where the prime contractor can demonstrate that it, together with any similarly situated entity, will meet the limitations on subcontracting provisions set forth in § 125.6.

■ 15. Amend § 125.29 by adding paragraph (c) to read as follows:

§ 125.29 What are the grounds for filing an SDVO SBC protest?

* * * * *

(c) *Ostensible subcontractor.* In cases where the prime contractor appears unduly reliant on a small, non-similarly situated entity subcontractor or where the small non-similarly situated entity is performing the primary and vital requirements of the contract, the Director, Office of Government Contracting will consider a protest only if the protester presents credible evidence of the alleged undue reliance or credible evidence that the primary and vital requirements will be performed by the subcontractor.

PART 126—HUBZONE PROGRAM

■ 16. The authority citation for part 126 is revised to read as follows:

Authority: 15 U.S.C. 632(a), 632(j), 632(p), 644 and 657a; Pub. L. 111-240, 24 Stat. 2504.

■ 17. Amend § 126.601 by:

- a. In paragraph (h)(1)(i), removing the phrase "HUBZone contract (or a HUBZone contract awarded through full and open competition based on the HUBZone price evaluation preference)" and adding in its place the word "contract";
- b. In paragraph (h)(1)(ii), removing the phrase "HUBZone contract" and adding in its place the word "contract"; and
- c. Adding paragraph (i).

The addition reads as follows:

§ 126.601 What additional requirements must a qualified HUBZone SBC meet to bid on a contract?

* * * * *

(i) *Ostensible subcontractor.* Where a subcontractor that is not similarly situated performs primary and vital

requirements of a set-aside service contract, or where a prime contractor is unduly reliant on a small business that is not similarly situated to perform the set-aside service contract, the prime contractor is not eligible for award of a HUBZone contract.

(1) When the subcontractor is small for the size standard assigned to the procurement, this issue may be grounds for a HUBZone status protest, as described in subpart H of this part. When the subcontractor is alleged to be other than small for the size standard assigned to the procurement, this issue may be grounds for a size protest under the ostensible subcontractor rule, as described at § 121.103(h)(4) of this chapter.

(2) SBA will find that a prime HUBZone contractor is performing the primary and vital requirements of a contract or order and is not unduly reliant on one or more non-similarly situated subcontracts where the prime contractor can demonstrate that it, together with any similarly situated entity, will meet the limitations on subcontracting provisions set forth in § 125.6.

■ 18. Amend § 126.801 by adding a new fourth sentence to paragraph (a) to read as follows:

§ 126.801 How does one file a HUBZone status protest?

(a) * * * SBA will also consider a protest challenging whether a HUBZone prime contractor is unduly reliant on a small, non-similarly situated entity subcontractor or if such subcontractor performs the primary and vital requirements of the contract. * * *

* * * * *

PART 127—WOMEN-OWNED SMALL BUSINESS FEDERAL CONTRACT PROGRAM

■ 19. The authority citation for part 127 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 637(m), 644 and 657r.

§ 127.503 [Amended]

■ 20. Amend § 127.503 by removing the phrase “WOSB/EDWOSB contract” wherever it appears and adding in its place the word “contract” in paragraphs (h)(1)(i) and (ii).

■ 21. Amend § 127.504 by adding paragraph (c) to read as follows:

§ 127.504 What additional requirements must a concern satisfy to submit an offer on an EDWOSB or WOSB requirement?

* * * * *

(c) *Ostensible subcontractor.* Where a subcontractor that is not similarly

situated performs primary and vital requirements of a set-aside service contract, or where a prime contractor is unduly reliant on a small business that is not similarly situated to perform the set-aside service contract, the prime contractor is not eligible for award of a WOSB or EDWOSB contract.

(1) When the subcontractor is small for the size standard assigned to the procurement, this issue may be grounds for a WOSB or EDWOSB status protest, as described in subpart F of this part. When the subcontractor is other than small or alleged to be other than small for the size standard assigned to the procurement, this issue may be a ground for a size protest, as described at § 121.103(h)(4) of this chapter.

(2) SBA will find that a prime WOSB or EDWOSB contractor is performing the primary and vital requirements of a contract or order and is not unduly reliant on one or more non-similarly situated subcontracts where the prime contractor can demonstrate that it, together with any similarly situated entity, will meet the limitations on subcontracting provisions set forth in § 125.6.

■ 22. Amend § 127.602 by revising the second sentence and adding a third sentence to read as follows:

§ 127.602 What are the grounds for filing an EDWOSB or WOSB status protest?

* * * SBA will also consider a protest challenging the status of a concern as an EDWOSB or WOSB if the contracting officer has protested because the WOSB or EDWOSB apparent successful offeror has failed to provide all of the required documents, as set forth in § 127.300. In addition, when sufficient credible evidence is presented, SBA will consider a protest challenging whether the prime contractor is unusually reliant on a small, non-similarly situated entity subcontractor, as defined in § 125.1 of this chapter, or a protest alleging that such subcontractor is performing the primary and vital requirements of a set-aside or sole-source WOSB or EDWOSB contract.

■ 23. Add part 129 to read as follows:

PART 129—CONTRACTS FOR SMALL BUSINESSES LOCATED IN DISASTER AREAS

Sec.

129.100 What definitions are important in this part?

129.200 What contracting preferences are available for small business concerns located in disaster areas?

129.300 What small business goaling credit do agencies receive for awarding an

emergency response contract to a small business concern under this part?

129.400 What are the applicable performance requirements?

129.500 What are the penalties of misrepresentation of size or status?

Authority: 15 U.S.C. 636(j)(13)(F)(ii), 644(f).

§ 129.100 What definitions are important in this part?

For the purposes of this part:

Concern located in a disaster area is a firm that during the last twelve months—

(1)(i) Had its main operating office in the area; and

(ii) Generated at least half of the firm's gross revenues and employed at least half of its permanent employees in the area.

(2) If the firm does not meet the criteria in paragraph (1) of this definition, factors to be considered in determining whether a firm resides or primarily does business in the disaster area include—

(i) Physical location(s) of the firm's permanent office(s) and date any office in the disaster area(s) was established;

(ii) Current state licenses;

(iii) Record of past work in the disaster area(s) (e.g., how much and for how long);

(iv) Contractual history the firm has had with subcontractors and/or suppliers in the disaster area;

(v) Percentage of the firm's gross revenues attributable to work performed in the disaster area;

(vi) Number of permanent employees the firm employs in the disaster area;

(vii) Membership in local and state organizations in the disaster area; and

(viii) Other evidence that establishes the firm resides or primarily does business in the disaster area. For example, sole proprietorships may submit utility bills and bank statements.

Disaster area means the area for which the President has declared a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Assistance Act (42 U.S.C. 5170), during the period of the declaration.

Emergency response contract means a contract with private entities that supports assistance activities in a disaster area, such as debris cleanup, distribution of supplies, or reconstruction.

§ 129.200 What contracting preferences are available for small business concerns located in disaster areas?

Contracting officers may set aside solicitations for emergency response contracts to allow only small businesses located in the disaster area to compete.

§ 129.300 What small business goaling credit do agencies receive for awarding an emergency response contract to a small business concern under this part?

If an agency awards an emergency response contract to a local small business concern through the use of a local area set-aside that is also set aside under a small business or socioeconomic set-aside (8(a), HUBZone, SDVO, WOSB, EDWOSB), the value of the contract shall be doubled for purposes of determining compliance with the goals for procurement contracts under section 15(g)(1)(A) of the Small Business Act (15 U.S.C. 644(g)(1)(A)). The procuring agency shall enter the actual contract value, not the doubled contract value in the required contract reporting systems, and appropriately code the contract action to receive the credit. SBA will provide the double credit as part of the Scorecard process.

§ 129.400 What are the applicable performance requirements?

The performance requirements of § 125.6 of this chapter apply to small and socioeconomic set-asides under this part. A similarly situated entity as that term is used in § 125.6 of this chapter must qualify as a concern located in a disaster area.

§ 129.500 What are the penalties of misrepresentation of size or status?

The penalties relevant to the particular size or socioeconomic status representation under 13 CFR 121.108, 125.32, 126.900, and 127.700 are applicable to set-asides under this part.

PART 134—RULES OF PROCEDURE GOVERNING CASES BEFORE THE OFFICE OF HEARINGS AND APPEALS

■ 24. The authority citation for part 134 continues to read as follows:

Authority: 5 U.S.C. 504; 15 U.S.C. 632, 634(b)(6), 634(i), 637(a), 648(l), 656(i), and 687(c); 38 U.S.C. 8127(f); E.O. 12549, 51 FR 6370, 3 CFR, 1986 Comp., p. 189.

Subpart J issued under 38 U.S.C. 8127(f)(8)(B).

Subpart K issued under 38 U.S.C. 8127(f)(8)(A).

■ 25. Amend § 134.1003 by redesignating paragraph (c) as paragraph (d) and by adding new paragraph (c) to read as follows:

§ 134.1003 Grounds for filing a CVE Protest.

* * * * *

(c) *Unusual reliance.* SBA will consider a protest challenging whether the prime contractor is unusually reliant on a subcontractor that is not CVE verified, or a protest alleging that such

subcontractor is performing the primary and vital requirements of a VA procurement contract.

* * * * *

Dated: November 19, 2019.

Christopher Pilkerton,

Acting Administrator.

[FR Doc. 2019-25517 Filed 11-27-19; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2019-0995; Product Identifier AD-2019-00113-E; Amendment 39-21001; AD 2019-25-01]

RIN 2120-AA64

Airworthiness Directives; International Aero Engines, LLC Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain International Aero Engines, LLC (IAE LLC) PW1122G-JM, PW1124G-JM, PW1124G1-JM, PW1127G1-JM, PW1127GA-JM, PW1127G-JM, PW1129G-JM, PW1130G-JM, PW1133GA-JM, PW1133G-JM model turbofan engines. This AD requires replacement of certain low-pressure turbine (LPT) 3rd-stage blades. This AD was prompted by multiple reports of LPT 3rd-stage blade failures causing a reduction of engine thrust. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 16, 2019.

The FAA must receive comments on this AD by January 13, 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.

For service information identified in this final rule, contact International Aero Engines, LLC, 400 Main Street, East Hartford, CT 06118, United States; phone: (800) 565-0140; email: help24@pw.utc.com; website: <https://fleetcare.pw.utc.com>. You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781-238-7759. It is also available on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2019-0995.

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-2019-0995; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT:

Kevin M. Clark, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238-7088; fax: 781-238-7199; email: Kevin.M.Clark@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA received reports of approximately 21 failures of the affected LPT 3rd-stage blades from 2017 through June 2019. These failures appear to be caused by impact damage occurring when debris passes through the engine. The manufacturer has determined the need to replace any affected LPT 3rd-stage blades with LPT blades made of a different material that is more resistant to impact damage.

In response to these events, the FAA issued a Notice of Proposed Rulemaking (NPRM), Product Identifier 2019-NE-31-AD (84 FR 64441, November 22, 2019), proposing to adopt a new AD to address LPT 3rd-stage blade failures on certain IAE LLC PW1122G-JM, PW1124G-JM, PW1124G1-JM, PW1127G1-JM, PW1127GA-JM, PW1127G-JM, PW1129G-JM, PW1130G-JM, PW1133GA-JM, PW1133G-JM model turbofan engines. This NPRM AD proposes removal from service of affected LPT 3rd-stage blades at the next engine shop visit.

Since June 2019, and prior to the publication of NPRM Product Identifier 2019-NE-31-AD, 20 additional failures of the affected LPT 3rd-stage blades have occurred. The investigation of these failures is on-going. These additional failures have occurred primarily on engines operated by certain airlines. This AD requires an accelerated timeframe for replacement of the affected LPT 3rd-stage blades on certain serial-numbered engines being operated by these airlines. Based on publication of NPRM Product Identifier 2019-NE-31-AD, the FAA would still require replacement of the affected LPT 3rd-stage blades on the remaining affected engines at the next engine shop visit.

This condition, if not addressed, could result in failure of the LPT 3rd-stage blades, failure of one or more engines, loss of thrust control, and loss of the airplane. The FAA is issuing this AD to address the unsafe condition on these products.

Related Service Information

The FAA reviewed Pratt & Whitney Service Bulletin PW1000G-C-72-00-0111-00A-930A-D, Issue No. 002, dated October 18, 2019. The service information describes procedures for removal of the affected LPT 3rd-stage blades and their replacement with parts eligible for installation.

FAA’s Determination

The FAA is issuing this AD because we evaluated all the relevant

information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

This AD requires, within the times specified in the compliance section of this AD, removal from service of LPT 3rd-stage blades part number (P/N) 5387343, 5387493, 5387473, or 5387503, and their replacement with parts eligible for installation.

FAA’s Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because no domestic operators use this product. It is unlikely that the FAA will receive any adverse comments or useful information about this AD from U.S. operators. Therefore, the FAA finds good cause that notice and opportunity for prior public comment are unnecessary. In addition, for the reason 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 was not preceded by notice and an opportunity for public comment. However, the FAA invites you to send

any written data, views, or arguments about this final rule. Send your comments to an address listed under the ADDRESSES section. Include the docket number FAA-2019-0995 and Product Identifier AD-2019-00113-E at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this final rule. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Regulatory Flexibility Act

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

Costs of Compliance

The FAA estimates that this AD affects 0 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace set of LPC 3rd-stage blades.	408 work-hours × \$85 per hour = \$34,680.	\$750,000 per blade set	\$784,680	\$0

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: “General requirements.” Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce.

This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to engines, propellers, and associated appliances to the Manager, Engine and Propeller Standards Branch, Policy and Innovation Division.

Regulatory Findings

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866, and
- (2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2019–25–01 International Aero Engines

LLC: Amendment 39–21001; Docket No. FAA–2019–0995; Product Identifier AD–2019–00113–E.

(a) Effective Date

This AD is effective December 16, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to International Aero Engines, LLC (IAE LLC) PW1122G–JM, PW1124G–JM, PW1124G1–JM, PW1127G1–JM, PW1127GA–JM, PW1127G–JM, PW1129G–JM, PW1130G–JM, PW1133GA–JM, PW1133G–JM model turbofan engines with an engine serial number listed in paragraphs (g)(1) through (4) of this AD and with low-pressure turbine (LPT) 3rd-stage blades, part number (P/N) 5387343, 5387493, 5387473 or 5387503.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by reports of failure of certain LPT 3rd-stage blades. The FAA is issuing this AD to prevent failure of these LPT 3rd-stage blades. The unsafe condition, if not addressed, could result in failure of the LPT 3rd-stage blades, failure of one or more engines, loss of thrust control, and loss of the airplane.

(f) Compliance

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

(g) Required Actions

For any IAE LLC LPT 3rd-stage blade, P/N 5387343, 5387493, 5387473, or 5387503, and with an engine serial number specified in paragraph (g)(1) through (4) of this AD, remove the affected blade from service within the times specified in paragraphs (g)(1) through (4) of this AD and replace with a part eligible for installation.

(1) Within 90 days after the effective date of this AD or at the next engine shop visit, whichever comes first, for engines with serial numbers: P770536; P770620; P770626; P770641; P770644; P770681; P770690; P770693; P770773; P770780; P770813; P770816; P770827; P770841; P770852; P770869; P770870; P770873; P770883; P770894; P770909; P770512; P770762; P770484; P770805; P770716; P770836; or P770942.

(2) Within 180 days after the effective date of this AD or at the next engine shop visit, whichever comes first, for engines with serial numbers: P770347; P770981; P770814; P770825; P770964; P770622; P770763; P771019; P770980; P770985; P771048; P770487; P770911; P770960; P770932; P770934; P770444; P770993; P770996; P770893; P770320; P771036; P771040; P770797; P771047; P770537; P771026; P771050; P771046; P771074; P771062; P771080; P771099; P771164; or P770984.

(3) Within 270 days after the effective date of this AD or at the next engine shop visit, whichever comes first, for engines with serial numbers: P770966; P770482; P770170; P770272; P770646; P771167; P770495; P771162; P770463; P770853; P771015; P771032; P771165; P771170; P771092; P771093; P771174; P771135; P770597; P771113; P770469; P771154; P770244; P771059; P770287; P770740; P771107; P771118; P770366; P770607; P770577; P771219; P771258; P771207; P771211; P771138; P771140; P770594; P771020; P771279; P771280; P770499; P770279; P771273; P770978; or P770916.

(4) Within 360 days after the effective date of this AD or at the next engine shop visit, whichever comes first, for engines with serial numbers: P770579; P771188; P770722; P770603; P770715; P770768; P771120; P771132; P770782; P771288; P770504; P771238; P770676; P770128; P770191; P771277; P770749; P770800; P770381; P770395; P770218; P770374; P770256; P770452; P770460; P771141; P770138; P770750; P770645; P770756; P770308; P770143; P770439; P770509; P770127; P770139; P770172; P770176; P770129; P770140; P770173; P770640; P770742; P771006; P770505; P771161; P770315; P770263; P770724; P770259; P770149; P770269; P770486; P770614; P770975; P770946; P770629; or P771166.

(h) Definitions

(1) For the purpose of this AD, an “engine shop visit” is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges, except that the separation of engine flanges solely for the purposes of transportation of the engine without subsequent engine maintenance does not constitute an engine shop visit.

(2) For the purpose of this AD, a “part eligible for installation” is any LPT 3rd-stage blade that does not have a P/N 5387343, 5387493, 5387473, or 5387503.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD,

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

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

(j) Related Information

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

(k) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on November 25, 2019.

Robert J. Ganley,

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

[FR Doc. 2019–25884 Filed 11–26–19; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA–2018–1002; Airspace Docket No. 18–AWP–23]

RIN 2120–AA66

Amendment of Class E Airspace: Madera, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class E airspace extending upward from 700 feet above the surface at Madera Municipal Airport, Madera, CA, eliminates references to the Clovis and Friant Very High Frequency Omni-Directional Range/Tactical Air Navigation Aids (VORTAC) from the Airspace description, and updates the airport’s geographic coordinates to match the FAA’s aeronautical database. In addition, this action updates the airspace lateral dimensions to meet current requirements. This action supports the operation of Instrument flight Rules (IFR) under standard instrument approach and departure procedures in the National Airspace System.

DATES: Effective 0901 UTC, January 30, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line 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: Richard Roberts, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S. 216th Street, Des Moines, WA 98198; telephone (206) 231-2245.

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 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 amends the Class E airspace extending upward from 700 feet above the surface at Madera Municipal Airport, Madera, CA, and updates the airspace lateral dimensions to meet current requirements, to support IFR operations at the airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (84 FR 25205; May 31, 2019) DOCKET NO. FAA-2018-1002, to modify Class E airspace extending upward from 700 feet above the surface at Madera Municipal Airport, Madera, CA, and to update the airspace lateral

dimensions to meet current requirements. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. The FAA received a single anonymous comment asking "[h]ow will this effect (sic) global warming?" The FAA does not find this a substantive comment to the proposal. The airspace does not control where aircraft fly but defines the area within which all aircraft operators are subject to operating rules and equipment requirements.

Class E airspace designations are published in paragraph 6005 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 Class E airspace designations listed in this document will be published subsequently in that Order. FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Availability and Summary of Documents for Incorporation by Reference

This document amends 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.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying the Class E airspace extending upward from 700 feet above the surface at Madera Municipal Airport, Madera, CA, eliminating references to the Clovis and Friant Very High Frequency Omni-Directional Range/Tactical Air Navigation Aids (VORTAC) from the legal description, as they are no longer needed. This action also updates the airport's geographic coordinates to match the FAA's aeronautical database. Finally, this action updates the lateral dimensions to meet current airspace requirements by removing 4.4 miles of airspace extending to the southeast, adding 0.4 miles to the radius around the Airport Reference Point and adding a portion that extends 1 mile each side of the 316° bearing from the 4.4 mile radius to 1.5 miles northwest. This action supports the operation of Instrument Flight Rules (IFR) under standard instrument approach and departure procedures in the National Airspace System.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Given this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this 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

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5-6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 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 6005. Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AWP CA E5 Madera, CA [Amend]

Madera Municipal Airport, CA
(Lat. 36°59'11" N., long. 120°06'45" W.)

That airspace extending upward from 700 feet above the surface within a 4.4-mile radius of the Madera Municipal Airport and within 2.8 miles each side of the 112° bearing from the airport extending from the 4.4-mile radius to 6 miles southeast of the airport and that airspace 1.8 miles either side of the 80° bearing from a point in space, coordinates lat. 37° 01' 29" N., long. 120° 09' 06" W., extending from the 4.4 mile radius to 7.2 miles from the point in space coordinates and that airspace 1 mile either side of the 316° bearing from the Madera Municipal Airport extending from the 4.4-mile radius to 5.5 miles northwest.

Issued in Seattle, Washington, November 19, 2019.

Byron Chew,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2019-25540 Filed 11-27-19; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2019-0535; Airspace
Docket No. 19-AWP-20]

RIN 2120-AA66

Amendment of Class D; Los Angeles, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action corrects a clerical error in the Class D legal description for Los Angeles International Airport, Los Angeles, CA by removing the language establishing the airspace as part time. This action is necessary for the safety and management of instrument flight rules (IFR) operations at the airport.

DATES: Effective 0901 UTC, January 30, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line 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:

Richard Roberts, Federal Aviation Administration, Operations Support Group, Western Service Center, 2200 S 216th Street, Des Moines, WA 98198-6547; telephone (206) 231-2245.

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 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 amends the Class D legal description for Los Angeles International Airport, Los Angeles, CA, in support of IFR operations at the airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (84 FR 36502; July 29, 2019) for Docket No. FAA-2019-0535 to amend the legal description of the LAX Class D. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. The FAA received a single comment. The commenter stated in full "I recommend keeping the language as part time and reducing light air traffic for public health and sound scape enhancements." The FAA does not find this to be a substantive comment about the proposal. The specified airspace does not control where aircraft fly but defines the area within which all aircraft operators are subject to operating rules and equipment requirements.

Class D airspace designations are published in paragraph 5000 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 Class D airspace designation listed in this document will be published subsequently in the Order. FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11D dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR part 71.1. 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.

The Rule

The FAA is amending Title 14, Code of Federal Regulations (14 CFR) part 71 by removing the language establishing the airspace as part time. NBAA informed the FAA that the LAX Class D legal description, the related chart supplement entry, and notes included on the VFR Sectional contained information that did not clearly identify when the airspace was in effect. The FAA concurs. The legal description contains language that implied the Class D airspace was part-time, inconsistent with the original intent of the airspace. The Chart Supplement does not include information indicating when the airspace is effective and directs users to the VFR Terminal Area Chart. The VFR Terminal Area Chart directs users to the Chart Supplement or NOTAMS for information and NOTAMS are not appropriate for this use. The original intent was to establish the Class D airspace as full time. In 2009, as a result of a mid-air collision in New York and in response to NTSB Recommendation A-09-86, Congress requested the FAA evaluate low-level flight around heavy-use airspace. The FAA committed to evaluations of flight operations in and around Class Bravo Airspace in New York, Los Angeles, Chicago, and Houston. The LAX VFR Airspace Taskforce was convened and made recommendations to modify the airspace around LAX in a two-step process. Step one was to establish full-time Class D airspace at LAX. Step two was to incorporate the Class D airspace into the LAX Class B at a later date.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established

body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial, and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, “Environmental Impacts: Policies and Procedures,” paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 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 5000 Class D Airspace.

* * * * *

AWP CA D Los Angeles, CA [Amended]

Los Angeles International Airport, CA
(Lat. 33°56′33″ N, long. 118°24′26″ W)

Santa Monica Municipal Airport, CA
(Lat. 34°00′57″ N, long. 118°27′05″ W)

That airspace extending upward from the surface to and including 2,700 feet MSL bounded by a line beginning at lat. 33°57′42″ N, long. 118°27′23″ W; to lat. 33°58′18″ N, long. 118°26′24″ W; then via the 2.7-mile radius of the Santa Monica Municipal Airport counterclockwise to lat. 34°00′00″ N, long. 118°22′58″ W; to lat. 33°57′42″ N, long. 118°22′10″ W, thence to the point of beginning. That airspace extending upward from the surface to and including 2,500 feet MSL bounded by a line beginning at lat. 33°55′50″ N, long. 118°22′06″ W; to lat. 33°54′16″ N, long. 118°24′17″ W; to lat. 33°52′47″ N, long. 118°26′22″ W; to lat. 33°55′51″ N, long. 118°26′05″ W, thence to the point of beginning.

Issued in Seattle, Washington, on November 19, 2019.

Byron Chew,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2019–25539 Filed 11–27–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31284; Amdt. No. 3880]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective November 29, 2019. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the

regulations is approved by the Director of the Federal Register as of November 29, 2019.

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

For Examination

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

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

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

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

Availability

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

FOR FURTHER INFORMATION CONTACT:

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

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

publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary.

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

Availability and Summary of Material Incorporated by Reference

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

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

The Rule

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

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to

SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

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

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

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

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC on November 15, 2019.

Rick Domingo,
Executive Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

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

* * * *Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC Date	Subject
2-Jan-20	MN	St James	St James Muni	9/0231	11/8/19	RNAV (GPS) RWY 33, Amdt 1.
2-Jan-20	MN	St James	St James Muni	9/0235	11/8/19	RNAV (GPS) RWY 15, Amdt 1.
2-Jan-20	CO	Rifle	Rifle Garfield County	9/0301	11/12/19	VOR/DME–C, Amdt 3A.
2-Jan-20	CO	Rifle	Rifle Garfield County	9/0302	11/12/19	RNAV (GPS) W RWY 26, Amdt 1A.
2-Jan-20	CO	Rifle	Rifle Garfield County	9/0304	11/12/19	RNAV (GPS) Y RWY 8, Amdt 1A.
2-Jan-20	CO	Rifle	Rifle Garfield County	9/0308	11/12/19	LOC/DME–A, Amdt 9A.
2-Jan-20	FL	Naples	Naples Muni	9/0654	10/29/19	RNAV (GPS) RWY 5, Amdt 2A.
2-Jan-20	FL	Naples	Naples Muni	9/0656	10/29/19	RNAV (GPS) RWY 23, Amdt 1A.
2-Jan-20	AR	Paragould	Kirk Field	9/1430	10/28/19	RNAV (GPS) RWY 4, Orig-A.
2-Jan-20	AR	Paragould	Kirk Field	9/1434	10/28/19	RNAV (GPS) RWY 22, Orig-B.
2-Jan-20	WI	Rice Lake	Rice Lake Rgnl-Carl's Field.	9/1512	11/1/19	ILS OR LOC RWY 1, Orig.
2-Jan-20	WI	Rice Lake	Rice Lake Rgnl-Carl's Field.	9/1513	11/1/19	RNAV (GPS) RWY 1, Amdt 1.
2-Jan-20	ND	Tioga	Tioga Muni	9/4604	11/6/19	RNAV (GPS) RWY 12, Orig.
2-Jan-20	WI	Stevens Point	Stevens Point Muni	9/5398	11/1/19	RNAV (GPS) RWY 12, Orig-A.
2-Jan-20	WI	Stevens Point	Stevens Point Muni	9/5399	11/1/19	RNAV (GPS) RWY 21, Amdt 1.
2-Jan-20	WI	Stevens Point	Stevens Point Muni	9/5401	11/1/19	RNAV (GPS) RWY 30, Orig-A.
2-Jan-20	MO	Cassville	Cassville Muni	9/5404	11/1/19	VOR RWY 9, Amdt 2A.
2-Jan-20	SD	Milbank	Milbank Muni	9/5466	11/1/19	RNAV (GPS) RWY 31, Orig-A.

AIRAC date	State	City	Airport	FDC No.	FDC Date	Subject
2-Jan-20	KS	Olathe	Johnson County Executive.	9/5469	11/1/19	RNAV (GPS) RWY 18, Amdt 1A.
2-Jan-20	KS	Olathe	Johnson County Executive.	9/5470	11/1/19	RNAV (GPS) RWY 36, Amdt 1A.
2-Jan-20	CO	Salida	Salida Arpt Harriett Alexander Field.	9/5502	11/4/19	RNAV (GPS)-A, Orig-A.
2-Jan-20	TX	Alpine	Alpine-Casparis Muni	9/5503	11/1/19	NDB RWY 19, Amdt 5C.
2-Jan-20	KS	Dodge City	Dodge City Rgnl	9/5504	11/1/19	VOR/DME RWY 32, Amdt 5.
2-Jan-20	MN	Dodge Center	Dodge Center	9/5508	11/6/19	VOR-A, Amdt 4.
2-Jan-20	CA	Grass Valley	Nevada County	9/6134	11/1/19	VOR OR GPS-A, Amdt 1B.
2-Jan-20	OK	Chickasha	Chickasha Muni	9/6136	11/4/19	VOR/DME-A, Amdt 1A.
2-Jan-20	CA	Twentynine Palms	Twentynine Palms	9/8358	10/28/19	VOR RWY 26, Amdt 2A.
2-Jan-20	CO	Pagosa Springs	Stevens Field	9/8364	10/28/19	RNAV (GPS) RWY 1, Orig.
2-Jan-20	AZ	Show Low	Show Low Rgnl	9/8920	10/28/19	NDB-A, Amdt 2.
2-Jan-20	MT	Laurel	Laurel Muni	9/8933	10/28/19	VOR RWY 22, Amdt 2B.
2-Jan-20	MT	Laurel	Laurel Muni	9/8934	10/28/19	RNAV (GPS) RWY 4, Amdt 1D.
2-Jan-20	MT	Laurel	Laurel Muni	9/8935	10/28/19	RNAV (GPS) RWY 22, Amdt 1D.
2-Jan-20	TX	Dalhart	Dalhart Muni	9/8988	11/1/19	VOR RWY 17, Amdt 12D.
2-Jan-20	KS	Junction City	Freeman Field	9/9000	11/1/19	RNAV (GPS) RWY 36, Orig-E.
2-Jan-20	KS	Junction City	Freeman Field	9/9001	11/1/19	NDB-B, Amdt 5A.
2-Jan-20	MT	Billings	Billings Logan Intl	9/9014	10/28/19	VOR-A, Amdt 2.
2-Jan-20	MT	Billings	Billings Logan Intl	9/9020	10/28/19	VOR/DME RWY 28R, Amdt 14B.
2-Jan-20	AZ	Tucson	Ryan Field	9/9153	10/28/19	ILS OR LOC RWY 6R, Amdt 5C.
2-Jan-20	NE	Minden	Pioneer Village Field	9/9154	11/1/19	RNAV (GPS) RWY 16, Orig-A.
2-Jan-20	UT	Wendover	Wendover	9/9174	10/28/19	RNAV (GPS) RWY 26, Amdt 1.
2-Jan-20	ID	Rexburg	Rexburg-Madison County.	9/9178	10/28/19	RNAV (GPS) RWY 35, Amdt 1C.
2-Jan-20	WY	Buffalo	Johnson County	9/9184	10/28/19	VOR/DME RWY 31, Amdt 6A.
2-Jan-20	NV	Carson City	Carson	9/9191	10/28/19	RNAV (GPS) RWY 27, Orig-A.
2-Jan-20	AZ	Sedona	Sedona	9/9210	10/28/19	GPS RWY 3, Orig-B.

[FR Doc. 2019-25296 Filed 11-27-19; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31283; Amdt. No. 3879]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective November 29, 2019. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 29, 2019.

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

For Examination

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

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

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

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fedreg.legal@nara.gov

or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Availability

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or removing SIAPs, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP

for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

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

Availability and Summary of Material Incorporated by Reference

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

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

The Rule

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

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

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures

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

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

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC, on November 15, 2019.

Rick Domingo,

Executive Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

* * * *Effective 2 January 2020*

Charlotte, NC, Charlotte/Douglas Intl, RNAV (GPS) Y RWY 36C, Amdt 3F

Charlotte, NC, Charlotte/Douglas Intl, RNAV (RNP) Z RWY 36C, Orig-F
New Bern, NC, Coastal Carolina Regional, RNAV (GPS) RWY 4, Amdt 2
Morristown, NJ, Morristown Muni, Takeoff Minimums and Obstacle DP, Amdt 8

* * * *Effective 30 January 2020*

Mobile, AL, Mobile Rgnl, RNAV (GPS) RWY 36, Amdt 1C
Reform, AL, North Pickens, RNAV (GPS) RWY 1, Orig-B
Dumas, AR, Billy Free Muni, Takeoff Minimums and Obstacle DP, Amdt 1
Hot Springs, AR, Memorial Field, RNAV (GPS) RWY 5, Amdt 2A
Columbia, CA, Columbia, FICHU THREE, Graphic DP
Columbia, CA, Columbia, RNAV (GPS) RWY 35, Orig-C
Columbia, CA, Columbia, Takeoff Minimums and Obstacle DP, Amdt 2
Sacramento, CA, Sacramento Mather, RNAV (GPS) RWY 22L, Amdt 3A
Visalia, CA, Visalia Muni, ILS OR LOC RWY 30, Amdt 8A
Watsonville, CA, Watsonville Muni, RNAV (GPS) RWY 2, Amdt 2
Denver, CO, Colorado Air and Space Port, ILS OR LOC RWY 17, Amdt 1C
Denver, CO, Colorado Air and Space Port, ILS OR LOC RWY 26, Amdt 6A
Denver, CO, Colorado Air and Space Port, ILS OR LOC RWY 35, Amdt 2B
Denver, CO, Colorado Air and Space Port, RNAV (GPS) RWY 17, Amdt 1C
Denver, CO, Colorado Air and Space Port, RNAV (GPS) RWY 25, Amdt 2A
Denver, CO, Colorado Air and Space Port, RNAV (GPS) RWY 35, Amdt 2A
Montrose, CO, Montrose Rgnl, ILS OR LOC RWY 17, Amdt 3
Montrose, CO, Montrose Rgnl, RNAV (GPS) RWY 13, Amdt 1
Montrose, CO, Montrose Rgnl, RNAV (GPS) RWY 17, Amdt 1
Montrose, CO, Montrose Rgnl, RNAV (GPS) Y RWY 17, Orig-C, CANCELLED
Boca Raton, FL, Boca Raton, VOR–A, Amdt 1B, CANCELLED
Fort Pierce, FL, Treasure Coast Intl, ILS OR LOC RWY 10R, Amdt 4E
Fort Pierce, FL, Treasure Coast Intl, NDB RWY 28L, Amdt 2B, CANCELLED
Jacksonville, FL, Jacksonville Intl, Takeoff Minimums and Obstacle DP, Amdt 2
Titusville, FL, Arthur Dunn Air Park, RNAV (GPS)-A, Orig-A
Titusville, FL, Arthur Dunn Air Park, RNAV (GPS)-B, Orig-A
Claxton, GA, Claxton-Evans County, NDB RWY 9, Orig, CANCELLED
Claxton, GA, Claxton-Evans County, RNAV (GPS) RWY 10, Amdt 2
Claxton, GA, Claxton-Evans County, RNAV (GPS) RWY 28, Amdt 1
Claxton, GA, Claxton-Evans County, Takeoff Minimums and Obstacle DP, Amdt 1
Monroe, GA, Monroe-Walton County, NDB–A, Amdt 1B, CANCELLED
Moultrie, GA, Moultrie Muni, RNAV (GPS) RWY 4, Amdt 2
Moultrie, GA, Moultrie Muni, RNAV (GPS) RWY 22, Amdt 2
Moultrie, GA, Moultrie Muni, Takeoff Minimums and Obstacle DP, Amdt 3

Sylvania, GA, Plantation Airpark, NDB RWY 23, Amdt 3

Sylvania, GA, Plantation Airpark, RNAV (GPS) RWY 5, Amdt 1

Sylvania, GA, Plantation Airpark, RNAV (GPS) RWY 23, Amdt 1

Sylvania, GA, Plantation Airpark, Takeoff Minimums and Obstacle DP, Amdt 1

Hana, HI, Hana, RNAV (GPS) RWY 8, Orig

Hana, HI, Hana, RNAV (GPS) RWY 26, Amdt 1

Forest City, IA, Forest City Muni, Takeoff Minimums and Obstacle DP, Amdt 3

Shenandoah, IA, Shenandoah, Muni, NDB RWY 4, Orig-D, CANCELLED

Jerome, ID, Jerome County, RNAV (GPS) RWY 9, Amdt 1

Jerome, ID, Jerome County, RNAV (GPS) RWY 27, Amdt 1

Jerome, ID, Jerome County, Takeoff Minimums and Obstacle DP, Amdt 3

Jerome, ID, Jerome County, VOR-A, Amdt 3

Greenville, IL, Greenville, VOR-A, Amdt 3A

Liberal, KS, Liberal Mid-America Rgnl, RNAV (GPS) RWY 22, Amdt 1A

Glasgow, KY, Glasgow Muni, RNAV (GPS) RWY 8, Amdt 2C

Greenville, KY, Muhlenberg County, VOR/DME-A, Amdt 5C, CANCELLED

Jackson, KY, Julian Carroll, VOR/DME RWY 1, Amdt 2A, CANCELLED

Madisonville, KY, Madisonville Rgnl, VOR RWY 23, Amdt 15, CANCELLED

Mansfield, LA, C E 'Rusty' Williams, RNAV (GPS) RWY 18, Orig-B

Shreveport, LA, Shreveport Downtown, RNAV (GPS) RWY 5, Orig

Shreveport, LA, Shreveport Downtown, RNAV (GPS) RWY 14, Amdt 1A

Shreveport, LA, Shreveport Downtown, RNAV (GPS) RWY 23, Orig

Shreveport, LA, Shreveport Downtown, Takeoff Minimums and Obstacle DP, Amdt 4

Rangeley, ME, Steven A Bean Muni, Takeoff Minimums and Obstacle DP, Amdt 1

Big Rapids, MI, Roben-Hood, VOR/DME-A, Amdt 8, CANCELLED

Ludington, MI, Mason County, RNAV (GPS) RWY 26, Orig-B

Bemidji, MN, Bemidji Rgnl, ILS OR LOC RWY 25, Amdt 1B

Bemidji, MN, Bemidji Rgnl, RNAV (GPS) RWY 13, Amdt 1B

Bemidji, MN, Bemidji Rgnl, RNAV (GPS) RWY 25, Orig-C

Bemidji, MN, Bemidji Rgnl, RNAV (GPS) RWY 31, Amdt 1B

Cloquet, MN, Cloquet Carlton County, NDB RWY 18, Amdt 4B

Cloquet, MN, Cloquet Carlton County, NDB RWY 36, Amdt 5B

Cloquet, MN, Cloquet Carlton County, Takeoff Minimums and Obstacle DP, Amdt 3

Pine River, MN, Pine River Rgnl, NDB RWY 34, Amdt 2

Rochester, MN, Rochester Intl, RNAV (GPS) RWY 2, Amdt 3C

Rochester, MN, Rochester Intl, RNAV (GPS) RWY 31, Amdt 2A

Tupelo, MS, Tupelo Rgnl, ILS Z OR LOC Z RWY 36, Amdt 10B

Newark, NJ, Newark Liberty Intl, RNAV (RNP) Z RWY 4R, Orig-E

Robbinsville, NJ, Trenton-Robbinsville, RNAV (GPS) RWY 11, Orig-B

Robbinsville, NJ, Trenton-Robbinsville, RNAV (GPS) RWY 29, Amdt 1B

Robbinsville, NJ, Trenton-Robbinsville, VOR RWY 29, Amdt 11B

London, OH, Madison County, Takeoff Minimums and Obstacle DP, Amdt 1

Bartlesville, OK, Bartlesville Muni, Takeoff Minimums and Obstacle DP, Orig-A

Cushing, OK, Cushing Muni, RNAV (GPS) RWY 36, Amdt 2A

Wagoner, OK, Hefner-Easley, RNAV (GPS) RWY 36, Amdt 2

Madras, OR, Madras Municipal, Takeoff Minimums and Obstacle DP, Amdt 1A

Allentown, PA, Lehigh Valley Intl, Takeoff Minimums and Obstacle DP, Amdt 8

Phillipsburg, PA, Mid-State, RNAV (GPS) RWY 16, Orig-D

State College, PA, University Park, VOR-B, Amdt 11A, CANCELLED

Wellsboro, PA, Wellsboro Johnston, VOR-A, Amdt 6A

Providence, RI, Theodore Francis Green State, VOR Y RWY 34, Amdt 5A

Pierre, SD, Pierre Rgnl, RNAV (GPS) RWY 31, Amdt 1

Caddo Mills, TX, Caddo Mills Muni, RNAV (GPS) RWY 36, Amdt 1

Comanche, TX, Comanche County-City, Takeoff Minimums and Obstacle DP, Amdt 1

Ennis, TX, Ennis Muni, Takeoff Minimums and Obstacle DP, Orig-A

Gladewater, TX, Gladewater Muni, VOR RWY 14, Amdt 3B, CANCELLED

Houston, TX, George Bush Intercontinental/Houston, RNAV (RNP) Y RWY 26L, Orig-D

Mineral Wells, TX, Mineral Wells Rgnl, ILS OR LOC RWY 31, Amdt 1A

Forest, VA, New London, RNAV (GPS) RWY 18, Orig-B

Forest, VA, New London, RNAV (GPS) RWY 36, Orig-B

Richmond/Ashland, VA, Hanover County Muni, Takeoff Minimums and Obstacle DP, Amdt 1

Wise, VA, Lonesome Pine, RNAV (GPS) RWY 6, Orig-A

Kelso, WA, Southwest Washington Rgnl, KELSO ONE, Graphic DP

Kelso, WA, Southwest Washington Rgnl, Takeoff Minimums and Obstacle DP, Amdt 4

Friendship (Adams), WI, Adams County Legion Field, Takeoff Minimums and Obstacle DP, Amdt 2

Lewisburg, WV, Greenbrier Valley, VOR RWY 22, Amdt 1, CANCELLED

[FR Doc. 2019-25297 Filed 11-27-19; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1

[TD 9623]

RIN 1545-B199

Application of Section 108(i) to Partnerships and S Corporations; Correcting Amendment

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to final regulations and removal of temporary regulations (T.D. 9623) that were published in the **Federal Register** on Wednesday, July 3, 2013. The final regulations relate to the application of section 108(i) of the Internal Revenue Code to partnerships and S corporations and provide rules regarding the deferral of discharge of indebtedness income and original issue discount deductions by a partnership or an S corporation with respect to reacquisitions of applicable debt instruments after December 31, 2008, and before January 1, 2011.

DATES: This correction is effective on November 29, 2019, and is applicable on or after July 2, 2013.

FOR FURTHER INFORMATION CONTACT: Mary Beth Carchia at (202) 317-5279 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations and removal of temporary regulations (T.D. 9623) that is the subject of this correction are under section 108(i) of the Internal Revenue Code.

Need for Correction

As published July 3, 2013 (78 FR 39973), the final regulations and removal of temporary regulations (T.D. 9623) contain an error that may prove to be misleading and needs clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendment:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by removing the sectional authority for § 1.108(i)-2T to read in part as follows:

Authority: 26 U.S.C. 7805, unless otherwise noted.

* * * * *

Martin V. Franks,

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

[FR Doc. 2019-25858 Filed 11-27-19; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2018-0956]

RIN 1625-AA09

Drawbridge Operation Regulation; Tensaw River, Hurricane, AL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating schedule that governs the CSX Railroad swing bridge across the Tensaw River mile 15.0, Hurricane, Baldwin County, AL. This bridge will open on signal if at least ten-hours-notice is given. This rule is being changed because there are infrequent requests to open the bridge. This change will remove the drawbridge tender during daylight hours.

DATES: This rule is effective December 30, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>. Type USCG-2018-0965 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Doug Blakemore, Eighth Coast Guard District Bridge Administration Branch Chief; telephone (504) 671-2128, email Douglas.A.Blakemore@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
 DHS Department of Homeland Security
 FR Federal Register
 OMB Office of Management and Budget
 NPRM Notice of Proposed Rulemaking
 (Advance, Supplemental)
 § Section
 U.S.C. United States Code

II. Background Information and Regulatory History

On June 17, 2018, we published a notice of proposed rulemaking entitled Drawbridge Operation Regulations; Tensaw River, Hurricane, AL in the **Federal Register** 2019-12720. We received 0 comments on this rule.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499.

CSX requested to change the operating requirements for the CSX railroad bridge across the Tensaw River mile 15.0, Hurricane, Baldwin County, Alabama. This bridge currently opens according to 33 CFR part 117.113 and opens on signal; except that, from 5 p.m. to 9 a.m. the draw shall open on signal if at least eight-hours-notice is given. CSX requested that the bridge open on signal if at least ten-hours-notice is given at all times.

This bridge spans the Tensaw River and is used by small recreational boats, house boats, and a tour boat. The bridge has a vertical clearance of 11 feet above mean high water in the closed to vessel position and unlimited vertical clearance in the open to vessel traffic position. There are few vessel movements through this bridge. From July 2017 through February 2018 the bridge opened 52 times for vessel passage. This equates to less than 7 times each month. Of these openings 38 were made for recreational vessels, 16 were made for a tour boat, 6 were made for house boats, and 2 were made for local law enforcement vessels.

This change allows CSX to align bridge tender operations with daylight and night time hours and provide for the reasonable needs of navigation.

IV. Discussion of Comments, Changes and the Final Rule

There were no comments on this rule change. The Coast Guard provided a comment period of 30 days. Based on the infrequent times that this bridge has opened for vessel traffic over eight months this rule provides vessels with a reasonable ability to use the waterway. We did not identify any impacts on marine navigation with this proposed rule.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the fact that vessels can still open the draw and transit if advance notice is provided. Those vessels with a vertical clearance requirement of less than 11 feet above mean high water may transit the bridge at any time, and the bridge will open in case of an emergency at any time. This change to the drawbridge operation regulations at 33 CFR 117.113 meets the reasonable needs of navigation.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received 0 comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person

listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Government

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01, U.S. Coast Guard Environmental Planning Policy COMDTINST 5090.1 (series) and U.S. Coast Guard Environmental Planning Implementation Procedures (series) which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f). We have made a determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3-1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule.

G. Protest Activities

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

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.113 to read as follows:

§ 117.113 Tensaw River.

The draw of the CSX Transportation Railroad bridge, mile 15.0 at Hurricane, shall open on signal if at least ten-hours-notice is given. The draw shall open at the direction of the District Commander.

Dated: September 13, 2019.

John P. Nadeau,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

Editorial Note: This document was submitted to the Office of the Federal Register on November 25, 2019.

[FR Doc. 2019-25977 Filed 11-27-19; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2019-0023]

RIN 1625-AA00

Safety Zone, MBTA Railroad Bridge Replacement Project—Annisquam River, Gloucester, MA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the navigable waters within 100 yards of the Massachusetts Bay Transportation Authority (MBTA) Railroad Bridge, at mile 0.7, across the Annisquam River, Gloucester, Massachusetts, from December 1, 2019, through June 30, 2023. The temporary safety zone is necessary to protect personnel, vessels and the marine environment from potential hazards created during the replacement project of the MBTA Railroad Bridge. When enforced, this rule would prohibit vessels and persons from being in the safety zone unless authorized by the Captain of the Port (COTP) Boston or a designated representative.

DATES: This rule is effective from December 1, 2019, through June 30, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to the Federal eRulemaking Portal at <http://www.regulations.gov>. Type USCG-2019-0023 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Mark Cutter, Waterways Management Division, U.S. Coast Guard Sector Boston, telephone 617-223-4000, email mark.e.cutter@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
MBTA	Massachusetts Bay Transportation Authority
NPRM	Notice of proposed rulemaking
NAD 83	North American Datum 1983
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

The MBTA notified Sector Boston that there will be times in which the narrow navigable channel underneath the MBTA Railroad Bridge, Annisquam River, Gloucester, Massachusetts, will need to be closed for the replacement of submarine cables, abutment construction, and span replacement.

In response, on August 19, 2019, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Safety Zone, MBTA Railroad Bridge Replacement Project—Annisquam River, Gloucester, MA” (84 FR 42869). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this safety zone. During the comment period that ended on September 18, 2019, we received zero comments.

The replacement project started in the fall of 2018 and is expected to be completed in December 2022. The COTP Boston determined that the potential hazards associated with the replacement of the submarine cables, abutment construction, and span replacement will be a safety concern for anyone within the work area. This temporary safety zone would be enforced during the replacement of the submarine cables, abutment construction, and span replacement or when other hazards to navigation arise. No vessel or person will be permitted to enter the temporary safety zone without obtaining permission from the COTP Boston or a designated representative.

The exact times of any waterways closures are unknown. However, every effort is being made by the MBTA and contractor to schedule these closures during the winter months when boating traffic is minimal. The Coast Guard will notify the public of closures through the Massachusetts Bay Harbor Safety Committee meetings, Boston’s Port Operators Group meetings, Local Notice to Mariners and through the Gloucester Harbormaster’s network. The Coast Guard will issue a Safety Marine Information Broadcast (SMIB) via marine channel 16 (VHF–FM) seven days in advance of the enforcement of the safety zones.

This rulemaking is to protect personnel, vessels, and the marine environment from potential hazards created during the replacement project of the MBTA Railroad Bridge, at mile 0.7, across the Annisquam River, Gloucester, Massachusetts. This rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The COTP Boston has determined that potential hazards associated with the replacement of the submarine cables, abutment construction, and span replacement will be a safety concern for anyone within the work area or anyone transiting within 100 yards of the MBTA Railroad Bridge. The purpose of this rule is to ensure the safety of vessels and personnel within 100 yards of the MBTA Railroad Bridge before, during, and after the replacement of the submarine cables, abutment construction, and span replacement.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received zero comments on the NPRM published August 19, 2019. The only regulatory text change in this rule is the start date is moved from November 1, 2019 to December 1, 2019. The contractor has stated that they are behind schedule and would not need the safety zone prior to December 1, 2019.

This rule establishes a safety zone from 12:01 a.m. on December 1, 2019, to 11:59 on June 30, 2023. While the safety zone would be effective throughout this period, it would only be enforced during periods when work barges and cranes will be placed in the navigable channel or when other hazards to navigation exist. Any closure is expected to last less than two weeks. The safety zone would include all navigable waters within 100 yards of the MBTA Railroad Bridge, at mile 0.7, across the Annisquam River, Gloucester, Massachusetts. During times of enforcement, no vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP Boston or a designated representative. The Coast Guard will notify the public of closures through the Massachusetts Bay Harbor Safety Committee meetings, Boston’s Port Operators Group meetings, Local Notice to Mariners and through the Gloucester Harbormaster’s network. The Coast Guard will issue a Safety Marine Information Broadcast (SMIB) via marine channel 16 (VHF–FM) seven

days in advance of the enforcement of the safety zones.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time of year of the safety zone. There may be a time during the boating summer season that the safety zone needs to be enforced. However, the MBTA and contractor are making all attempts to schedule these needed closures during the winter months. We expect the adverse economic impact of this temporary rule to be minimal. We will provide ample notice of the safety zone effective dates and vessels will be able to enter the safety zone when construction equipment is not occupying the channel. Although this regulation may have some adverse impact on the public, the potential impact will be minimal because the boating season for vessels on the Annisquam usually concludes in mid-October and consequently the amount of traffic in this waterway during the effective period for the safety zone is limited to a few commercial lobstermen. The Gloucester Harbormaster will be allowing the lobstermen to moor their boats at the town docks on the harbor entrance side during periods of enforcement, which will allow the lobstermen to transit to their lobster gear with no impact. If a summer time closure is needed, with the exception of an emergency, we will coordinate with the MBTA, contractor, and Harbormaster to ensure that all alternatives are explored, the duration is of the shortest possible timeframe, and a minimum of two weeks notification

are given to the boating public via Local Notice to Mariners, Safety Marine Information Broadcast via marine channel 16 (VHF-FM) and through the Gloucester Harbormaster network.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a temporary safety zone for the navigable waters within 100 yards of the MBTA Railroad Bridge, at mile 0.7, across the Annisquam River, Gloucester, Massachusetts, from December 1, 2019 through June 30, 2023 for the replacement of the bridge. The safety zone will only be enforced during

periods when work barges and cranes will be placed in the navigable channel or when other hazards to navigation arise. As discussed in our pre-construction meeting, any closure is expected to be of less than a two-week duration and all attempts are being made by the MBTA and contractor to schedule these closures during winter months when boating traffic is minimal. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0023 to read as follows:

§ 165.T01–0023 Safety Zone; MBTA Railroad Bridge Replacement Project—Annisquam River, Gloucester, Massachusetts.

(a) *Location.* The following area is a safety zone: All navigable waters within 100 yards of the Massachusetts Bay Transportation Authority (MBTA) Railroad Bridge, at mile 0.7, across the Annisquam River, Gloucester, Massachusetts.

(b) *Enforcement period.* This section is enforceable from 12:01 a.m. on December 1, 2019, to 11:59 p.m. on June 30, 2023.

(c) *Definitions.* As used in this section:

(1) *Designated representative* means any Coast Guard commissioned,

warrant, petty officer, or any Federal, state, or local law enforcement officer who has been designated by the Captain of the Port (COTP) Boston, to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF-FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this section.

(2) *Official patrol vessels* means any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP Boston to enforce this section.

(d) *Regulations*. When this safety zone is enforced, the regulations in paragraphs (d)(1) and (2) of this section, along with those contained in § 165.23 apply:

(1) No person or vessel may enter or remain in this safety zone without the permission of the COTP Boston or the COTP's designated representatives. However, any person or vessel permitted to enter the safety zone must comply with the directions and orders of the COTP Boston or the COTP's designated representatives.

(2) To obtain permission required by this section, individuals may reach the COTP Boston or a COTP-designated representative via Channel 16 (VHF-FM) or 617-223-5757 (Sector Boston Command Center).

(e) *Penalties*. Those who violate this section are subject to the penalties set forth in 33 U.S.C. 1232.

Dated: November 21, 2019.

Eric J. Doucette,

Captain, U.S. Coast Guard, Captain of the Port Boston.

[FR Doc. 2019-25859 Filed 11-27-19; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 6

[Docket No. PTO-T-2019-0036]

RIN 0651-AD44

International Trademark Classification Changes

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (USPTO) issues this final rule to incorporate classification changes adopted by the Nice Agreement

Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Agreement). These changes are listed in the International Classification of Goods and Services for the Purposes of the Registration of Marks, which is published by the World Intellectual Property Organization (WIPO), and will become effective on January 1, 2020.

DATES: This rule is effective on January 1, 2020.

FOR FURTHER INFORMATION CONTACT: Catherine Cain, Office of the Deputy Commissioner for Trademark Examination Policy, (571) 272-8946, TMFRNotices@uspto.gov.

SUPPLEMENTARY INFORMATION:

Purpose: As noted above, this final rule incorporates classification changes adopted by the Nice Agreement that will become effective on January 1, 2020. Specifically, this rule adds new, or deletes existing, goods and services from 7 class headings to further define the types of goods and/or services appropriate to the class.

Summary of Major Provisions: The USPTO is revising § 6.1 in part 6 of title 37 of the Code of Federal Regulations to incorporate classification changes and modifications, as listed in the International Classification of Goods and Services for the Purposes of the Registration of Marks (11th ed., ver. 2020) (Nice Classification), published by WIPO, and that will become effective January 1, 2020.

The Nice Agreement is a multilateral treaty, administered by WIPO, which establishes the international classification of goods and services for the purposes of registering trademarks and service marks. As of September 1, 1973, this international classification system is the controlling system used by the United States, and it applies to all applications filed on or after September 1, 1973, and their resulting registrations, for all statutory purposes. See 37 CFR 2.85(a). Every signatory to the Nice Agreement must utilize the international classification system.

Each state party to the Nice Agreement is represented in the Committee of Experts of the Nice Union (Committee of Experts), which meets annually to vote on proposed changes to the Nice Classification. Any state that is a party to the Nice Agreement may submit proposals for consideration by the other members in accordance with agreed-upon rules of procedure.

Proposals are currently submitted on an annual basis to an electronic forum on the WIPO website, commented upon, modified, and compiled by WIPO for

further discussion and voting at the annual Committee of Experts meeting.

In 2013, the Committee of Experts began annual revisions to the Nice Classification. The annual revisions, which are published electronically and enter into force on January 1 each year, are referred to as versions and identified by edition number and year of the effective date (*e.g.*, “Nice Classification, 10th edition, version 2013” or “NCL 10-2013”). Each annual version includes all changes adopted by the Committee of Experts since the adoption of the previous version. The changes consist of the addition of new goods and services to, and deletion of goods and services from, the Alphabetical List, and any modifications to the wording in the Alphabetical List, the class headings, and the explanatory notes that do not involve the transfer of goods or services from one class to another. New editions of the Nice Classification continue to be published electronically and include all changes adopted annually since the previous version, as well as goods or services transferred from one class to another or new classes that are created.

The annual revisions contained in this final rule consist of modifications to the class headings that were incorporated into the Nice Agreement during the 29th Session of the Committee of Experts, from April 29, 2019, through May 3, 2019. Under the Nice Classification, there are 34 classes of goods and 11 classes of services, each with a class heading. Class headings generally indicate the fields to which goods and services belong. Specifically, this rule adds new, or deletes existing, goods and services from 7 class headings, as further discussed in the Discussion of Regulatory Changes. The changes to the class headings further define the types of goods and/or services appropriate to the class. As a signatory to the Nice Agreement, the United States adopts these revisions pursuant to Article 1.

Discussion of Regulatory Changes

The USPTO is revising § 6.1 as follows:

In Class 10, the wording “the disabled” is amended to “persons with disabilities.”

In Class 29, the wording “yoghurt” is amended to “yogurt.”

In Class 37, the wording “Building construction” is amended to “Construction services.” The wording “repair;” is deleted where it appears as a separate clause. The wording “installation services” is amended to “installation and repair services” and the period after “services” is replaced with a semi-colon. The wording

“mining extraction, oil and gas drilling” is added thereafter.

In Class 38, the wording “Telecommunications” is amended to add “services” thereafter.

In Class 40, the period after “Treatment of materials” is replaced with a semi-colon. The wording “recycling of waste and trash; air purification and treatment of water; printing services; food and drink preservation” is added thereafter.

In Class 42, the wording “industrial analysis and industrial research services” is amended to replace the “and” after “analysis” with a comma, and to add “and industrial design” after “research” and before “services.” The wording “quality control and authentication services;” is added immediately thereafter.

In Class 44, the wording “agriculture, horticulture and forestry services” is amended to add “aquaculture,” after “agriculture.”

Rulemaking Requirements

A. Administrative Procedure Act: The changes in this 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 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))).

B. Regulatory Flexibility Act: As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 or any other law, neither a Regulatory Flexibility Act analysis, nor a certification under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), is required. *See* 5 U.S.C. 603.

C. Executive Order 12866 (Regulatory Planning and Review): This rulemaking has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

D. Executive Order 13563 (Improving Regulation and Regulatory Review): The USPTO has complied with Executive Order 13563 (Jan. 18, 2011). Specifically, the USPTO 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 rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

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: This final rule does not involve information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 37 CFR Part 6

Trademarks.

For the reasons given in the preamble and under the authority contained in 15 U.S.C. 1112, 1123 and 35 U.S.C. 2, as amended, the USPTO is amending part 6 of title 37 as follows:

PART 6—CLASSIFICATION OF GOODS AND SERVICES UNDER THE TRADEMARK ACT

■ 1. The authority citation for part 6 continues to read as follows:

Authority: Secs. 30, 41, 60 Stat. 436, 440; 15 U.S.C. 1112, 1123; 35 U.S.C. 2, unless otherwise noted.

■ 2. Revise § 6.1 to read as follows:

§ 6.1 International schedule of classes of goods and services.

Goods

1. Chemicals for use in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; fire extinguishing and fire prevention compositions; tempering and soldering preparations; substances for tanning animal skins and hides; adhesives for use in industry; putties and other paste fillers; compost, manures, fertilizers; biological preparations for use in industry and science.

2. Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants, dyes; inks for printing, marking and engraving; raw natural resins; metals in foil and powder form for use in painting, decorating, printing and art.

3. Non-medicated cosmetics and toiletry preparations; non-medicated dentifrices; perfumery, essential oils; bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations.

4. Industrial oils and greases, wax; lubricants; dust absorbing, wetting and binding compositions; fuels and illuminants; candles and wicks for lighting.

5. Pharmaceuticals, medical and veterinary preparations; sanitary preparations for medical purposes; dietetic food and substances adapted for medical or veterinary use, food for babies; dietary supplements for human beings and animals; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

6. Common metals and their alloys, ores; metal materials for building and construction; transportable buildings of metal; non-electric cables and wires of common metal; small items of metal hardware; metal containers for storage or transport; safes.

7. Machines, machine tools, power-operated tools; motors and engines, except for land vehicles; machine coupling and transmission components, except for land vehicles; agricultural implements, other than hand-operated hand tools; incubators for eggs; automatic vending machines.

8. Hand tools and implements, hand-operated; cutlery; side arms, except firearms; razors.

9. Scientific, research, navigation, surveying, photographic, cinematographic, audiovisual, optical, weighing, measuring, signalling, detecting, testing, inspecting, life-saving and teaching apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling the distribution or use of electricity; apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data; recorded and downloadable media, computer software, blank digital or analogue recording and storage media; mechanisms for coin-operated apparatus; cash registers, calculating devices; computers and computer peripheral devices; diving suits, divers' masks, ear plugs for divers, nose clips for divers and swimmers, gloves for divers, breathing apparatus for underwater swimming; fire-extinguishing apparatus.

10. Surgical, medical, dental and veterinary apparatus and instruments; artificial limbs, eyes and teeth;

orthopaedic articles; suture materials; therapeutic and assistive devices adapted for persons with disabilities; massage apparatus; apparatus, devices and articles for nursing infants; sexual activity apparatus, devices and articles.

11. Apparatus and installations for lighting, heating, cooling, steam generating, cooking, drying, ventilating, water supply and sanitary purposes.

12. Vehicles; apparatus for locomotion by land, air or water.

13. Firearms; ammunition and projectiles; explosives; fireworks.

14. Precious metals and their alloys; jewellery, precious and semi-precious stones; horological and chronometric instruments.

15. Musical instruments; music stands and stands for musical instruments; conductors' batons.

16. Paper and cardboard; printed matter; bookbinding material; photographs; stationery and office requisites, except furniture; adhesives for stationery or household purposes; drawing materials and materials for artists; paintbrushes; instructional and teaching materials; plastic sheets, films and bags for wrapping and packaging; printers' type, printing blocks.

17. Unprocessed and semi-processed rubber, gutta-percha, gum, asbestos, mica and substitutes for all these materials; plastics and resins in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, tubes and hoses, not of metal.

18. Leather and imitations of leather; animal skins and hides; luggage and carrying bags; umbrellas and parasols; walking sticks; whips, harness and saddlery; collars, leashes and clothing for animals.

19. Materials, not of metal, for building and construction; rigid pipes, not of metal, for building; asphalt, pitch, tar and bitumen; transportable buildings, not of metal; monuments, not of metal.

20. Furniture, mirrors, picture frames; containers, not of metal, for storage or transport; unworked or semi-worked bone, horn, whalebone or mother-of-pearl; shells; meerschaum; yellow amber.

21. Household or kitchen utensils and containers; cookware and tableware, except forks, knives and spoons; combs and sponges; brushes, except paintbrushes; brush-making materials; articles for cleaning purposes; unworked or semi-worked glass, except building glass; glassware, porcelain and earthenware.

22. Ropes and string; nets; tents and tarpaulins; awnings of textile or synthetic materials; sails; sacks for the

transport and storage of materials in bulk; padding, cushioning and stuffing materials, except of paper, cardboard, rubber or plastics; raw fibrous textile materials and substitutes therefor.

23. Yarns and threads for textile use.

24. Textiles and substitutes for textiles; household linen; curtains of textile or plastic.

25. Clothing, footwear, headwear.

26. Lace, braid and embroidery, and haberdashery ribbons and bows; buttons, hooks and eyes, pins and needles; artificial flowers; hair decorations; false hair.

27. Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings, not of textile.

28. Games, toys and playthings; video game apparatus; gymnastic and sporting articles; decorations for Christmas trees.

29. Meat, fish, poultry and game; meat extracts; preserved, frozen, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs; milk, cheese, butter, yogurt and other milk products; oils and fats for food.

30. Coffee, tea, cocoa and artificial coffee; rice, pasta and noodles; tapioca and sago; flour and preparations made from cereals; bread, pastries and confectionery; chocolate; ice cream, sorbets and other edible ices; sugar, honey, treacle; yeast, baking-powder; salt, seasonings, spices, preserved herbs; vinegar, sauces and other condiments; ice (frozen water).

31. Raw and unprocessed agricultural, aquacultural, horticultural and forestry products; raw and unprocessed grains and seeds; fresh fruits and vegetables, fresh herbs; natural plants and flowers; bulbs, seedlings and seeds for planting; live animals; foodstuffs and beverages for animals; malt.

32. Beers; non-alcoholic beverages; mineral and aerated waters; fruit beverages and fruit juices; syrups and other non-alcoholic preparations for making beverages.

33. Alcoholic beverages, except beers; alcoholic preparations for making beverages.

34. Tobacco and tobacco substitutes; cigarettes and cigars; electronic cigarettes and oral vaporizers for smokers; smokers' articles; matches.

Services

35. Advertising; business management; business administration; office functions.

36. Insurance; financial affairs; monetary affairs; real estate affairs.

37. Construction services; installation and repair services; mining extraction, oil and gas drilling.

38. Telecommunications services.

39. Transport; packaging and storage of goods; travel arrangement.

40. Treatment of materials; recycling of waste and trash; air purification and treatment of water; printing services; food and drink preservation.

41. Education; providing of training; entertainment; sporting and cultural activities.

42. Scientific and technological services and research and design relating thereto; industrial analysis, industrial research and industrial design services; quality control and authentication services; design and development of computer hardware and software.

43. Services for providing food and drink; temporary accommodation.

44. Medical services; veterinary services; hygienic and beauty care for human beings or animals; agriculture, aquaculture, horticulture and forestry services.

45. Legal services; security services for the physical protection of tangible property and individuals; personal and social services rendered by others to meet the needs of individuals.

Dated: November 21, 2019.

Andrei Iancu,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2019-25807 Filed 11-27-19; 8:45 am]

BILLING CODE 3510-16-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R05-OAR-2019-0394; FRL-10002-56-Region 5]

Designation of Areas for Air Quality Planning Purposes; Ohio; Redesignation of the Ohio Portion of the Steubenville Sulfur Dioxide Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In accordance with the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is redesignating the Ohio portion of the Steubenville Ohio-West Virginia interstate sulfur dioxide (SO₂) nonattainment area (Steubenville nonattainment area) from nonattainment to attainment. EPA is also approving Ohio's maintenance plan. Emissions of SO₂ in the area have been reduced and the air quality in the nonattainment area is currently well below the 2010 SO₂

national ambient air quality standard (NAAQS).

DATES: This final rule is effective on November 29, 2019.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2019-0394. All documents in the docket are listed on the www.regulations.gov website. 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. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through www.regulations.gov or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Mary Portanova, Environmental Engineer, at (312) 353-5954, before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT:

Mary Portanova, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-5954, portanova.mary@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

I. Background Information

On September 20, 2019 (84 FR 49492), EPA proposed to redesignate the Ohio portion of the Steubenville Ohio-West Virginia interstate SO₂ nonattainment area from nonattainment to attainment of the 2010 SO₂ NAAQS. EPA also proposed to approve Ohio's SO₂ maintenance plan for the area. An explanation of the CAA requirements for redesignation, a detailed analysis of the redesignation request and maintenance plan, and EPA's reasons for proposing approval were provided in the notice of proposed rulemaking and will not be restated here. The public comment period for this proposed rule ended on October 21, 2019.

The Steubenville nonattainment area is comprised of a portion of Jefferson County, Ohio and a portion of Brooke County, West Virginia. The Ohio portion of the Steubenville nonattainment area includes Cross

Creek Township, Steubenville Township, Warren Township, Wells Township, and Steubenville City in Jefferson County.

Ohio and West Virginia prepared nonattainment State Implementation Plans (SIPs) to provide for attainment of the 2010 SO₂ NAAQS in the Steubenville nonattainment area by the SO₂ attainment date of October 4, 2018. EPA approved the nonattainment SIPs from Ohio and West Virginia on October 22, 2019 (84 FR 56385).

II. Public Comments

EPA received two public comments on the September 20, 2019 proposal to redesignate the Ohio portion of the Steubenville nonattainment area. Both comments supported the proposed redesignation. The comments are included in the docket for this action.

III. What action is EPA taking?

EPA is redesignating the Ohio portion of the Steubenville nonattainment area from nonattainment to attainment of the 2010 SO₂ NAAQS. The Ohio portion of the Steubenville nonattainment area includes Cross Creek Township, Steubenville Township, Warren Township, Wells Township, and Steubenville City in Jefferson County. Ohio has demonstrated that the area is attaining the SO₂ standard, and that the improvement in air quality is due to permanent and enforceable SO₂ emission reductions in the nonattainment area. EPA is also approving Ohio's maintenance plan, which is designed to ensure that the area will continue to maintain the SO₂ standard.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for these actions to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction," and section 553(d)(3), which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This rule,

however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, this rule relieves the State of planning requirements for this nonattainment area. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for these actions to become effective on the date of publication of these actions.

IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of the maintenance plan under CAA section 107(d)(3)(E) are actions that affect the status of the geographical area and do not impose any additional regulatory requirements on sources beyond those required by state law. A redesignation to attainment does not in and of itself impose any new requirements, but rather results in the application of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, 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).

In addition, 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), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 28, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition

for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur oxides.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: November 13, 2019.

Cathy Stepp,

Regional Administrator, Region 5.

Title 40 CFR parts 52 and 81 are amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

■ 2. In § 52.1870, the table in paragraph (e) is amended under “Summary of Criteria Pollutant Maintenance Plan” by adding an entry for “SO₂ (2010)” before the entry “CO (1979)” to read as follows:

§ 52.1870 Identification of plan.
* * * * *
(e) * * *

EPA-APPROVED OHIO NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Applicable geographical or non-attainment area	State date	EPA approval	Comments
*	*	*	*	*
Summary of Criteria Pollutant Maintenance Plan				
*	*	*	*	*
SO ₂ (2010)	Steubenville OH-WV (partial Jefferson County)	6/25/2019	11/29/2019, [insert Federal Register citation].	
*	*	*	*	*

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

■ 4. Section 81.336 is amended by revising the entry “Steubenville, OH-WV” in the table entitled “Ohio—2010

Sulfur Dioxide NAAQS (Primary)” to read as follows:

§ 81.336 Ohio.
* * * * *

OHIO—2010 SULFUR DIOXIDE NAAQS [Primary]

Designated area ¹	Designation	
	Date ²	Type
*	*	*
Steubenville, OH-WV	November 29, 2019	Attainment.
Jefferson County (part). Cross Creek Township, Steubenville Township, Warren Township, Wells Township, Steubenville City.		
*	*	*

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

² This date is April 9, 2018, unless otherwise noted.

* * * * *

**ENVIRONMENTAL PROTECTION
AGENCY**

40 CFR Part 282

[EPA-R08-UST-2018-0728; FRL-10000-51-Region 8]

**North Dakota: Codification and
Incorporation by Reference of
Approved State Underground Storage
Tank Program**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule codifies in the regulations the prior approval of North Dakota's underground storage tank program and incorporates by reference approved provisions of the State's regulations. The Environmental Protection Agency (EPA) uses the regulations entitled, "Approved Underground Storage Tank Programs," to provide notification of the approval status of State programs and to incorporate by reference into the Code of Federal Regulations (CFR) those provisions of the State's regulations that are approved and that the EPA will enforce under the Resource Conservation and Recovery Act (RCRA). The EPA previously provided notification and opportunity for comments on the Agency's decisions to approve the North Dakota underground storage tank program, and the EPA is not reopening the decisions, nor requesting comments, on the approval of the North Dakota program, as published in the **Federal Register** documents specified in Section I.C of this document.

DATES: This rule is effective December 30, 2019. The Director of the Federal Register approves this incorporation by reference as of December 30, 2019, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: The documents that form the basis for this codification and associated publicly available materials are available electronically through <https://www.regulations.gov> (Docket ID No. EPA-R08-RCRA-2018-0728). You can also view and copy the documents from 8:30 a.m. to 4:00 p.m. Monday through Friday at the following location: EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129, phone number (303) 312-6435. Interested persons wanting to examine these documents should make an appointment with the office at least two days in advance.

FOR FURTHER INFORMATION CONTACT: Benjamin Bents, Region 8, Project Officer, RCRA Branch, Land Chemical and Revitalization Division (8LCR-RC), EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129, 303-312-6435, email address: bents.benjamin@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Codification

A. What is codification?

Codification is the process of placing a State's statutes and regulations that comprise the State's approved UST program into the CFR. Section 9004(b) of RCRA, as amended, allows the EPA to approve State UST programs to operate in lieu of the Federal program. The EPA codifies its authorization of State programs in 40 CFR part 282 and incorporates by reference State regulations that the EPA will enforce under sections 9005 and 9006 of RCRA and any other applicable statutory provisions. The incorporation by reference of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the approved State program and State requirements that can be federally enforced. This effort provides clear notification to the public of the scope of the approved program in each State.

B. Why wasn't there a proposed rule before today's rule?

The EPA is publishing this rule to codify North Dakota's approved UST program without a prior proposal because we believe this action is not controversial. The reason being that, in accordance with section 9004(b) of RCRA, EPA has already evaluated the State's regulatory and statutory requirements and has determined that the State's program meets the statutory and regulatory requirements established by RCRA. The EPA previously provided notifications and opportunity for comments on the Agency's decisions to approve the North Dakota program. The EPA is not reopening the decisions, nor requesting new comments, on the North Dakota approvals as previously published in the **Federal Register** documents specified in Section I.C of this final rule document. The previous approvals form the basis for the codification addressed in this final rule.

C. What is the history of the approval and codification of North Dakota's UST program?

On December 10, 1991 (56 FR 51333, October 11, 1991) the EPA finalized a

rule approving the UST program that North Dakota proposed to administer in lieu of the Federal UST program. The EPA incorporated by reference and codified North Dakota's then approved UST program in 40 CFR 282.84, effective August 21, 1995 (60 FR 32469; June 22, 1995). Due to unforeseen delays resulting from the lapse in appropriations, the EPA's final approvals concerning revisions to North Dakota's program originally proposed December 19, 2018, with an effective date of March 15, 2019 (83 FR 65104, December 19, 2018), were delayed. Thus, the EPA granted approval for changes to the North Dakota program effective April 30, 2019 (84 FR 8260, March 7, 2019). Through this action, the EPA is incorporating by reference and codifying North Dakota's State program in 40 CFR 282.84 to include the approved revisions.

D. What codification decisions have we made in this rule?

In this rule, we are finalizing the Federal regulatory text that incorporates by reference the federally authorized North Dakota UST Program. In accordance with the requirements of 1 CFR 51.5, we are finalizing the incorporation by reference of the North Dakota rules described in the amendments to 40 CFR part 282 set forth below. The EPA has made, and will continue to make, these documents generally available through www.regulations.gov and/or in hard copy at the EPA Region 8 office (see the **ADDRESSES** section of this preamble for more information).

The purpose of this **Federal Register** document is to codify North Dakota's approved UST Program. The codification reflects the State program that was in effect at the time the EPA approved revisions to the North Dakota UST program addressed in the final rule published on December 19, 2018 (83 FR 65104, effective March 15, 2019). By codifying the approved North Dakota program and by amending the Code of Federal Regulations (CFR), the public will more easily be able to discern the status of the federally approved requirements of the North Dakota program.

The EPA is incorporating by reference the North Dakota approved UST program in 40 CFR 282.84. 40 CFR 282.84(d)(1)(i)(A) incorporates by reference for enforcement purposes the

State's regulations. 40 CFR 282.84 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, Enforcement Agreement, the Program Description and the Memorandum of Agreement, which are approved as part of the UST program under subtitle I of RCRA.

E. What is the effect of EPA's codification of the federally authorized State UST Program on enforcement?

The EPA retains the authority under sections 9003(h), 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake corrective action, inspections, and enforcement actions, and to issue orders in approved States. If the EPA determines it will take such actions in North Dakota, the EPA will rely on Federal sanctions, Federal inspection authorities, and other Federal procedures rather than the State analogs. Therefore, though the EPA has approved the State procedures listed in 40 CFR 282.84(d)(1)(ii), the EPA is not incorporating by reference North Dakota's procedural and enforcement authorities.

F. What State provisions are not part of the codification?

Title 40 CFR 281.12(a)(3)(ii) states that where an approved State program has provisions that are broader in coverage than the Federal program, those provisions are not a part of the federally approved program. North Dakota's approved UST program does not include provisions which are "broader in coverage" than the Federal program.

II. Statutory and Executive Order (E.O.) Reviews

This action only applies to North Dakota's UST Program requirements pursuant to RCRA Section 9004 and imposes no requirements other than those imposed by State law. It complies with applicable E.O.s and statutory provisions as follows:

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

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). This action codifies State requirements for the purpose of RCRA section 9004 and imposes no additional requirements beyond those imposed by

State law. Therefore, this action is not subject to review by OMB.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 (82 FR 9339, February 3, 2017) regulatory action because actions such as this incorporation by reference of North Dakota's revised underground storage tank program under RCRA are exempted under Executive Order 12866. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

C. Unfunded Mandates Reform Act and Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Because this action codifies pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538). For the same reason, this action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

D. Executive Order 13132: Federalism

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely codifies State requirements as part of the State RCRA Underground Storage Tank Program without altering the relationship or the distribution of power and responsibilities established by RCRA.

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

This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks.

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

This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a "significant regulatory action" as defined under Executive Order 12866.

G. National Technology Transfer and Advancement Act

The requirements being codified are the result of North Dakota's voluntary participation in the EPA's State program approval process under RCRA subtitle I. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

H. Executive Order 12988: Civil Justice Reform

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

I. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order.

J. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). "Burden" is defined at 5 CFR 1320.3(b).

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

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income

populations in the United States. Because this rule codifies pre-existing State rules, which are at least equivalent to, consistent with, and no less stringent than existing Federal requirements, and imposes no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

L. Congressional Review Act

The EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). This action will be effective November 29, 2019.

Authority: This rule is issued under the authority of Sections 2002(a), 7004(b), and 9004, 9005 and 9006 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6974(b), and 6991c, 6991d, and 6991e.

List of Subjects in 40 CFR Part 282

Environmental protection, Administrative practice and procedure, Hazardous substances, Incorporation by reference, State program approval, and Underground storage tanks.

Dated: November 15, 2019.

Gregory Sopkin,

Regional Administrator, EPA Region 8.

For the reasons set forth in the preamble, EPA is amending 40 CFR part 282 as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

■ 1. The authority citation for part 282 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

■ 2. Revise § 282.84 to read as follows:

§ 282.84 North Dakota State-Administered Program.

(a) *History of the approval of North Dakota's Program.* The State of North Dakota is approved to administer and enforce an underground storage tank program in lieu of the Federal program under subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State's program, as administered by the North Dakota Department of Environmental Quality (DEQ) was approved by EPA pursuant to

42 U.S.C. 6991c and part 281 of this chapter. The EPA published the notice of final determination approving the North Dakota underground storage tank base program effective on December 10, 1991. A subsequent program revision application was approved by EPA and became effective on March 15, 2019.

(b) *Enforcement authority.* North Dakota has primary responsibility for administering and enforcing its federally approved underground storage tank program. However, EPA retains the authority to exercise its corrective action, inspection, and enforcement authorities under sections 9003(h), 9005, and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) *Approval.* To retain program approval, North Dakota must revise its approved program to adopt new changes to the Federal subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If North Dakota obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the **Federal Register**.

(d) *Program authorization.* North Dakota has final approval for the following elements of its program application originally submitted to EPA and approved effective December 10, 1991, and the program revision application approved by EPA effective on March 15, 2019:

(1) *State statutes and regulations—(i) Incorporation by reference.* The North Dakota provisions cited in this paragraph and listed in Appendix A to this part, are incorporated by reference as part of the underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the North Dakota regulations that are incorporated by reference in this paragraph from North Dakota Legislative Council, Second Floor, State Capitol, 600 E Boulevard Avenue, Bismarck, North Dakota 58504, phone 701-328-2916, website: <https://www.legis.nd.gov/agency-rules/north-dakota-administrative-code>. You may inspect a copy at EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202 (Phone number 303-312-6231 or the National Archives and Records Administration (NARA). For information on the

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

(A) “EPA-Approved North Dakota Regulatory Requirements Applicable to the Underground Storage Tank Program,” dated April 2019.

(B) [Reserved]

(ii) *Legal basis.* EPA evaluated the following statutes and regulations which provide the legal basis for the State's implementation of the underground storage tank program, but they are not being incorporated by reference and do not replace Federal authorities:

(A) The statutory provisions include: North Dakota Century Code (2019), Title 1 “General Provisions,” Chapter 1-01, “General Principles and Definitions,” Section 1-01-49(8) “Person;” Title 23.1 “Environmental Quality,” Chapter 01 “Department of Environmental Quality,” Sections 23.1-01-01 and 23.1-01-04; Chapter 04 “Hazardous Waste Management,” Sections 23.1-04-01 introductory paragraph, .1, .5, and .6; 23.1-04-02 introductory paragraph, .2, .9 through .11, and .16; 23.1-04-03; 23.1-04-06; and 23.1-04-12 through 23.1-04-15.

(B) The regulatory provisions include: North Dakota Administrative Code Chapter 33.1-24-08, Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks, as amended effective January 1, 2019, Sections 33.1-24-08-36 Applicability (Delivery Prohibition), 33.1-24-08-37 Criteria for Delivery Prohibition, and 33.1-24-08-57 Public Participation.

(2) *Statement of legal authority.* The Attorney General's Statement, signed by the Attorney General of North Dakota on February 28, 1991, and by the Assistant Attorney General on July 26, 2018, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The “Demonstration of Procedures for Adequate Enforcement” submitted as part of the original application on April 4, 1991, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Enforcement Agreement.* The “North Dakota State and EPA Region 8 Enforcement Agreement” submitted as part of the program revision application on July 26, 2018, though not incorporated by reference, is referenced

as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Program description.* The program description and any other material submitted as part of the original application April 4, 1991, and as part of the program revision application on July 26, 2018, though not incorporated by reference, are referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(6) *Memorandum of Agreement.* The Memorandum of Agreement between North Dakota and the EPA Region 8, signed by the EPA Regional Administrator on November 9, 2018, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

■ 3. Appendix A to part 282 is amended by revising the entry for “North Dakota” to read as follows:

Appendix A to Part 282—State Requirements Incorporated by Reference in Part 282 of the Code of Federal Regulations

* * * * *

North Dakota

(a) The regulatory provisions include: North Dakota Administrative Code (NDAC), Chapter 33.1–24–08, Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks, as amended effective January 1, 2019:

Section 33.1–24–08–01 Applicability (technical standards and corrective action).
 Section 33.1–24–08–02 Installation requirements for partially excluded underground storage tank systems.
 Section 33.1–24–08–03 Definitions (technical standards, delivery prohibition, and corrective action).
 Section 33.1–24–08–10 Performance standards for new underground storage tank systems.
 Section 33.1–24–08–11 Upgrading of existing underground storage tank systems.
 Section 33.1–24–08–12 Notification requirements.
 Section 33.1–24–08–20 Spill and overflow control.
 Section 33.1–24–08–21 Operation and maintenance of corrosion protection.
 Section 33.1–24–08–22 Compatibility.
 Section 33.1–24–08–23 Repairs allowed.
 Section 33.1–24–08–24 Reporting and recordkeeping.
 Section 33.1–24–08–25 Periodic testing of spill prevention equipment and containment sumps used for interstitial monitoring of piping and periodic inspection of overflow prevention equipment.

Section 33.1–24–08–26 Periodic operation and maintenance walkthrough inspections.
 Section 33.1–24–08–30 General release detection requirements for all underground storage tank systems.
 Section 33.1–24–08–31 Release detection requirements for petroleum underground storage tank systems.
 Section 33.1–24–08–32 Release detection requirements for hazardous substance underground storage tank systems.
 Section 33.1–24–08–33 Methods of release detection for tanks.
 Section 33.1–24–08–34 Methods of release detection for piping.
 Section 33.1–24–08–35 Release detection recordkeeping.
 Section 33.1–24–08–38 Mechanisms for designating tanks ineligible for delivery.
 Section 33.1–24–08–39 Reclassifying ineligible tanks as eligible for delivery.
 Section 33.1–24–08–40 Reporting of suspected releases.
 Section 33.1–24–08–41 Investigation due to offsite impacts.
 Section 33.1–24–08–42 Release investigation and confirmation steps.
 Section 33.1–24–08–43 Reporting and cleanup of spills and overfills.
 Section 33.1–24–08–44 Unattended cardrol facilities.
 Section 33.1–24–08–45 Operator designations and requirements for operator training.
 Section 33.1–24–08–46 Timing of operator training and reciprocity.
 Section 33.1–24–08–47 Operator retraining.
 Section 33.1–24–08–48 Operator training documentation.
 Section 33.1–24–08–50 General release response and corrective action for underground storage tank systems containing petroleum or hazardous substances.
 Section 33.1–24–08–51 Initial response.
 Section 33.1–24–08–52 Initial abatement measures and site check.
 Section 33.1–24–08–53 Initial site characterization.
 Section 33.1–24–08–54 Free product removal.
 Section 33.1–24–08–55 Investigations for soil and groundwater cleanup.
 Section 33.1–24–08–56 Corrective action plan.
 Section 33.1–24–08–60 Temporary closure.
 Section 33.1–24–08–61 Permanent closure and changes in service.
 Section 33.1–24–08–62 Assessing the site at closure or change in service.
 Section 33.1–24–08–63 Applicability to previously closed underground storage tank systems.
 Section 33.1–24–08–64 Closure records.
 Section 33.1–24–08–70 UST systems with field-constructed tanks and airport hydrant fuel distribution systems definitions.
 Section 33.1–24–08–71 General requirements.
 Section 33.1–24–08–72 Additions, exceptions, and alternatives for UST systems with field-constructed tanks and airport hydrant systems.
 Section 33.1–24–08–80 Applicability (financial responsibility).

Section 33.1–24–08–81 Financial responsibility compliance dates.
 Section 33.1–24–08–82 Definitions (financial responsibility).
 Section 33.1–24–08–83 Amount and scope of required financial responsibility.
 Section 33.1–24–08–84 Allowable mechanisms and combinations of mechanisms.
 Section 33.1–24–08–85 Financial test of self-insurance.
 Section 33.1–24–08–86 Guarantee.
 Section 33.1–24–08–87 Insurance and risk retention group coverage.
 Section 33.1–24–08–88 Surety bond.
 Section 33.1–24–08–89 Letter of credit.
 Section 33.1–24–08–92 Trust fund.
 Section 33.1–24–08–93 Standby trust fund.
 Section 33.1–24–08–94 Local government bond rating test.
 Section 33.1–24–08–95 Local government financial test.
 Section 33.1–24–08–96 Local government guarantee.
 Section 33.1–24–08–97 Local government fund.
 Section 33.1–24–08–98 Substitution of financial assurance mechanisms by owner or operator.
 Section 33.1–24–08–99 Cancellation or nonrenewal by a provider of financial assurance.
 Section 33.1–24–08–100 Reporting by owner or operator.
 Section 33.1–24–08–101 Recordkeeping.
 Section 33.1–24–08–102 Drawing on financial assurance mechanisms.
 Section 33.1–24–08–103 Release from requirements.
 Section 33.1–24–08–104 Bankruptcy or other incapacity of owner or operator or provider of financial assurance.
 Section 33.1–24–08–105 Replenishment of guarantees, letters of credit, or surety bonds.
 Section 33.1–24–08–115 Definitions (lender liability).
 Section 33.1–24–08–120 Participation in management (lender liability).
 Section 33.1–24–08–125 Ownership of an underground storage tank or underground storage tank system or facility or property on which an underground storage tank or underground storage tank system is located (lender liability).
 Section 33.1–24–08–130 Operating an underground storage tank or underground storage tank system (lender liability).

Appendix I.

Appendix II Statement of Shipping Tickets and Invoices.

(b) Copies of the North Dakota regulations that are incorporated by reference are available from North Dakota Legislative Council, Second Floor, State Capitol, 600 E Boulevard Avenue, Bismarck, North Dakota 58504; phone, 701–328–2916; website, <https://www.legis.nd.gov/agency-rules/north-dakota-administrative-code>.

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[FR Doc. 2019–25355 Filed 11–27–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 300**

[Docket No. 190220141–9141–01]

RIN 0648–XP004

International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Reopening and Closing of the Purse Seine Fishery in the ELAPS in 2019

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

ACTION: Temporary rule; fishery reopening; fishery closure.

SUMMARY: NMFS is temporarily reopening the U.S. purse seine fishery in the Effort Limit Area for Purse Seine, or ELAPS, for ten calendar days because part of the fishing effort limit remains after NMFS closed the fishery effective October 9, 2019 (see 84 FR 52035; October 1, 2019). This action will allow U.S. purse seine vessels to access the remainder of the fishing effort limit specified by the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC or Commission) in Conservation and Management Measure (CMM) 2018–01, “Conservation and Management Measure for Bigeye, Yellowfin, and Skipjack Tuna in the Western and Central Pacific Ocean.”

DATES: The reopening is effective 00:00 on November 29, 2019, Universal Coordinated Time (UTC), until 24:00 on December 9, 2019, UTC.

FOR FURTHER INFORMATION CONTACT: Rini Ghosh, NMFS Pacific Islands Regional Office, 808–725–5033.

SUPPLEMENTARY INFORMATION: U.S. purse seine fishing in the area of application of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention), or Convention Area, is managed, in part, under the Western and Central Pacific Fisheries Convention Implementation Act, 16 U.S.C. 6901 *et seq.* (Act). Regulations implementing the Act are at 50 CFR part 300, subpart O. On behalf of the Secretary of Commerce, NMFS promulgates regulations under the Act as may be necessary to carry out the obligations of the United States under the Convention, to which it is a Contracting Party, including

implementation of the decisions of the Commission.

Pursuant to WCPFC CMM 2018–01, NMFS issued regulations that established a limit of 1,616 fishing days that may be used by U.S. purse seine fishing vessels in the ELAPS in calendar year 2019 (see interim rule at 84 FR 37145, published July 31, 2019, codified at 50 CFR 300.223). The ELAPS consists of the areas of the U.S. Exclusive Economic Zone and the high seas that are in the Convention Area between the latitudes of 20° N and 20° S (see definition at 50 CFR 300.211). A fishing day means any day in which a fishing vessel of the United States equipped with purse seine gear searches for fish, deploys a fish aggregating device (FAD), services a FAD, or sets a purse seine, with the exception of setting a purse seine solely for the purpose of testing or cleaning the gear and resulting in no catch (see definition at 50 CFR 300.211).

Based on data submitted in logbooks and other available information, NMFS expected that the 2019 limit of 1,616 fishing days in the ELAPS would be reached and, in accordance with the procedures established at 50 CFR 300.223(a), closed the purse seine fishery in the ELAPS through a temporary rule effective 00:00 on October 9, 2019 UTC through December 31, 2019 (84 FR 52035; October 1, 2019). After the closure went into effect and the data for the days leading up to the closure were obtained, NMFS determined that 64 fishing days of the 2019 calendar year limit remain. Therefore, NMFS is publishing this temporary rule to reopen the purse seine fishery in the ELAPS for a limited period of time so that the remainder of the limit may be used. All fishing under the remaining limit must be done in accordance with the regulations at 50 CFR 300.223 and any other applicable regulations.

To determine the number of calendar days to reopen the fishery, NMFS used the fishing rate (*i.e.*, the number of fishing days used by the entire U.S. purse seine fleet per calendar day) in the period just prior to the October 9, 2019, closure, modified to account for changes in fleet size. In the 14 days prior to the closure, the fishing rate in the ELAPS was 8.0 fishing days used by the entire U.S. purse seine fleet per calendar day. However, the U.S. purse seine fleet has since been reduced in size by three vessels, and there is potential for additional U.S. purse seine vessels to leave the fleet prior to the ELAPS being reopened. Assuming a 20 percent reduction in the fishing rate in the ELAPS due to the reductions in fleet size, NMFS estimates 6.4 fishing days

will be used by the entire U.S. purse seine fleet per calendar day during the reopening of the ELAPS (*i.e.*, 8.0 fishing days per calendar day reduced by 20 percent is 6.4 fishing days per calendar day, and 64 fishing days divided by 6.4 fishing days per calendar day is 10 calendar days). Based on this analysis, NMFS is reopening the fishery for 10 calendar days.

Classification

There is good cause under 5 U.S.C. 553(b)(B) to waive prior notice and opportunity for public comment on this action. Compliance with the notice and comment requirement would be impracticable, unnecessary, and contrary to the public interest because this action is simply a correction to a premature closure and is a benefit to fishermen since they cannot currently access the fishery. NMFS solicited public comments on the interim final rule establishing the 2019 limit of 1,616 fishing days in the ELAPS and will be responding to those comments in a subsequent final rule. For the same reasons, there is good cause under 5 U.S.C. 553(d)(3) to establish an effective date less than 30 days after the date of publication of this notice.

This action is taken under 50 CFR 300.223(a) is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 6901 *et seq.*

Dated: November 22, 2019.

Jennifer M. Wallace,

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

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BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 635**

[Docket No. 191125–0090]

RTID 0648–XT004

Atlantic Highly Migratory Species; 2020 Atlantic Shark Commercial Fishing Year

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

ACTION: Final rule; fishing season notification.

SUMMARY: This final rule establishes the 2020 opening date for all Atlantic shark fisheries, including the fisheries in the Gulf of Mexico and Caribbean. This

final rule also establishes the quotas for the 2020 fishing year based on harvest levels during 2019 and the large coastal shark (LCS) retention limits for directed shark limited access permit holders. NMFS may increase or decrease these retention limits for directed shark limited access permit holders during the year, in accordance with existing regulations, to provide, to the extent practicable, equitable fishing opportunities for commercial shark fishermen in all regions and areas. These actions could affect fishing opportunities for commercial shark fishermen in the northwestern Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea.

DATES: This rule is effective on January 1, 2020. The 2020 Atlantic commercial shark fishing year opening dates and quotas are provided in Table 1 under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Atlantic Highly Migratory Species (HMS) Management Division, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Guý DuBeck or Karyl Brewster-Geisz at 301-427-8503.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic commercial shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The 2006 Consolidated HMS Fishery Management Plan (FMP) and its amendments are implemented by regulations at 50 CFR part 635. For the Atlantic commercial shark fisheries, the 2006 Consolidated HMS FMP and its amendments established, among other things, measures related to commercial shark retention limits, commercial quotas for species and management groups, and accounting for under- and overharvests for the shark fisheries. The FMP also includes adaptive management measures, such as flexibility in establishing opening dates for the fishing season and the ability to make inseason adjustments to shark trip limits, which provide management flexibility in furtherance of equitable fishing opportunities, to the extent practicable, for commercial shark fishermen in all regions and areas.

On September 19, 2019, NMFS published a proposed rule (84 FR 49236), on management measures for the commercial shark fisheries for the 2020 fishing year. The rule proposed opening all Atlantic commercial shark management groups on January 1, 2020, setting initial retention limits for large

coastal shark (LCS) retention by directed shark limited access permit holders, and adjusting quotas for the 2020 fishing year based on harvest levels during 2019. The proposed rule contains details about the action that are not repeated here. The comment period on the proposed rule closed on October 10, 2019. NMFS received 18 written and oral comments regarding the proposed opening dates, retention limits, and potential inseason retention limit adjustments as applied to LCS in the Gulf of Mexico and Atlantic regions. Those comments, along with the Agency's responses, are summarized below. After considering all the comments, NMFS is finalizing the rule as proposed, with three changes, discussed below.

NMFS is opening the fishing year for all shark management groups on January 1, 2020, as proposed. In setting the opening date, NMFS considered the "opening commercial fishing season" criteria at § 635.27(b)(3). These criteria include the following factors: Available annual quotas for the current fishing season; estimated season length and average weekly catch rates from previous years; length of the season and fishermen participation in past years; impacts to accomplishing objectives of the 2006 Consolidated HMS FMP and its amendments; temporal variation in behavior or biology of target species (e.g., seasonal distribution or abundance); impact of catch rates in one region on another; and effects of delayed season openings. The rule also establishes a retention limit for directed shark limited access permit holders in the blacktip, aggregated LCS, and hammerhead management groups for the entire Gulf of Mexico region of 45 LCS other than sandbar sharks per vessel per trip, as proposed. NMFS changed the initial retention limit for directed shark limited access permit holders in the aggregated LCS and hammerhead management groups for the Atlantic region from the proposed level of 25 LCS other than sandbar sharks per vessel per trip to 36 LCS other than sandbar sharks per vessel per trip. The retention limit for incidental shark limited access permit holders for all regions has not changed from the proposed rule and remains at 3 LCS other than sandbar sharks per trip and no more than 16 small coastal sharks (SCS) and pelagic sharks, combined, per vessel per trip consistent with § 635.24(a)(3) and (4). Additionally, the retention limit for blacknose sharks for all permit holders in the Atlantic region south of 34°00' N lat. has not changed from the proposed rule and remains at

eight blacknose sharks per trip consistent with § 635.24(a)(4). Blacknose sharks may not be harvested in the Gulf of Mexico region. This rulemaking does not consider changes to the retention limits outside of what is allowed currently by the regulations.

This final rule also adjusts the annual commercial quotas for 2020 based on over- and/or underharvests, calculated after accounting for landings reported by October 18, 2019, consistent with existing regulations. Based on updated landings information as of October 18, 2019, only the adjusted blacktip quota in the Gulf of Mexico region has changed since the proposed rule. All other quotas remain the same as proposed. While this action adjusts certain quotas as allowable, it does not establish or change the annual baseline commercial quotas established under the 2006 Consolidated HMS FMP and its amendments for any shark management group. The baseline quotas were established under previous actions, and any changes to those baseline quotas would be performed through a separate action.

Response to Comments

NMFS received 18 written and oral comments on the proposed rule from fishermen, dealers, and other interested parties. All written comments can be found at <http://www.regulations.gov/> by searching for RIN 0648-XT004. All of the comments received are summarized below.

Comment 1: NMFS received comments in support of the proposed opening date of January 1 for the LCS fisheries in the Gulf of Mexico and Atlantic regions.

Response: NMFS will open the LCS fisheries in the Gulf of Mexico and Atlantic regions on January 1, as proposed. NMFS will also open all other shark management groups on January 1, as proposed.

Comment 2: NMFS received several comments regarding the proposed commercial retention limit for the aggregated LCS, hammerhead, and blacktip shark management groups in the eastern and western Gulf of Mexico sub-regions. Some commenters were opposed to the proposed retention limit of 45 LCS other than sandbar sharks per vessel per trip, and noted that NMFS should increase the retention limit to 55 LCS other than sandbar sharks per vessel per trip. Commercial fishermen from the western Gulf of Mexico sub-region preferred the higher retention limit (55 sharks per vessel per trip) to provide equitable fishing opportunities for both Federal and state-water fishermen, while some commercial

fishermen from the eastern Gulf of Mexico sub-region also preferred the higher retention limit to more fully utilize quotas, which were underutilized this year. NMFS also received comments from commercial fishermen in the eastern Gulf of Mexico sub-region that they preferred a retention limit of 45 LCS per vessel per trip to ensure a year-round fishery.

Response: After considering public comment, and bearing in mind NMFS's ability to further adjust retention limits inseason, NMFS has determined that starting the season at the default retention limit of 45 LCS other than sandbar sharks per vessel per trip, as proposed, is appropriate and will ensure equitable fishing opportunities in both Gulf of Mexico sub-regions, to the extent practicable. This season, the participation in the Gulf of Mexico LCS fishery was lower than in past years, and the shark management group quotas in both sub-regions remain open to date. In the western Gulf of Mexico sub-region, landings were particularly low this year, which commenters said was due to issues related to selling and transporting shark products across state lines. This reduction in overall landings has resulted in the blacktip, aggregated LCS, and hammerhead shark management groups in the western Gulf of Mexico sub-region remaining open to date, relatively late in the year, which has not occurred in past seasons, and a portion of each quota being transferred to the eastern Gulf of Mexico sub-region (84 FR 48791; September 17, 2019). In the eastern Gulf of Mexico sub-region, fishermen continue to harvest blacktip, aggregated LCS, and hammerhead shark management group quotas. In addition, NMFS understands that the State of Mississippi is considering starting a commercial shark fishery in state waters in 2020. Although NMFS does know at this time how many vessels might participate in this fishery, how many permits could be issued, or what the State regulations will be, associated landings would count against the western Gulf of Mexico sub-regional quotas, creating some additional uncertainty regarding the fishery for 2020. Thus, due to public comment regarding the year-round fishery and the uncertainty about the number of participants in the 2020 fishing season, NMFS has decided to keep the retention limit at the proposed 45 LCS other than sandbar sharks per vessel per trip for the start of the season. If 2020 landing rates are similar to landing rates in 2019, NMFS could consider adjusting the retention limit inseason to maximize quotas.

Comment 3: NMFS received several comments regarding the proposed commercial retention limits and the proposed change to the quota harvest level at which NMFS may consider adjusting the retention limit for the aggregated LCS and hammerhead shark management groups in the Atlantic region. NMFS received comments opposing the proposed retention limit of 25 LCS other than sandbar sharks at the beginning of the year. Instead, commenters stated they would prefer a retention limit of 36 LCS trip limit at the beginning of the year to more fully utilize the available quota. NMFS received comments in support of and opposition to the proposed level of 20 percent of quota harvested at which NMFS may consider adjusting the retention limit. Commenters suggested a variety of percentages that ranged from 20 to 40 percent, and expressed concern that a lower percentage and smaller hammerhead shark quota could limit harvest and increase the likelihood of a closure. If the fishery were to close early, then the overall quota would not be reached, similar to what has happened in recent years.

Response: NMFS will start the season with a commercial retention limit of 36 LCS other than sandbar sharks per vessel per trip. Additionally, NMFS recognizes that the 20 percent of quota harvested at which NMFS may consider adjusting the retention limit used in recent years along with other factors has resulted in the annual quotas in the Atlantic region not being fully utilized in recent years. For example, as of October 18, 2019, only 27 percent of the aggregated LCS and 38 percent of the hammerhead shark quotas have been landed. This means that approximately 73 percent of the aggregated LCS quota remains available and approximately 62 percent of the hammerhead shark quota remains available through December 31, 2019. In order to allow fishermen additional opportunities to fully harvest the aggregated LCS and hammerhead management group quotas, NMFS is implementing a higher retention limit (36 LCS other than sandbar sharks per vessel per trip) at the start of the season and a higher percentage of quota harvested at which NMFS may consider adjusting the retention limit (35 percent). If the quota is landed quickly (e.g., if approximately 35 percent of the quota is caught at the beginning of the year), NMFS anticipates that it would apply the appropriate regulatory criteria to consider an inseason reduction of the retention limit (e.g., to three or fewer LCS other than sandbar sharks per vessel per trip), then consider an

increase in the retention limit later in the year, which is a similar process to what has been done in past seasons.

Comment 4: NMFS received comments regarding increasing the retention limit beyond the current threshold of 55 LCS other than sandbar sharks per vessel per trip or converting the retention limit back to pounds per trip. One commenter preferred a retention limit of 100 LCS other than sandbar sharks per vessel per trip, since the quotas are not harvested and shark populations have increased. Another commenter preferred the retention limit be 4,000 pound (lb) dressed weight (dw) per trip, which was the trip limit prior to 2008, to make trips more profitable and reduce discards. Additionally, some commenters would prefer separate retention limits for the Gulf of Mexico blacktip shark management group and hammerhead shark management groups in the Atlantic and Gulf of Mexico, since each management group has separate quotas. Other commenters requested a retention limit for sandbar sharks outside of the shark research fishery due to increased interactions during non-shark research fishery trips in recent years.

Response: These comments are outside the scope of this rulemaking because the purpose of this rulemaking is to set opening dates and commercial retention limits for the 2020 shark season and to adjust quotas for the 2020 shark seasons based on over- and underharvests from the previous years. Pursuant to § 635.24(a)(2), the commercial retention limit for LCS other than sandbar sharks may range between zero and 55 LCS other than sandbar sharks per vessel per trip. Thus, the maximum commercial retention limit is 55 LCS other than sandbar sharks per vessel per trip and a higher limit is not considered in this rulemaking, not was changing the approach to retention limits from numbers of individuals to weight. NMFS may reexamine the upper and lower bounds of the current commercial shark retention limits in a future rulemaking.

Comment 5: NMFS received comments that all quota linkages in the LCS fishery should be removed since such linkages have contributed to the underutilization of quotas.

Response: This comment is outside the scope of this rulemaking because the purpose of this rulemaking is to set opening dates and commercial retention limits for the 2020 shark season and to adjust quotas for the 2020 shark seasons based on over- and underharvests from the previous years. The current LCS quota linkages were implemented in the

final rules for Amendment 5a and Amendment 6 to the 2006 Consolidated HMS FMP as part of rebuilding plans for shark species that are overfished in order to reduce mortality of overfished stocks during commercial fishing for other shark species. The issue of removing quota linkages is not being re-considered or re-addressed in this rulemaking.

Comment 6: NMFS received a comment regarding a concern about the increase in shark populations impacting other fisheries and stocks.

Response: This comment is outside the scope of this rulemaking. NMFS is aware of concerns expressed by some fishermen about increasing interactions between LCS in Council-managed and other HMS fisheries, including their concerns about depredation of yellowfin tuna, snapper-grouper, and other coastal migratory pelagic species, gear damage, economic loss, and possible effects on the long-term sustainability and conservation of other fish species. Given revisions to the Magnuson-Stevens Fishery Conservation and Management Act National Standard 1 (NS1) guidelines, NMFS is exploring options related to the implementation of those new guidelines as they relate to annual catch limits (ACLs) for Atlantic sharks in the HMS management unit. NMFS announced the availability of a scoping document for Amendment 14 to the 2006 Consolidated HMS FMP (84 FR 23014; May 21, 2019). In that scoping document, NMFS has also begun the process of re-examining how to establish these ACLs, including an examination of how to establish the acceptable biological catch (ABC) and account for uncertainty arising from the stock assessment and the impacts to the management measures.

Comment 7: NMFS received a comment supporting the prohibition of all commercial shark fishing.

Response: This comment is outside the scope of this rulemaking because the purpose of this rulemaking is to adjust quotas for the 2020 shark seasons based on over- and underharvests from the previous years and set opening dates and commercial retention limits for the 2020 shark season. Management of the Atlantic shark fisheries is based on the

best available science to achieve optimum yield while also rebuilding overfished shark stocks and preventing overfishing. The final rule does not reanalyze the overall management measures for sharks, which have been analyzed in the 2006 Consolidated HMS FMP and its amendments. NMFS is considering further shark management measures, including options related to the implementation of relatively new Magnuson-Stevens Act NS1 guidelines as they relate to ACLs for Atlantic sharks in the HMS management unit, in Amendment 14 to the 2006 Consolidated HMS FMP.

Changes From the Proposed Rule

As noted above, after considering public comment and updated landings data, NMFS made three changes from the proposed rule. Specifically, NMFS changed the retention limit for directed shark limited access permit holders at the start of the commercial shark fishing year for the aggregated LCS and hammerhead shark management groups in the Atlantic from 25 LCS other than sandbar sharks per vessel per trip to 36 LCS other than sandbar sharks per vessel per trip. NMFS is changing the proposed percentage of quota harvested at which to consider adjusting the retention limit from approximately 20 percent to 35 percent if the quota is landed too quickly. NMFS noted in the proposed rule that retention limits and the quota linkage threshold might change in response to public comment. These changes are within the established range of retention limits provided at § 635.24(a)(2) and consistent with the limits established in recent years at the start of the season. NMFS expects that a retention limit of 36 LCS other than sandbar sharks per vessel per trip with a 35 percent of quota harvested at which to consider adjusting the retention limit will provide equitable fishing opportunities throughout the region, to the extent practicable, and retains its discretion to make inseason adjustments to retention limits, in accordance with existing regulations and in furtherance of the goals and objectives of the 2006 Consolidated HMS FMP and its amendments.

Additionally, based on an underharvest calculation error, NMFS changed the final blacktip shark quota in both Gulf of Mexico sub-regions. In the proposed rule, NMFS calculated the underharvest for blacktip sharks within the Gulf of Mexico region as 141.8 mt dw, which was 50 percent of the 2019 *adjusted* annual quota. However, pursuant to § 635.27(b)(2)(ii), NMFS may apply up to 50 percent of the *base* annual quota (128.3 mt dw) to the 2020 quota. Any underharvest would be divided between the two sub-regions, based on the percentages that are allocated to each sub-region, which are set forth in § 635.27(b)(1)(ii)(C). Accordingly, the western Gulf of Mexico sub-regional baseline quota is being increased by 115.7 mt dw (255,131 lb dw), which is a reduction of 12.2 mt dw from the proposed rule. Similarly, the eastern Gulf of Mexico sub-regional baseline quota is being increased by 12.6 mt dw (27,719 lb dw), which is a reduction of 1.3 mt dw from the proposed rule (Table 1). Thus, the 2020 adjusted annual quota in western sub-regional Gulf of Mexico blacktip shark commercial quota is 347.2 mt dw (765,392 lb dw), and the eastern sub-regional Gulf of Mexico blacktip shark commercial quota is 37.7 mt dw (83,158 lb dw).

2020 Annual Quotas

This final rule adjusts the 2020 commercial quotas due to overharvests and/or underharvests in 2019 and previous fishing years, based on landings data received by October 18, 2019. The 2020 annual quotas by species and management group are summarized in Table 1. At this time, NMFS anticipates that landings in dealer reports that are received by NMFS after October 18, 2019, will be accounted for by adjusting the 2021 quotas, as appropriate, although such landings could also be accounted for in the same year. A description of the quota calculations is provided in the proposed rule and is not repeated here. Any changes are described in the “Changes from the Proposed Rule” section.

TABLE 1—2020 FINAL ADJUSTED QUOTAS FOR THE ATLANTIC SHARK MANAGEMENT GROUPS

Region or sub-region	Management group	2019 annual quota (A)	Preliminary 2019 landings ¹ (B)	Adjustments ² (C)	2020 Base annual quota (D)	2020 Final annual quota (D+C)
Western Gulf of Mexico	Blacktip Sharks. ³	250.8 mt dw (552,919 lb dw) ⁴	67.4 mt dw (148,491 lb dw)	115.7 mt dw (255,131 lb dw)	231.5 mt dw (510,261 lb dw)	347.2 mt dw (765,392 lb dw)

TABLE 1—2020 FINAL ADJUSTED QUOTAS FOR THE ATLANTIC SHARK MANAGEMENT GROUPS—Continued

Region or sub-region	Management group	2019 annual quota (A)	Preliminary 2019 landings ¹ (B)	Adjustments ² (C)	2020 Base annual quota (D)	2020 Final annual quota (D+C)
Eastern Gulf of Mexico	Aggregated Large Coastal Sharks	22.0 mt dw (48,501 lb dw) ⁴	13.7 mt dw (30,282 lb dw)	12.6 mt dw (27,719 lb dw)	72.0 mt dw (158,724 lb dw)	72.0 mt dw (158,724 lb dw)
	Hammerhead Sharks	3.9 mt dw (8,598 lb dw) ⁴	<1.0 mt dw (<2,200 lb dw)		11.9 mt dw (26,301 lb dw)	11.9 mt dw (26,301 lb dw)
	Blacktip Sharks. ³	32.7 mt dw (72,091 lb dw) ⁴	7.5 mt dw (16,461 lb dw)		25.1 mt dw (55,439 lb dw)	37.7 mt dw (83,158 lb dw)
	Aggregated Large Coastal Sharks	135.5 mt dw (298,726 lb dw) ⁴	66.0 mt dw (145,543 lb dw)		85.5 mt dw (188,593 lb dw)	85.5 mt dw (188,593 lb dw)
Gulf of Mexico	Hammerhead Sharks	21.4 mt dw (47,178 lb dw) ⁴	10.6 mt dw (23,283 lb dw)	168.2 mt dw (370,814 lb dw)	13.4 mt dw (29,421 lb dw)	13.4 mt dw (29,421 lb dw)
	Non-Blacknose Small Coastal Sharks	112.6 mt dw (248,215 lb dw)	48.9 mt dw (107,884 lb dw)		112.6 mt dw (248,215 lb dw)	112.6 mt dw (248,215 lb dw)
	Smoothhound Sharks	504.6 mt dw (1,112,441 lb dw)	<5.0 mt dw (<11,000 lb dw)		336.4 mt dw (741,627 lb dw)	504.6 mt dw (1,112,441 lb dw)
Atlantic	Aggregated Large Coastal Sharks	168.9 mt dw (372,552 lb dw)	45.2 mt dw (99,737 lb dw)	600.9 mt dw (1,324,634 lb dw)	168.9 mt dw (372,552 lb dw)	168.9 mt dw (372,552 lb dw)
	Hammerhead Sharks	27.1 mt dw (59,736 lb dw)	10.3 mt dw (22,655 lb dw)		27.1 mt dw (59,736 lb dw)	27.1 mt dw (59,736 lb dw)
	Non-Blacknose Small Coastal Sharks	264.1 mt dw (582,333 lb dw)	88.1 mt dw (194,249 lb dw)		264.1 mt dw (582,333 lb dw)	264.1 mt dw (582,333 lb dw)
	Blacknose Sharks (South of 34° N lat. only)	17.2 mt dw (37,921 lb dw)	8.0 mt dw (17,637 lb dw)		17.2 mt dw (37,921 lb dw)	17.2 mt dw (37,921 lb dw)
	Smoothhound Sharks	1,802.6 mt dw (3,973,902 lb dw)	329.9 mt dw (727,268 lb dw)		1,201.7 mt dw (2,649,268 lb dw)	1,802.6 mt dw (3,971,587 lb dw)
No regional quotas	Non-Sandbar LCS Research	50.0 mt dw (110,230 lb dw)	13.9 mt dw (30,596 lb dw)		50.0 mt dw (110,230 lb dw)	50.0 mt dw (110,230 lb dw)
	Sandbar Shark Research	90.7 mt dw (199,943 lb dw)	55.7 mt dw (122,715 lb dw)		90.7 mt dw (199,943 lb dw)	90.7 mt dw (199,943 lb dw)
	Blue Sharks.	273.0 mt dw (601,856 lb dw)	0 mt dw (0 lb dw)		273.0 mt dw (601,856 lb dw)	273.0 mt dw (601,856 lb dw)
	Porbeagle Sharks	1.7 mt dw (3,748 lb dw)	<0.5 mt dw (<1,000 lb dw)		1.7 mt dw (3,748 lb dw)	1.7 mt dw (3,748 lb dw)
	Pelagic Sharks Other Than Porbeagle or Blue	488.0 mt dw (1,075,856 lb dw)	31.7 mt dw (69,836 lb dw)		488.0 mt dw (1,075,856 lb dw)	488.0 mt dw (1,075,856 lb dw)

¹ Landings are from January 1, 2019, through October 18, 2019, and are subject to change.

² Underharvest adjustments can only be applied to stocks or management groups that are not overfished and have no overfishing occurring. Also, the underharvest adjustments cannot exceed 50 percent of the base annual quota.

³ This adjustment accounts for underharvest in 2019. As explained above, NMFS is adjusting the increase of the overall Gulf of Mexico blacktip shark quota by 128.3 mt dw (282,850 lb dw). Since any underharvest would be divided based on the sub-regional quota percentage split, the western Gulf of Mexico blacktip shark quota would be increased by 115.7 mt dw, or 90.2 percent of the underharvest, while the eastern Gulf of Mexico blacktip shark quota would be increased by 12.6 mt dw, or 9.8 percent of the underharvest.

⁴ NMFS transferred 5 mt dw of the blacktip shark quota, 50 mt dw of the aggregated LCS quota, and 8 mt dw of the hammerhead shark quota from the western Gulf of Mexico sub-region to the eastern Gulf of Mexico sub-region on September 12, 2019 (84 FR 48791; September 17, 2019).

2020 Atlantic Commercial Shark Fishing Year

NMFS considered the seven “opening commercial fishing season” criteria

listed in § 635.27(b)(3), as described in the proposed rule (84 FR 49236; September 19, 2019). These criteria include, among other things: The available annual quotas based on any

over-and/or underharvests experienced during the previous seasons; the estimated season length based on available quotas and catch rates from previous years; the length of the season

in the previous years and whether fishermen were able to participate in the fishery in those years; and the effects of catch rates in one part of a region precluding vessels in another part of that region from having a reasonable opportunity to harvest a portion of the different species and/or management quotas. Application of the criteria discussed in the proposed rule is not repeated here.

Regarding the LCS retention limit, as shown in Table 2, directed shark limited access permit holders fishing on the Gulf of Mexico blacktip shark, aggregated LCS, and hammerhead shark management groups will start the commercial fishing year with a limit of 45 LCS other than sandbar sharks per vessel per trip. Directed shark limited access permits fishing on the Atlantic aggregated LCS and hammerhead shark management groups will start the commercial fishing year with a limit of 36 LCS other than sandbar sharks per vessel per trip. These retention limits could be changed throughout the year based on consideration of the inseason trip limit adjustment criteria at § 635.24(a)(8).

Specifically, in the Atlantic region, NMFS will closely monitor the quota at the beginning of the year. If it appears that the quota is being harvested too quickly to allow fishermen throughout the entire region the opportunity to fish (e.g., if approximately 35 percent of the quota is caught at the beginning of the year), NMFS will consider reducing the

commercial retention limit, potentially to 3 LCS other than sandbar sharks per vessel per trip. Given the geographic distribution of the sharks at this time of year (i.e., they head north before moving south again later in the year), the retention limit would be adjusted to ensure there is quota available later in the year (see the criteria at § 635.24(a)(8)(i), (ii), (v), and (vi)). Then, based on the prior years' fishing activity, and to allow more consistent fishing opportunities later in the year, NMFS may consider raising the commercial retention limit later in the year. Any future increase or decrease in a retention limit would depend on a review of the inseason trip limit adjustment criteria at § 635.24(a)(8).

All of the shark management groups will remain open until December 31, 2020, or until NMFS determines that the landings for any shark management group have reached, or are projected to reach, 80 percent of the available overall, regional, and/or sub-regional quota, if the fishery's landings are not projected to reach 100 percent of the applicable quota before the end of the season, or when the quota-linked management group is closed. For the blacktip shark management group, regulations at § 635.28(b)(5)(i) through (v) authorize NMFS to close the management group before landings reach or are expected to reach 80 percent of the available overall, regional, and/or sub-regional quota after considering the following criteria and

other relevant factors: Season length based on available sub-regional quota and average sub-regional catch rates; variability in regional and/or sub-regional seasonal distribution, abundance, and migratory patterns; effects on accomplishing the objectives of the 2006 Consolidated Atlantic HMS FMP and its amendments; amount of remaining shark quotas in the relevant sub-region; and regional and/or sub-regional catch rates of the relevant shark species or management groups. Additionally, NMFS has previously established non-linked and linked quotas. Linked quotas are explicitly designed to concurrently close multiple shark management groups that are caught together to prevent incidental catch mortality from exceeding the total allowable catch. The linked and non-linked quotas are shown in Table 2. If NMFS determines that a shark species or management group must be closed, then NMFS will publish a notice in the **Federal Register** of closure for that shark species, shark management group, region, and/or sub-region that will be effective no fewer than four days from the date of filing (§ 635.28(b)(2) and (3)). From the effective date and time of the closure until NMFS announces, via the publication of a notice in the **Federal Register**, that additional quota is available and the season is reopened, the fisheries for the shark species or management group are closed, even across fishing years.

TABLE 2—QUOTA LINKAGES, OPENING DATES, AND COMMERCIAL RETENTION LIMIT BY REGIONAL OR SUB-REGIONAL SHARK MANAGEMENT GROUP

Region or sub-region	Management group	Quota linkages	Opening dates	Commercial retention limits for directed shark limited access permit holders (inseason adjustments are available)
Eastern Gulf of Mexico.	Blacktip Sharks	Not Linked	January 1, 2020.	45 LCS other than sandbar sharks per vessel per trip.
	Aggregated Large Coastal Sharks.	Linked .....	.....
Western Gulf of Mexico.	Hammerhead Sharks .....	.....	.....	45 LCS other than sandbar sharks per vessel per trip.
	Blacktip Sharks	Not Linked	January 1, 2020.	
Gulf of Mexico	Aggregated Large Coastal Sharks.	Linked .....	.....	N/A.
	Hammerhead Sharks .....	.....	.....
Atlantic	Non-Blacknose Small Coastal Sharks.	Not Linked	January 1, 2020.	N/A.
	Smoothhound Sharks	Not Linked	January 1, 2020.	
Atlantic	Aggregated Large Coastal Sharks.	Linked	January 1, 2020.	36 LCS other than sandbar sharks per vessel per trip.
	Hammerhead Sharks	.....	.....
	Non-Blacknose Small Coastal Sharks.	Linked	January 1, 2020.	If quota is landed quickly (e.g., if approximately 35 percent of the quota is caught at the beginning of the year), NMFS anticipates considering an inseason reduction, and later considering an inseason increase.
		(South of .. 34° N lat. only).	.....

TABLE 2—QUOTA LINKAGES, OPENING DATES, AND COMMERCIAL RETENTION LIMIT BY REGIONAL OR SUB-REGIONAL SHARK MANAGEMENT GROUP—Continued

Region or sub-region	Management group	Quota linkages	Opening dates	Commercial retention limits for directed shark limited access permit holders (inseason adjustments are available)
No regional quotas	Blacknose Sharks (South of 34° N lat. only).	.....	.....	8 blacknose sharks per vessel per trip (applies to directed and incidental permit holders).
	Smoothhound Sharks	Not Linked	January 1, 2020.	N/A.
	Non-Sandbar LCS Research.	Linked	January 1, 2020.	N/A.
	Sandbar Shark Research.	.....	.....
	Blue Sharks	Not Linked	January 1, 2020.	N/A.
	Porbeagle Sharks Pelagic Sharks Other Than Porbeagle or Blue.	..... .....	..... .....

Classification

The NMFS Assistant Administrator has determined that the final rule is consistent with the 2006 Consolidated HMS FMP and its amendments, other provisions of the Magnuson-Stevens Act, and other applicable laws.

Pursuant to 5 U.S.C. 553(d)(3), the NMFS Assistant Administrator has determined that there is good cause to waive the 30-day delay in effective date for the adjusted quotas and opening dates for the pelagic shark, shark research, blacknose shark, non-blacknose small coastal shark, and non-sandbar large coastal shark fisheries in the Atlantic and Gulf of Mexico regions, because such a delay is contrary to the public interest.

A delay in effectiveness of this rule would cause negative economic impacts on fishermen and diminish the opportunity for the collection of scientific data, which is critical to properly managing the fisheries because needed information would not be available for stock assessments, resulting in negative ecological impacts on the fishery resource.

A delay in the effectiveness of the quotas in this rule would result in the closure of the pelagic shark fishery until 30 days after the publication date of this rule. Most pelagic shark species are captured incidentally in swordfish and tuna pelagic longline fisheries that will be open in early January. If the quotas in this rule are not made effective as close to January 1, 2020, as possible, fishermen will have to discard, dead or alive, any pelagic sharks that are caught, while quota is technically available to be used for their retention.

Regarding the shark research fishery, NMFS selects a small number of fishermen to participate in the shark

research fishery each year for the purpose of providing NMFS with biological and catch data to better manage the Atlantic shark fisheries. All the trips and catches in this fishery are monitored with 100 percent observer coverage. Delaying the opening of the shark research fishery would prevent NMFS from maintaining the monthly time-series of wintertime abundance for shark species or collecting vital biological and regional data during this time of year. Not conducting the necessary research trips could limit NMFS' ability to properly manage the shark fisheries because needed information would not be available for stock assessments, which would be contrary to the public interest.

Regarding the blacknose shark, non-blacknose small coastal shark, and smoothhound shark fisheries, these fisheries have both a directed component, where fishermen target these shark species, and an incidental component, where the fish are caught and, when the fishery is open, landed by fishermen targeting other species such as Spanish mackerel and bluefish. The incidental fishery catches small coastal and smoothhound sharks throughout the year. Delaying this action for 30 days would force all fishermen to discard, dead or alive, any small coastal and smoothhound sharks that are caught before this rule becomes effective. Opening the fishery as close to January 1, 2020, as possible ensures that any mortality associated with landings is counted against the commercial quota in real-time. Additionally, a month-long delay in opening the small coastal shark and smoothhound shark fisheries would occur during the time period when fishermen typically target these shark species. Therefore, fishermen would

experience negative economic impacts that would continue until the small coastal and smoothhound shark fisheries were opened. Thus, delaying the opening of the small coastal and smoothhound shark fisheries would undermine the intent of the rule and is contrary to the public interest.

Regarding the non-sandbar large coastal shark fishery in the Atlantic and Gulf of Mexico region, NMFS received public comments in support of a January 1 opening date. This would allow south Atlantic fishermen to have a winter fishery and to potentially get a better price per pound, given the geographic distribution of the sharks at this time of year. However, delaying the opening of the non-sandbar large coastal shark fishery in the Atlantic and Gulf of Mexico region for an additional 30 days would have negative economic impacts on fishermen because they would not be able to fish for that period. Additionally, many of the primary species targeted in the non-sandbar large coastal shark fisheries are locally available in the southern portion of the Atlantic region in January and a 30-day delay would cause fishermen to miss out entirely on fishing opportunities, and the associated revenue. Therefore, delaying this action for 30 days is contrary to the public interest.

For the reasons described above, the Assistant Administrator finds good cause to waive the 30-day delay in effectiveness of the quotas and opening dates for the pelagic shark, shark research, blacknose shark, non-blacknose small coastal shark, smoothhound shark, and non-sandbar large coastal shark fisheries in the Atlantic and Gulf of Mexico regions.

This final rule is exempt from review under Executive Order 12866.

In compliance with section 604 of the Regulatory Flexibility Act (RFA), NMFS prepared a Final Regulatory Flexibility Analysis (FRFA) for this final rule. The FRFA analyzes the anticipated economic impacts of the final actions and any significant economic impacts on small entities. The FRFA is below.

Section 604(a)(1) of the RFA requires an explanation of the purpose of the rulemaking. The purpose of this final rule is, consistent with the Magnuson-Stevens Act and the 2006 Consolidated HMS FMP and its amendments, to establish the 2020 Atlantic commercial shark adjusted fishing quotas, retention limits, and fishing seasons. Without this rule, the Atlantic commercial shark fisheries would close on December 31, 2019, and would not reopen until appropriate action was taken. This final rule will be implemented according to the regulations implementing the 2006 Consolidated HMS FMP and its amendments. Thus, NMFS expects few, if any, economic impacts to fishermen other than those already analyzed in the 2006 Consolidated HMS FMP and its amendments. While there may be some direct negative economic impacts associated with the opening dates for fishermen in certain northern Atlantic areas, there could also be positive effects for other fishermen in the south Atlantic region. The opening dates were chosen to allow for an equitable distribution of the available quotas among all fishermen across regions and states, to the extent practicable.

Section 604(a)(2) of the RFA requires NMFS to summarize significant issues raised by the public in response to the Initial Regulatory Flexibility Analysis (IRFA), provide a summary of NMFS' assessment of such issues, and provide a statement of any changes made as a result of the comments. The IRFA was completed as part of the proposed rule for the 2020 Atlantic Commercial Shark Season Specifications. NMFS did not receive any comments specific to the IRFA.

Section 604(a)(3) of the RFA requires NMFS to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule and provide a detailed statement of any change made to the proposed rule as a result of the comments. NMFS did not receive any comments from the Chief Counsel for Advocacy of the Small Business Administration on the proposed rule.

Section 604(a)(4) of the RFA requires NMFS to provide an estimate of the number of small entities to which the rule would apply. The Small Business Administration (SBA) has established

size criteria for all major industry sectors in the United States, including fish harvesters. Provision is made under SBA's regulations for an agency to develop its own industry-specific size standards after consultation with Advocacy and an opportunity for public comment (see 13 CFR 121.903(c)). Under this provision, NMFS may establish size standards that differ from those established by the SBA Office of Size Standards, but only for use by NMFS and only for the purpose of conducting an analysis of economic effects in fulfillment of the agency's obligations under the RFA. To utilize this provision, NMFS must publish such size standards in the **Federal Register**, which NMFS did on December 29, 2015 (80 FR 81194; 50 CFR 200.2). In that final rule effective on July 1, 2016, NMFS established a small business size standard of \$11 million in annual gross receipts for all businesses in the commercial fishing industry (NAICS 11411) for RFA compliance purposes. NMFS considers all HMS permit holders to be small entities because they had average annual receipts of less than \$11 million for commercial fishing.

As of October 2019, the final rule would apply to the approximately 219 directed commercial shark permit holders, 263 incidental commercial shark permit holders, 162 smoothhound shark permit holders, and 103 commercial shark dealers. Not all permit holders are active in the fishery in any given year. Active directed commercial shark permit holders are defined as those with valid permits that landed one shark based on HMS electronic dealer reports. Of the 482 directed and incidental commercial shark permit holders, only 12 permit holders landed sharks in the Gulf of Mexico region and only 70 landed sharks in the Atlantic region. Of the 162 smoothhound shark permit holders, only 63 permit holders landed smoothhound sharks in the Atlantic region and none landed smoothhound sharks in the Gulf of Mexico region. NMFS has determined that the final rule would not likely affect any small governmental jurisdictions.

Section 604(a)(5) of the RFA requires NMFS to describe the projected reporting, recordkeeping, and other compliance requirements of the final rule, including an estimate of the classes of small entities which would be subject to the requirements of the report or record. None of the actions in this final rule would result in additional reporting, recordkeeping, or compliance requirements beyond those already analyzed in the 2006 Consolidated HMS FMP and its amendments.

Section 604(a)(6) of the RFA requires NMFS to describe the steps taken to minimize the economic impact on small entities, consistent with the stated objectives of applicable statutes. Additionally, the RFA (5 U.S.C. 603(c)(1)–(4)) lists four general categories of significant alternatives that would accomplish the stated objectives of applicable statutes and minimize any significant economic impact of the rule on small entities. These categories of alternatives are: (1) Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and (4) exemptions from coverage of the rule, or any part thereof, for small entities.

In order to meet the objectives of this rule, consistent with the Magnuson-Stevens Act, NMFS cannot exempt small entities or change the reporting requirements only for small entities because all the entities affected are small entities. Thus, there are no alternatives discussed that fall under the first, second, and fourth categories described above. NMFS does not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking while, concurrently, complying with the Magnuson-Stevens Act; therefore, there are no alternatives considered under the third category.

This rulemaking does not establish new management measures to be implemented, but rather implements previously adopted and analyzed measures as adjustments within a range of previously-authorized activities, as specified in the 2006 Consolidated HMS FMP and its amendments and the Environmental Assessment (EA) for the 2011 shark quota specifications rule (75 FR 76302; December 8, 2010). Thus, in this rulemaking, NMFS adjusted the baseline quotas established and analyzed in the 2006 Consolidated HMS FMP and its amendments by subtracting the underharvest or adding the overharvest, as specified and allowable in existing regulations. Under current regulations (§ 635.27(b)(2)), all shark fisheries close on December 31 of each year, or when NMFS determines that the landings for any shark management group has reached, or is projected to reach, 80 percent of the available overall, regional, and/or sub-regional quota if the fishery's landings are not projected to reach 100 percent of the applicable quota before the end of the

season, or when the quota-linked management group is closed. The fisheries do not open until NMFS takes action, such as this rulemaking, to re-open the fisheries. Thus, not implementing these management measures would negatively affect shark fishermen and related small entities, such as dealers, and also would not provide management flexibility in furtherance of equitable fishing opportunities, to the extent practicable, for commercial shark fishermen in all regions and areas.

Based on the 2018 ex-vessel meat and fin prices (Table 3), fully harvesting the unadjusted 2020 Atlantic shark commercial base quotas could result in total fleet revenues of \$8,775,599. For

the Gulf of Mexico blacktip shark management group, NMFS will increase the baseline sub-regional quotas due to the underharvests in 2019. The increase for the western Gulf of Mexico blacktip shark management group could result in a \$210,580 gain in total revenues for fishermen in that sub-region, while the increase for the eastern Gulf of Mexico blacktip shark management group could result in a \$37,570 gain in total revenues for fishermen in that sub-region. For the Gulf of Mexico and Atlantic smoothhound shark management groups, NMFS will increase the baseline quotas due to the underharvest in 2019. This would cause a potential gain in revenue of \$262,788 for the fleet in the Gulf of Mexico region and a potential

gain in revenue of \$1,057,482 for the fleet in the Atlantic region.

All of these changes in gross revenues are similar to the changes in gross revenues analyzed in the 2006 Consolidated HMS FMP and its amendments. The FRFAs for those amendments concluded that the economic impacts on these small entities are expected to be minimal. In the 2006 Consolidated HMS FMP and its amendments and the EA for the 2011 shark quota specifications rule, NMFS stated it would be conducting annual rulemakings and considering the potential economic impacts of adjusting the quotas for under- and overharvests at that time.

TABLE 3—AVERAGE EX-VESSEL PRICES PER LB DW FOR EACH SHARK MANAGEMENT GROUP, 2018

Region	Species	Average ex-vessel meat price	Average ex-vessel fin price
Western Gulf of Mexico	Blacktip Shark	\$0.53	\$10.94
	Aggregated LCS	0.67	11.61
	Hammerhead Shark	0.51	11.12
Eastern Gulf of Mexico	Blacktip Shark	1.06	9.54
	Aggregated LCS	0.59	11.93
	Hammerhead Shark	0.40	13.20
Gulf of Mexico	Non-Blacknose SCS	0.54	7.00
	Smoothhound Shark	0.65	.....
Atlantic	Aggregated LCS	0.98	11.06
	Hammerhead Shark	0.42	6.66
	Non-Blacknose SCS	0.99	7.67
	Blacknose Shark	1.21	.....
	Smoothhound Shark	0.74	1.62
	Shark Research Fishery (Aggregated LCS)	0.81	11.61
No Region	Shark Research Fishery (Sandbar only)	0.61	11.00
	Blue shark	0.45	3.01
	Porbeagle shark	1.18	3.01
	Other Pelagic sharks	1.46	3.01

For this final rule, NMFS reviewed the “opening commercial fishing season” criteria at § 635.27(b)(3)(i) through (vii) to determine when opening each fishery will provide equitable opportunities for fishermen, to the extent practicable, while also considering the ecological needs of the different species. The 2019 fishing year and previous years’ over- and/or underharvests were examined for the different species/complexes to determine the effects of the 2020 final quotas on fishermen across regional fishing areas. NMFS examined season lengths and previous catch rates to ensure equitable fishing opportunities for fishermen. Lastly, NMFS examined the seasonal variation of the different species/complexes and the effects on fishing opportunities. In addition to these criteria, NMFS also considered updated landings data and public comment on the proposed rule before

arriving at the final opening dates for the 2020 Atlantic shark management groups. For the 2020 fishing year, NMFS is opening the shark management groups on January 1, 2020. The direct and indirect economic impacts will be neutral on a short- and long-term basis for the Gulf of Mexico blacktip shark, Gulf of Mexico aggregated LCS, Gulf of Mexico hammerhead shark, Gulf of Mexico non-blacknose shark SCS, Gulf of Mexico and Atlantic smoothhound shark, Atlantic non-blacknose shark SCS, Atlantic blacknose shark, sandbar shark, blue shark, porbeagle shark, and pelagic shark (other than porbeagle or blue sharks) management groups, because NMFS did not change the opening dates of these fisheries from the status quo of January 1.

Opening the aggregated LCS and hammerhead shark management groups in the Atlantic region on January 1 will result in short-term, direct, moderate, beneficial economic impacts, as

fishermen and dealers in the southern portion of the Atlantic region will be able to fish for and sell aggregated LCS and hammerhead sharks starting in January. The opening date finalized in this rule for the Atlantic region has been the same or similar to those since 2016, however, the retention limit would be different from this past year and similar to the one since 2016.

Based on past public comments, some Atlantic fishermen in the southern and northern parts of the region prefer a January 1 opening for the fishery as long as the majority of the quota is available later in the year. Along with the inseason retention limit adjustment criteria in § 635.24(a)(8), NMFS monitors the quota through the HMS electronic reporting system on a real-time basis. This allows NMFS the flexibility to further provide equitable fishing opportunities for fishermen across all regions, to the extent practicable. The direct impacts to shark

fishermen in the Atlantic region of reducing the retention limit depend on the needed reduction in the retention limit and the timing of such a reduction. Therefore, such a reduction in the retention limit for directed shark limited access permit holders is only anticipated to have minor adverse direct economic impacts to fishermen in the short-term; long-term impacts are not anticipated as these reductions would not be permanent.

In the northern portion of the Atlantic region, a January 1 opening for the aggregated LCS and hammerhead shark management groups, with inseason trip limit adjustments to ensure quota is available later in the season, will have direct, minor, beneficial economic impacts in the short-term for fishermen as they will potentially have access to the aggregated LCS and hammerhead shark quotas earlier than in past seasons. Fishermen in this area have stated that, depending on the weather, some aggregated LCS species might be available to retain in January. Thus, fishermen will be able to target or retain aggregated LCS while targeting non-blacknose SCS. There will be indirect, minor, beneficial economic impacts in the short- and long-term for shark dealers and other entities that deal with shark products in this region as they will also have access to aggregated LCS products earlier than in past seasons. Thus, opening the aggregated LCS and hammerhead shark management groups in January and using inseason trip limit adjustments to ensure the fishery is open later in the year in 2020 will cause beneficial cumulative economic impacts, because it allows for a more equitable distribution of the quotas among constituents in this region, consistent with the 2006 Consolidated HMS FMP and its amendments.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, NMFS has prepared a listserv summarizing fishery information and regulations for Atlantic shark fisheries for 2020. This listserv also serves as the small entity compliance guide. Copies of the compliance guide are available from NMFS (see **ADDRESSES**).

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

Dated: November 25, 2019.

Samuel D. Rauch III,
Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 191120-0085]

RIN 0648-BI93

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Framework Adjustment 14

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

ACTION: Final rule.

SUMMARY: NMFS is implementing changes to aspects of the commercial and recreational summer flounder, scup, and black sea bass management program, as recommended by the Mid-Atlantic Fishery Management Council. This action incorporates new management measures for the commercial and recreational fisheries for these species. The intent of this action is to allow for more management flexibility.

DATES: Effective December 30, 2019.

ADDRESSES: Copies of this framework adjustment, including the Environmental Assessment (EA) are available on request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. These documents are also accessible via the internet at http://www.mafmc.org/s/SFSBSB_Framework14_EA.pdf.

FOR FURTHER INFORMATION CONTACT: Emily Gilbert, Fishery Policy Analyst, (978) 281-9244.

SUPPLEMENTARY INFORMATION:

General Background

The summer flounder, scup, and black sea bass fisheries are managed cooperatively under the provisions of the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) developed by the Mid-Atlantic Fishery Management Council and the

Atlantic States Marine Fisheries Commission, in consultation with the New England and South Atlantic Fishery Management Councils. The management units specified in the FMP include summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the U.S./Canada border, and scup (*Stenotomus chrysops*) and black sea bass (*Centropristis striata*) in U.S. waters of the Atlantic Ocean from 35° 13.3' N. lat. (the approximate latitude of Cape Hatteras, North Carolina). States manage these three species within 3 nautical miles (4.83 km) of their coasts, under the Commission's management plan for summer flounder, scup, and black sea bass. The applicable species-specific Federal regulations govern vessels and individual fishermen commercially and recreationally fishing in Federal waters of the exclusive economic zone, as well as vessels possessing a summer flounder, scup, or black sea bass Federal charter/party vessel permit, regardless of where they fish. This rule implements management measures intended to provide more flexibility in the commercial and recreational fisheries for these species and includes the following changes to the FMP:

- Include conservation equivalency as an annual management option for the black sea bass recreational fishery;
- Create a Federal waters transit zone for non-federally permitted vessels fishing in state waters around Block Island Sound; and
- Incorporate a maximum recreational size limit in the list of potential specification measures for summer flounder and black sea bass to enable consideration of slot limits as a management tool.

These measures, which are further explained below, are consistent with the recommendations of the Council and the Commission's Summer Flounder, Scup, and Black Sea Bass Management Board for this action.

Final Management Measures

Black Sea Bass Conservation Equivalency

Framework Adjustment 14 to the Summer Flounder, Scup, and Black Sea Bass FMP establishes a process for conservation equivalency for future use in the recreational black sea bass fishery based on the process used for summer flounder. Under conservation equivalency, the Council and Board will decide each year whether to use Federal coastwide measures or state-by-state or regional conservation equivalency to manage the recreational black sea bass

fishery. Conservation equivalency waives Federal measures so long as the states implement appropriate measures. If states agree to use conservation equivalency, they must also develop a set of non-preferred coastwide measures (minimum fish size limit, possession limit, and season) that would be expected to prevent harvest from exceeding the annual recreational harvest limit. The Council and Board must also recommend a suite of precautionary default measures that would apply to all recreational anglers and Federal party/charter permit holders fishing in Federal waters and landing black sea bass in states that do not develop and implement Commission-approved conservationally equivalent measures.

If the Council and Board agree to use conservation equivalency in a given year, the Board will determine the management program to implement conservation equivalency for black sea bass in that year through a separate action. After reviewing and approving the state/regional proposals, the Commission must submit a letter to us certifying that the combination of state and regional measures is expected to prevent harvest from exceeding that year's recreational harvest limit. Based on the Commission's certification, we would be able to approve conservation equivalency and waive Federal measures for the remainder of the

calendar year in favor of the state or regional conservation equivalency measures. Federally permitted party/charter vessels and private recreational vessels fishing in Federal waters would then be subject to the regulations in the states where they land their catch. If the Commission submits a letter to us announcing that a state or states have not implemented appropriate measures, the state or states would be required to implement precautionary default measures in state waters through the Commission. We would also apply those precautionary default measures to Federal party/charter permit holders and recreational vessels fishing in Federal waters that are landing black sea bass in applicable states. If a state or region implements measures that are not approved, the Commission would require the precautionary default measures to be enforced in that state or region and would request that we apply those measures to federally permitted vessels landings in those states as well. Non-preferred coastwide measures would be implemented: (1) If we do not approve conservation equivalency; or (2) at the start of the next fishing year (*i.e.*, when conservation equivalency for a given year has expired).

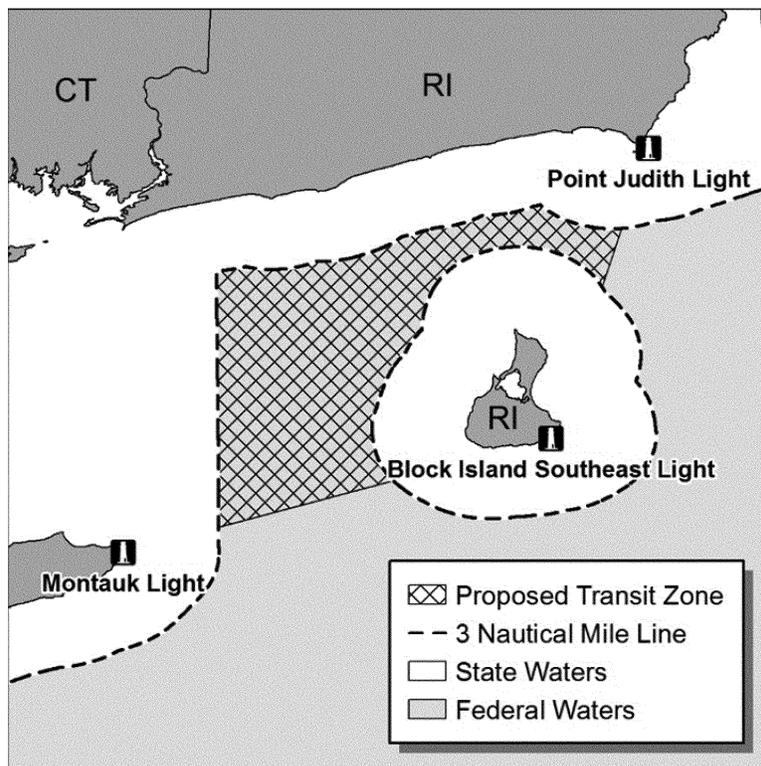
Block Island Sound Transit Zone

This action creates a transit area for state-only permitted vessels fishing for summer flounder, scup, and black sea

bass around Block Island to address issues when Federal and state management measures differ. The transit zone mirrors the current transit area for striped bass and allows transit through Federal waters for state-only permitted commercial and party/charter vessels and private recreational anglers with summer flounder, scup, and/or black sea bass on board that were legally harvested in state waters (Figure 1). These vessels may transit between the Rhode Island state waters surrounding Block Island and the coastal state waters of Rhode Island, New York, Connecticut, or Massachusetts while complying with the state waters measures for those species. Transit through the defined area is allowed, provided that fishermen are compliant with all applicable state regulations, including harvest limits; gear is stowed in accordance with Federal regulations; no fishing takes place from the vessel while in Federal waters; and the vessel is in continuous transit.

This transit provision does not apply to federally permitted summer flounder, scup, or black sea bass vessels. There are no changes to current Federal regulations requiring all federally permitted vessels to abide by the measures of the state(s) in which they harvest or land their catch, or the Federal waters measures, whichever are more restrictive.

Figure 1 -- Block Island Sound Transit Area



Inclusion of Maximum Size Limit

This action specifies that a maximum size limit can be set through specifications for summer flounder and black sea bass recreational fisheries. By including a maximum size, the Council can recommend both a minimum and maximum recreational size limit to allow for consideration of regular slot limits, split slot limits, and/or trophy fish when setting recreational measures each year. This action does not change any current Federal recreational measures, but adds flexibility in specifying future recreational management measures.

Comments and Responses

The public comment period for the proposed rule ended on September 9, 2019, and a total of three relevant comments were received from the public. Two commenters stated that conservation equivalency should not be used in the black sea bass recreational fishery, or should only be used when Marine Recreational Information Program information is reliable. The other commenter noted that maximum size limits should not be used. In response to those three comments, this action is only allowing for consideration of conservation equivalency in the black sea bass recreational fishery and providing the ability to set a maximum

size limit. The Council and Commission will make annual determinations on whether or not to utilize either of these management tools.

Changes From the Proposed Rule

There are no substantive changes from the proposed rule. Minor clarifications were made to the regulations to clarify references to moratorium permits included in the Block Island Sound transit provisions are specific to summer flounder, scup, and black sea bass.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this final rule is consistent with the Summer Flounder, Scup, and Black Sea Bass FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This final rule does not duplicate, conflict, or overlap with any existing Federal rules.

This action does not contain a collection of information requirement

for purposes of the Paperwork Reduction Act.

This final rule is considered an Executive Order 13771 deregulatory action.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification, and the initial certification remains unchanged. As a result, a final regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 21, 2019.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.14, revise paragraphs (n)(1)(i), (o)(1) introductory text, (p)(1) introductory text, (p)(1)(i) and (v), and (p)(2) introductory text to read as follows:

§ 648.14 Prohibitions.

* * * * *

(n) * * *

(1) * * *

(i) *Permit requirement.* Possess summer flounder in or harvested from the EEZ, either in excess of the possession limit specified in § 648.106, or before or after the time period specified in § 648.105, unless the vessel was issued a summer flounder moratorium permit and the moratorium permit is on board the vessel and has not been surrendered, revoked, or suspended. However, possession of summer flounder harvested from state waters is allowed for state-only permitted vessels when transiting Federal waters within the Block Island Sound Transit Area provided they follow the provisions at § 648.111.

* * * * *

(o) * * *

(1) *All persons.* Unless a vessel is participating in a research activity as described in § 648.122(e) or unless a vessel has no Federal scup permit, possesses scup caught exclusively in state waters, and is transiting Federal waters within the Block Island Sound Transit Area in accordance with the provisions at § 648.131, it is unlawful for any person to do any of the following:

* * * * *

(p) * * *

(1) *All persons.* Unless participating in a research activity as described in § 648.142(e), it is unlawful for any person to do any of the following:

(i) *Permit requirement.* Possess black sea bass in or harvested from the EEZ north of 35°15.3' N. lat., either in excess of the possession limit established pursuant to § 648.145, or before or after the time period established pursuant to § 648.146, unless the person is operating a vessel issued a moratorium permit under § 648.4 and the moratorium permit is on board the vessel. However, possession of black sea bass harvested from state waters is allowed for state-only permitted vessels when transiting Federal waters within the Block Island

Sound Transit Area provided they follow the provisions at § 648.151.

* * * * *

(v) *Size limits.* Fish for, possess, land, or retain black sea bass in or from the EEZ that does not comply with the minimum or maximum (as applicable) fish size specified in § 648.147.

* * * * *

(2) *Vessel and operator permit holders.* Unless participating in a research activity as described in § 648.142(e), it is unlawful for any person owning or operating a vessel issued a black sea bass permit (including a moratorium permit) to do any of the following:

* * * * *

■ 3. In § 648.102, revise paragraphs (a)(7) and (d)(2)(ii) through (iv) to read as follows:

§ 648.102 Summer flounder specifications.

(a) * * *

(7) Recreational minimum and/or maximum fish size.

* * * * *

(d) * * *

(2) * * *

(ii) The ASMFC will review conservation equivalency proposals and determine whether or not they achieve the necessary adjustment to recreational landings. The ASMFC will provide the Regional Administrator with the individual state and/or multi-state region conservation measures for the approved state and/or multi-state region proposals and, in the case of disapproved state and/or multi-state region proposals, the precautionary default measures that should be applied to a state or region. At the request of the ASMFC, precautionary default measures would apply to federally permitted party/charter vessels and other recreational fishing vessels harvesting summer flounder in or from the EEZ when landing in a state that implements measures not approved by the ASMFC.

(iii) After considering public comment, the Regional Administrator will publish a final rule in the **Federal Register** to implement either the state specific conservation equivalency measures or coastwide measures to ensure that the applicable specified target is not exceeded.

(iv) The ASMFC may allow states assigned the precautionary default measures to resubmit revised management measures. The ASMFC will detail the procedures by which the state can develop alternate measures. The ASMFC will notify the Regional Administrator of any resubmitted state proposals approved subsequent to publication of the final rule and the

Regional Administrator will publish a document in the **Federal Register** to notify the public.

* * * * *

■ 4. In § 648.104, revise the section heading and paragraphs (b) and (c) to read as follows:

§ 648.104 Summer flounder size requirements.

* * * * *

(b) *Party/charter permitted vessels and recreational fishery participants.* The minimum size for summer flounder is 19 inches (48.3 cm) total length for all vessels that do not qualify for a summer flounder moratorium permit under § 648.4(a)(3), and charter boats holding a summer flounder moratorium permit if fishing with more than three crew members, or party boats holding a summer flounder moratorium permit if fishing with passengers for hire or carrying more than five crew members, unless otherwise specified in the conservation equivalency regulations at § 648.107. If conservation equivalency is not in effect in any given year, possession of smaller (or larger, if applicable) summer flounder harvested from state waters is allowed for state-only permitted vessels when transiting Federal waters within the Block Island Sound Transit Area provided they follow the provisions at § 648.111 and abide by state regulations.

(c) *Measurement.* The size limits in this section apply to whole fish or to any part of a fish found in possession, e.g., fillets, except that party and charter vessels fishing exclusively in state waters possessing valid state permits authorizing filleting at sea may possess fillets smaller than the size specified if all state requirements are met.

■ 5. Revise § 648.105 to read as follows:

§ 648.105 Summer flounder recreational fishing season.

No person may fish for summer flounder in the EEZ from May 15 through September 15 unless that person is the owner or operator of a fishing vessel issued a commercial summer flounder moratorium permit, or is issued a summer flounder dealer permit, or unless otherwise specified in the conservation equivalency measures at § 648.107. Persons aboard a commercial vessel that is not eligible for a summer flounder moratorium permit are subject to this recreational fishing season. This time period may be adjusted pursuant to the procedures in § 648.102. Possession of summer flounder harvested from state waters during this time is allowed for state-only permitted vessels when transiting Federal waters within the Block Island

Sound Transit Area provided they follow the provisions at § 648.111 and abide by state regulations.

■ 6. In § 648.106, revise paragraph (a) to read as follows:

§ 648.106 Summer flounder possession restrictions.

(a) *Party/charter and recreational possession limits.* No person shall possess more than four summer flounder in, or harvested from, the EEZ, per trip unless that person is the owner or operator of a fishing vessel issued a summer flounder moratorium permit, or is issued a summer flounder dealer permit, or unless otherwise specified in the conservation equivalency measures at § 648.107. Persons aboard a commercial vessel that is not eligible for a summer flounder moratorium permit are subject to this possession limit. The owner, operator, and crew of a charter or party boat issued a summer flounder moratorium permit are subject to the possession limit when carrying passengers for hire or when carrying more than five crew members for a party boat, or more than three crew members for a charter boat. This possession limit may be adjusted pursuant to the procedures in § 648.102. Possession of summer flounder harvested from state waters above this possession limit is allowed for state-only permitted vessels when transiting Federal waters within the Block Island Sound Transit Area provided they follow the provisions at § 648.111 and abide by state regulations.

* * * * *

■ 7. In § 648.107, revise paragraphs (a) introductory text and (b) to read as follows:

§ 648.107 Conservation equivalent measures for the summer flounder fishery.

(a) The Regional Administrator has determined that the recreational fishing measures proposed to be implemented by the states of Maine through North Carolina for 2019 are the conservation equivalent of the season, size limits, and possession limit prescribed in §§ 648.104(b), 648.105, and 648.106. This determination is based on a recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission.

* * * * *

(b) Federally permitted vessels subject to the recreational fishing measures of this part, and other recreational fishing vessels registered in states and subject to the recreational fishing measures of this part, whose fishery management measures are not determined by the Regional Administrator to be the conservation equivalent of the season,

size limits and possession limit prescribed in §§ 648.102, 648.103(b), and 648.105(a), respectively, due to the lack of, or the reversal of, a conservation equivalent recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission shall be subject to the following precautionary default measures: Season—July 1 through August 31; minimum size—20 inches (50.8 cm); and possession limit—two fish.

■ 8. Add § 648.111 to subpart G to read as follows:

§ 648.111 Block Island Sound Transit Area.

(a) Vessels not issued a summer flounder Federal moratorium or party/charter permit, and recreational fishing participants fishing exclusively in state waters may transit with summer flounder harvested from state waters on board through Federal waters of the EEZ within Block Island Sound, north of a line connecting Montauk Light, Montauk Point, NY, and Block Island Southeast Light, Block Island, RI; and west of a line connecting Point Judith Light, Point Judith, RI, and Block Island Southeast Light, Block Island, RI. Within this area, possession of summer flounder is permitted regardless of the minimum or maximum size (as applicable), possession limit, and seasons outlined in §§ 648.104, 648.105, and 648.106, provided no fishing takes place from the vessel while in Federal waters of the EEZ, the vessel complies with state regulations, and is in continuous transit. During such transit through this area, commercial gear must be stowed in accordance with the definition of “not available for immediate use” found at § 648.2, and party/charter vessels and recreational participants must have all bait and hooks removed from fishing rods, and any summer flounder on board must be stored in a cooler or container.

(b) The requirements of this transit zone are not necessary or applicable for recreational fishery participants during years when conservation equivalency has been adopted under § 648.107 conservation equivalency measures and recreational Federal measures are waived.

■ 9. In § 648.126, revise paragraph (b) to read as follows:

§ 648.126 Scup minimum fish sizes.

* * * * *

(b) *Party/Charter permitted vessels and recreational fishery participants.* The minimum size for scup is 9 inches (22.9 cm) total length for all vessels that do not have a scup moratorium permit, or for party and charter vessels that are issued a scup moratorium permit but are

fishing with passengers for hire, or carrying more than three crew members if a charter boat, or more than five crew members if a party boat. However, possession of smaller scup harvested from state waters is allowed for state-only permitted vessels when transiting Federal waters within the Block Island Sound Transit Area provided they follow the provisions at § 648.131 and abide by state regulations.

* * * * *

■ 10. Revise § 648.127 to read as follows:

§ 648.127 Scup recreational fishing season.

Fishermen and vessels that are not eligible for a scup moratorium permit under § 648.4(a)(6), may possess scup year-round, subject to the possession limit specified in § 648.128(a). The recreational fishing season may be adjusted pursuant to the procedures in § 648.122. Should the recreational fishing season be modified, non-federally scup permitted vessels abiding by state regulations may transit with scup harvested from state waters on board through the Block Island Sound Transit Area following the provisions outlined in § 648.131.

■ 11. In § 648.128, revise paragraph (a) to read as follows:

§ 648.128 Scup possession restrictions.

(a) *Party/Charter and recreational possession limits.* No person shall possess more than 50 scup in, or harvested from, per trip the EEZ unless that person is the owner or operator of a fishing vessel issued a scup moratorium permit, or is issued a scup dealer permit. Persons aboard a commercial vessel that is not eligible for a scup moratorium permit are subject to this possession limit. The owner, operator, and crew of a charter or party boat issued a scup moratorium permit are subject to the possession limit when carrying passengers for hire or when carrying more than five crew members for a party boat, or more than three crew members for a charter boat. This possession limit may be adjusted pursuant to the procedures in § 648.122. However, possession of scup harvested from state waters above this possession limit is allowed for state-only permitted vessels when transiting Federal waters within the Block Island Sound Transit Area provided they follow the provisions at § 648.131 and abide by state regulations.

* * * * *

■ 12. Add § 648.131 to subpart H to read as follows:

§ 648.131 Block Island Sound Transit Area.

Vessels not issued a scup Federal moratorium or party/charter permit, and recreational fishing participants fishing exclusively in state waters may transit with scup harvested from state waters on board through Federal waters of the EEZ within Block Island Sound, north of a line connecting Montauk Light, Montauk Point, NY, and Block Island Southeast Light, Block Island, RI; and west of a line connecting Point Judith Light, Point Judith, RI, and Block Island Southeast Light, Block Island, RI. Within this area, possession of scup is permitted regardless of the minimum size, possession limit, and seasons outlined in §§ 648.126, 648.127, and 648.128, provided no fishing takes place from the vessel while in Federal waters of the EEZ, the vessel complies with state regulations, and is in continuous transit. During such transit through this area, commercial gear must be stowed in accordance with the definition of “not available for immediate use” found at § 648.2, and party/charter vessels and recreational participants must have all bait and hooks removed from fishing rods, and any scup on board must be stored in a cooler or container.

■ 13. Revise § 648.142 to read as follows:

§ 648.142 Black sea bass specifications.

(a) *Commercial quota, recreational landing limit, research set-aside, and other specification measures.* The Black Sea Bass Monitoring Committee will recommend to the Demersal Species Committee of the MAFMC and the ASMFC, through the specification process, for use in conjunction with the ACL and ACT, sector-specific research set-asides, estimates of the sector-related discards, a recreational harvest limit, a commercial quota, along with other measures, as needed, that are projected to ensure the sector-specific ACL for an upcoming year or years will not be exceeded. The following measures are to be considered by the Black Sea Bass Monitoring Committee:

(1) Research quota set from a range of 0 to 3 percent of the maximum allowed.

(2) A commercial quota, allocated annually.

(3) A commercial possession limit for all moratorium vessels, with the provision that these quantities be the maximum allowed to be landed within a 24-hour period (calendar day).

(4) Commercial minimum fish size.

(5) Minimum mesh size in the codend or throughout the net and the catch threshold that will require compliance with the minimum mesh requirement.

(6) Escape vent size.

(7) A recreational possession limit set after the reduction for research quota.

(8) Recreational minimum and/or maximum fish size.

(9) Recreational season.

(10) Recreational state conservation equivalent and precautionary default measures utilizing possession limits, minimum fish sizes, and/or seasons set after reductions for research quota.

(11) Restrictions on gear other than otter trawls and pots or traps.

(12) Total allowable landings on an annual basis for a period not to exceed 3 years.

(13) Changes, as appropriate, to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs.

(14) Modification of the existing AM measures and ACT control rules utilized by the Black Sea Bass Monitoring Committee.

(b) *Specification fishing measures.* The Demersal Species Committee shall review the recommendations of the Black Sea Bass Monitoring Committee. Based on these recommendations and any public comment, the Demersal Species Committee shall make its recommendations to the MAFMC with respect to the measures necessary to assure that the sector-specific ACLs for an upcoming fishing year or years will not be exceeded. The MAFMC shall review these recommendations and, based on the recommendations and public comment, make recommendations to the Regional Administrator with respect to the measures necessary to assure that sector ACLs are not exceeded. Included in the recommendation will be supporting documents, as appropriate, concerning the environmental and economic impacts of the final rule. The Regional Administrator will review these recommendations and any recommendations of the ASMFC. After such review, the Regional Administrator will publish a proposed rule in the **Federal Register** to implement a commercial quota, a recreational harvest limit, and additional management measures for the commercial fishery.

(c) *Distribution of annual commercial quota.* The black sea bass commercial quota will be allocated on a coastwide basis.

(d) *Recreational specification measures.* The Demersal Species Committee shall review the recommendations of the Black Sea Bass Monitoring Committee. Based on these

recommendations and any public comment, the Demersal Species Committee shall recommend to the MAFMC and ASMFC measures that are projected to ensure the recreational ACL for an upcoming fishing year or years will not be exceeded. The MAFMC shall review these recommendations and, based on the recommendations and any public comment, recommend to the Regional Administrator measures that are projected to ensure the recreational ACL for an upcoming fishing year or years will not be exceeded. The MAFMC's recommendations must include supporting documentation, as appropriate, concerning the environmental and economic impacts of the recommendations. The MAFMC and the ASMFC will recommend that the Regional Administrator implement either:

(1) *Coastwide measures.* Annual coastwide management measures that constrain the recreational black sea bass fishery to the recreational harvest limit, or

(2) *Conservation equivalent measures.* Individual states, or regions formed voluntarily by adjacent states (*i.e.*, multi-state conservation equivalency regions), may implement different combinations of minimum and/or maximum fish sizes, possession limits, and closed seasons that achieve equivalent conservation as the coastwide measures. Each state or multi-state conservation equivalency region may implement measures by mode or area only if the proportional standard error of recreational landing estimates by mode or area for that state is less than 30 percent.

(i) After review of the recommendations, the Regional Administrator will publish a proposed rule in the **Federal Register** as soon as possible to implement the overall percent adjustment in recreational landings required for the fishing year, and the ASMFC's recommendation concerning conservation equivalency, the precautionary default measures, and coastwide measures.

(ii) The ASMFC will review conservation equivalency proposals and determine whether or not they achieve the necessary adjustment to recreational landings. The ASMFC will provide the Regional Administrator with the individual state and/or multi-state region conservation measures for the approved state and/or multi-state region proposals and, in the case of disapproved state and/or multi-state region proposals, the precautionary default measures that should be applied to a state or region. At the request of the ASMFC, precautionary default measures

would apply to federally permitted party/charter vessels and other recreational fishing vessels harvesting summer flounder in or from the EEZ when landing in a state that implements measures not approved by the ASMFC.

(iii) After considering public comment, the Regional Administrator will publish a final rule in the **Federal Register** to implement either the state specific conservation equivalency measures or coastwide measures to ensure that the applicable specified target is not exceeded.

(iv) The ASMFC may allow states assigned the precautionary default measures to resubmit revised management measures. The ASMFC will detail the procedures by which the state can develop alternate measures. The ASMFC will notify the Regional Administrator of any resubmitted state proposals approved subsequent to publication of the final rule and the Regional Administrator will publish a document in the **Federal Register** to notify the public.

(e) *Research quota*. See § 648.22(g).

■ 14. In § 648.144, revise paragraph (a)(1)(ii) to read as follows:

§ 648.144 Black sea bass gear restrictions.

(a) * * *

(1) * * *

(ii) Mesh sizes shall be measured pursuant to the procedure specified in § 648.108(a)(2).

* * * * *

■ 15. In § 648.145, revise paragraph (a) to read as follows:

§ 648.145 Black sea bass possession limit.

(a) During the recreational fishing season specified at § 648.146, no person shall possess more than 15 black sea bass in, or harvested from, per trip the EEZ unless that person is the owner or operator of a fishing vessel issued a black sea bass moratorium permit, or is issued a black sea bass dealer permit, unless otherwise specified in the conservation equivalent measures described in § 648.148(d)(2). Persons aboard a commercial vessel that is not eligible for a black sea bass moratorium permit may not retain more than 15 black sea bass during the recreational fishing season specified at § 648.146. The owner, operator, and crew of a charter or party boat issued a black sea bass moratorium permit are subject to the possession limit when carrying passengers for hire or when carrying more than five crew members for a party boat, or more than three crew members for a charter boat. This possession limit may be adjusted pursuant to the procedures in § 648.142. However,

possession of black sea bass harvested from state waters above this possession limit is allowed for state-only permitted vessels when transiting Federal waters within the Block Island Sound Transit Area provided they follow the provisions at § 648.150 and abide by state regulations.

* * * * *

■ 16. Revise § 648.146 to read as follows:

§ 648.146 Black sea bass recreational fishing season.

Vessels that are not eligible for a black sea bass moratorium permit under § 648.4(a)(7), and fishermen subject to the possession limit specified in § 648.145(a), may only possess black sea bass from February 1 through February 28, May 15 through December 31, unless otherwise specified in the conservation equivalent measures described in § 648.154(d)(2) or unless this time period is adjusted pursuant to the procedures in § 648.142. However, possession of black sea bass harvested from state waters outside of this season is allowed for state-only permitted vessels when transiting Federal waters within the Block Island Sound Transit Area provided they follow the provisions at § 648.151 and abide by state regulations.

■ 17. In § 648.147, revise the section heading and paragraphs (b) and (c) to read as follows:

§ 648.147 Black sea bass size requirements.

* * * * *

(b) *Party/Charter permitted vessels and recreational fishery participants*. The minimum fish size for black sea bass is 12.5 inches (31.75 cm) total length for all vessels that do not qualify for a black sea bass moratorium permit, and for party boats holding a black sea bass moratorium permit, if fishing with passengers for hire or carrying more than five crew members, and for charter boats holding a black sea bass moratorium permit, if fishing with more than three crew members, unless otherwise specified in the conservation equivalent measures as described in § 648.142(d)(2). However, possession of smaller black sea bass harvested from state waters is allowed for state-only permitted vessels when transiting Federal waters within the Block Island Sound Transit Area provided they follow the provisions at § 648.151 and abide by state regulations.

(c) The size limits in this section applies to the whole fish or any part of a fish found in possession (e.g., fillets), except that party or charter vessels fishing exclusively in state waters

possessing valid black sea bass state permits authorizing filleting at sea may possess fillets smaller than the size specified if skin remains on the fillet and all other state requirements are met.

■ 18. Add § 648.150 to subpart I to read as follows:

§ 648.150 Block Island Sound Transit Zone.

(a) Vessels not issued a black sea bass Federal moratorium or party/charter permit, and recreational fishing participants fishing exclusively in state waters may transit with black sea bass harvested from state waters on board through Federal waters of the EEZ within Block Island Sound, north of a line connecting Montauk Light, Montauk Point, NY, and Block Island Southeast Light, Block Island, RI; and west of a line connecting Point Judith Light, Point Judith, RI, and Block Island Southeast Light, Block Island, RI. Within this area, possession of black sea bass is permitted regardless of the minimum and/or maximum (as applicable) size, possession limit, and seasons outlined in §§ 648.145, 648.146, and 648.147, provided no fishing takes place from the vessel while in Federal waters of the EEZ, the vessel complies with state regulations, and is in continuous transit. During such transit through this area, commercial gear must be stowed in accordance with the definition of “not available for immediate use” found at § 648.2, and party/charter vessels and recreational participants must have all bait and hooks removed from fishing rods, and any black sea bass on board must be stored in a cooler or container.

(b) The requirements of this transit zone are not necessary or applicable for recreational fishery participants during years when conservation equivalency has been adopted under conservation equivalency measures and recreational Federal measures are waived.

[FR Doc. 2019–25619 Filed 11–27–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No: 181031994-9022-02]

RTID 0648-XX033

Fisheries of the Northeastern United States; Atlantic Herring Fishery; 2019 Management Area 1A Sub-Annual Catch Limit Harvested

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

ACTION: Temporary rule; closure.

SUMMARY: Effective on November 27, 2019, NMFS is closing the directed fishery for Herring Management Area 1A, based on a projection that a threshold catch amount for that management area has been reached. Beginning November 27, 2019, through December 31, 2019, no person may, or attempt to fish for, possess, transfer, receive, land, or sell more than 2,000 lb (907.2 kg) of Atlantic herring per trip or calendar day in or from Management Area 1A from a vessel issued and holding a valid Federal herring permit. For the duration of this action, federally permitted dealers may not possess or receive, or attempt to possess or receive, more than 2,000 lb (907.2 kg) of herring from Management Area 1A per trip or calendar day from vessels issued and holding a valid Federal herring permit. This action is necessary to comply with the regulations implementing the Atlantic herring Fishery Management Plan and is intended to prevent overharvest of herring in Management Area 1A.

DATES: Effective 00:01 hr local time, November 27, 2019, through 24:00 local time, December 31, 2019.

FOR FURTHER INFORMATION CONTACT: Daniel Luers, Fishery Management Specialist, (978) 282-8457.

SUPPLEMENTARY INFORMATION: The Regional Administrator of NMFS for the Greater Atlantic Region monitors the herring fishery catch in each of the management areas based on vessel and dealer reports, state data, and other available information. The regulations at 50 CFR 648.201 require that when the Regional Administrator projects that

herring catch will reach 92 percent of the Sub-Annual Catch Limit (sub-ACL) allocated in Management Area 1A designated in the Atlantic Herring Fishery Management Plan (FMP), through notification in the **Federal Register**, NMFS must prohibit for the remainder of the fishing year, vessels from fishing for, possessing, transferring, receiving, landing, or selling, or attempting to fish for, possess, transfer, receive, land or sell, more than 2,000 lb (907.2 kg) of herring per trip or calendar day in or from the specified management area from a vessel issued and holding a valid Federal herring permit.

The Regional Administrator has projected, based on vessel and dealer reports, state data, and other available information, that the herring fleet will have caught 92 percent of the herring sub-ACL allocated to Management Area 1A by November 27, 2019. Therefore, effective 00:01 hr local time, November 27, 2019, no person may, or attempt to, fish for, possess, transfer, receive, land, or sell more than 2,000 lb (907.2 kg) of herring per trip or calendar day, in or from Management Area 1A, through December 31, 2019, from a vessel issued or holding a valid Federal herring permit. Vessels that have entered port before 00:01 hr local time, November 27, 2019, may land and sell more than 2,000 lb (907.2 kg) of herring from Area 1A from that trip. A vessel may transit through Area 1A with more than 2,000 lb (907.2 kg) of herring on board, provided all herring was caught outside of Area 1A and all fishing gear is stowed and not available for immediate use as defined by § 648.2. All herring vessels must land in accordance with state landing restrictions.

Effective 00:01 hr local time, November 27, 2019, through 24:00 hr local time, December 31, 2019, federally permitted dealers may not purchase, possess, receive, sell, barter, trade or transfer, or attempt to purchase, possess, receive, sell, barter, trade or transfer more than 2,000 lb (907.2 kg) of herring per trip or calendar day from Management Area 1A from a vessel issued and holding a valid Federal herring permit, unless it is from a trip landed by a vessel that entered port before 00:01 hr local time, November 27, 2019, and that catch is landed in accordance with state regulations.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

NMFS finds good cause pursuant to 5 U.S.C. 553(b)(3)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest and impracticable. Further, in accordance with 5 U.S.C. 553(d)(3), NMFS also finds good cause to waive the 30-day delayed effectiveness. NMFS is required by Federal regulation to put in place a 2,000-lb (907.2-kg) herring trip limit for Management Area 1A through December 31, 2019, when 92 percent of the area quota is harvested. The 2019 herring fishing year opened on January 1, 2019, and Management Area 1A opened to fishing June 1, 2019. Data indicating the herring fleet will have landed at least 92 percent of the 2019 sub-ACL allocated to Management Area 1A have only recently become available. Once available data supports projecting that 92 percent of the sub-ACL will be caught, regulations at § 648.201(a) require NMFS to close the directed fishery and impose a trip and calendar day limit to ensure that herring vessels do not exceed the 2019 sub-ACL allocated to Management Area 1A. High-volume catch and landings in this fishery increase total catch relative to the sub-ACL quickly, especially in this fishing year where annual catch limits are unusually low. If implementation of this closure is delayed to solicit prior public comment, the sub-ACL for Management Area 1A for this fishing year will likely be exceeded, thereby undermining the conservation objectives of the FMP. If sub-ACLs are exceeded, the excess must also be deducted from a future sub-ACL and would reduce future fishing opportunities. In addition, the public had prior notice and full opportunity to comment on this process when these provisions were put in place. The public expects these actions to occur in a timely way consistent with the fishery management plan's objectives.

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

Dated: November 25, 2019.

Jennifer M. Wallace,

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

[FR Doc. 2019-25926 Filed 11-26-19; 4:15 pm]

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Proposed Rules

Federal Register

Vol. 84, No. 230

Friday, November 29, 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.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 722

RIN 3133-AE98

Real Estate Appraisals

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of proposed rulemaking and request for comment.

SUMMARY: The NCUA Board (Board) proposes to amend the agency's regulation requiring appraisals for certain real estate-related transactions. The proposed rule would increase the threshold level below which appraisals would not be required for residential real estate-related transactions from \$250,000 to \$400,000. Consistent with the requirement for other transactions that fall below applicable appraisal thresholds, federally insured credit unions (FICUs) would be required to obtain written estimates of market value of the real estate collateral that is consistent with safe and sound banking practices in lieu of an appraisal. For easier reference, the proposed rule would explicitly incorporate the existing statutory requirement that appraisals be subject to appropriate review for compliance with the Uniform Standards of Professional Appraisal Practice (USPAP). This proposal is consistent with the final rule, effective on October 9, 2019, issued by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency (other banking agencies) that increases the threshold level at or below which appraisals are not required for residential real estate transactions from \$250,000 to \$400,000.

DATES: Comments must be received on or before January 28, 2020.

ADDRESSES: You may submit written comments, identified by RIN 3133-AE98, by any of the following methods

(Please send comments by one method only):

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* (703) 518-6319. Include “[Your Name]—Comments on Proposed Rule: Real Estate Appraisals” in the transmittal.

- *Mail:* Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

- *Hand Delivery/Courier:* Same as mail address.

Public Inspection: You may view all public comments on the Federal eRulemaking Portal at <http://www.regulations.gov> as submitted, except for those we cannot post for technical reasons. NCUA will not edit or remove any identifying or contact information from the public comments submitted. You may inspect paper copies of comments in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518-6546 or send an email to OGCMail@ncua.gov.

FOR FURTHER INFORMATION CONTACT:

Technical information: Kenneth Acuña, Senior Credit Specialist, (703) 518-6613, Office of Examination and Insurance.

Legal information: Rachel Ackmann, Senior Staff Attorney, (703) 518-6540, Office of General Counsel.

Address: National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Board proposes to increase the threshold level below which appraisals would not be required for real estate-related financial transactions secured by a single 1-to-4 family residential property (residential real estate transactions) from \$250,000 to \$400,000 (residential threshold). The proposal would continue to require written estimates of market value that are consistent with safe and sound business practices for transactions exempted from the appraisal requirement by the increased threshold. The proposal to raise the residential threshold is based on consideration of available

information on residential real estate transactions, supervisory experience, and comments received from the public in connection with the July 2019 NCUA rulemaking on real estate appraisals (July 2019 real estate appraisal rule) in which the Board specifically asked about increasing the threshold for residential real estate transactions.¹ Generally, credit union-related commenters to the July 2019 real estate appraisal rule supported increasing the residential real estate threshold. The Board believes that the proposed increase to the residential threshold would reduce burden in a manner that is consistent with federal public policy interests in real estate-related financial transactions and the safety and soundness of FICUs.

The Board has long recognized that the valuation information provided by appraisals and written estimates of market value assists FICUs in making informed lending decisions and mitigating risk. The Board also recognizes the role that appraisers play in helping to ensure a safe and sound real estate lending process. However, the Board is aware the cost and time of obtaining an appraisal can result in delays and higher expenses for both FICUs and borrowers. The Board also acknowledges that appraisals can provide protection to consumers by facilitating the informed use of credit and helping to ensure that the estimated value of the property supports the loan amount. However, written estimates of market value have provided these benefits for FICUs and borrowers for transactions below the current \$250,000 threshold.

Under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI),² the NCUA must receive Consumer Financial Protection Bureau (CFPB) concurrence that the proposed residential threshold level provides reasonable protection for consumers who purchase “1–4 unit single-family residences.”³ Accordingly, the NCUA is consulting with the CFPB regarding the proposed residential threshold increase and will continue this consultation in developing a final rule. The Board notes that on August 5, 2019, the CFPB concurred

¹ 83 FR 49857 (Oct. 3, 2018) and 84 FR 35525 (July 24, 2019).

² 12 U.S.C. 3331 *et seq.*

³ 12 U.S.C. 3341(b).

that the other banking agencies' residential appraisal final rule's threshold of \$400,000 provides reasonable protection for consumers who purchase "1-4 unit single-family residences."⁴

II. Legal Authority

Title XI directs each federal financial institutions regulatory agency⁵ to require regulated institutions to obtain appraisals meeting minimum standards for certain real estate-related transactions. The purpose of Title XI is to protect federal financial and public policy interests⁶ in real estate-related transactions⁷ by requiring that real estate appraisals used in connection with federally related transactions (Title XI appraisals) be performed in accordance with uniform standards, by individuals whose competency has been demonstrated, and whose professional conduct will be subject to effective supervision.⁸

Title XI directs the NCUA to prescribe appropriate standards for Title XI appraisals under the NCUA's jurisdiction, including, at a minimum that Title XI appraisals be: (1) Performed in accordance with USPAP; (2) written appraisals, as defined by the statute; and (3) subject to appropriate review for compliance with USPAP.⁹ All federally related transactions must have a Title XI appraisal.

⁴ Concurrence applied to the threshold, and the CFPB took no position with respect to any other aspect of the other banking agencies' residential appraisal final rule. See, https://files.consumerfinance.gov/f/documents/cfpb_firrea-concurrence_2019_08.pdf.

⁵ "Federal financial institutions regulatory agencies" mean the Board of Governors of the Federal Reserve System; the Federal Deposit Insurance Corporation (FDIC); the Office of the Comptroller of the Currency, Treasury (OCC); the NCUA, and, formerly, the Office of Thrift Supervision. 12 U.S.C. 3350(6).

⁶ These interests include those stemming from the federal government's roles as regulator and deposit insurer of financial institutions that engage in real estate lending and investment, guarantor or lender on mortgage loans, and as a direct party in real estate-related financial transactions. These federal financial and public policy interests have been described in predecessor legislation and accompanying congressional reports. See Real Estate Appraisal Reform Act of 1988, H.R. Rep. No. 100-1001, pt. 1, at 19 (1988); 133 Cong. Rec. 33047-33048 (1987).

⁷ A real estate-related financial transaction is defined as any transaction that involves: (i) The sale, lease, purchase, investment in or exchange of real property, including interests in property, or financing thereof; (ii) the refinancing of real property or interests in real property; and (iii) the use of real property or interests in real property as security for a loan or investment, including mortgage-backed securities. 12 U.S.C. 3350(5).

⁸ 12 U.S.C. 3331.

⁹ 12 U.S.C. 3339. The NCUA's Title XI appraisal regulations apply to transactions entered into by the NCUA or by FICUs. 12 CFR 722.1(b).

Title XI defines a "federally related transaction" as a real estate-related financial transaction that is regulated or engaged in by a federal financial institutions regulatory agency and requires the services of an appraiser.¹⁰ The NCUA has authority to determine those real estate-related financial transactions that do not require the services of a state-certified or state-licensed appraiser and are therefore exempt from the appraisal requirements of Title XI. Such exempt real estate-related financial transactions are not federally related transactions under the statutory or regulatory definitions because they are not required to have Title XI appraisals.¹¹

The NCUA has exercised this authority by exempting several categories of real estate-related financial transactions from the Title XI appraisal requirements, including transactions at or below certain designated dollar thresholds.¹² The NCUA has determined that these categories of transactions do not require appraisals by state-certified or state-licensed appraisers in order to protect federal financial and public policy interests or to satisfy principles of safety and soundness.

Title XI expressly authorizes the NCUA to establish dollar threshold levels at or below which Title XI appraisals are not required if: (1) The NCUA determines, in writing, that the threshold does not represent a threat to the safety and soundness of financial institutions; and (2) the NCUA receives concurrence from the CFPB that such threshold level provides reasonable protection for consumers who purchase "1-4 unit single-family residences."¹³ As noted above, transactions below the threshold level are exempt from the Title XI appraisal requirements and thus are not federally related transactions.

III. Background

A. The Other Banking Agencies' Residential Real Estate Appraisal Rulemaking

The other banking agencies issued a final rule on October 8, 2019, to amend their appraisal regulations to increase the threshold level at or below which appraisals would not be required for residential real estate-related transactions from \$250,000 to \$400,000 (other banking agencies' residential appraisal final rule).¹⁴ The other

¹⁰ 12 U.S.C. 3350(4) (defining "federally related transaction").

¹¹ See 59 FR 29482 (June 7, 1994).

¹² See 12 CFR 722.3(a).

¹³ 12 U.S.C. 3341(b).

¹⁴ 84 FR 53579 (Oct. 8, 2019).

banking agencies' residential appraisal final rule, consistent with the requirement for other transactions that fall below applicable thresholds, requires regulated institutions to obtain an evaluation of the real property collateral that is consistent with safe and sound banking practices instead of an appraisal. The other banking agencies' residential appraisal final rule, pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),¹⁵ amends the other banking agencies' appraisal regulations to require regulated institutions to subject appraisals for federally related transactions to appropriate review for compliance with USPAP.

B. Purpose of the Proposed Rule

The Board is proposing to increase the appraisal threshold for residential real estate transactions in an effort to reduce regulatory burden, while maintaining federal public policy interests in real estate-related transactions and the safety and soundness of FICUs. To consider the probable effect on burden reduction, the NCUA assessed the potential impact of the proposed threshold increase on regulated transactions.¹⁶ The NCUA estimates that setting the appraisal threshold at \$400,000 would continue to exempt the majority of residential real estate transactions from the NCUA's residential real estate appraisal requirement. The increase in the number of loans that would no longer require appraisals, as compared to the current \$250,000 threshold, would provide meaningful burden reduction for FICUs. The impact of the threshold change is discussed in more detail in section "IV. Proposed Rule."

Some commenters to the July 2019 real estate appraisal rule (commenters) noted that obtaining an appraisal for a real estate transaction adds to the cost of the transaction, which is often passed on to the borrower. In addition, the need for an appraisal can delay the closing of a transaction when an appraiser cannot complete the appraisal timely. Thus,

¹⁵ Dodd-Frank Act, § 1473(e), Public Law 111-203, 124 Stat. 1376, 2191. USPAP is written and interpreted by the Appraisal Standards Board of the Appraisal Foundation. USPAP contains generally recognized ethical and performance standards for the appraisal profession in the United States, including real estate, personal property, and business appraisals. See http://www.appraisalfoundation.org/imis/TAF/Standards/Appraisal_Standards/Uniform_Standards_of_Professional_Appraisal_Practice/TAF/USPAP.aspx?hkey=a6420a67-dbf4-41b3-9878-fac35923d2af.

¹⁶ Regulated transactions are residential mortgage originations by NCUA-insured institutions that were not sold to the government-sponsored enterprises or otherwise insured or guaranteed by a U.S. government agency.

reducing regulatory burden by increasing the appraisal threshold for residential real estate transactions may provide both transaction cost and time savings for FICUs and borrowers.

Cost and Time Estimates

As discussed above, and as noted in the preamble to the other banking agencies' residential appraisal final rule, written estimates of market value generally cost less than Title XI appraisals for the same properties. The United States Department of Veterans Affairs' appraisal fee schedule¹⁷ for a single-family residence reflects that the cost of an appraisal generally ranges from \$375 to \$900, depending on the location of the property. Information available on the cost of written estimates of market value and appraisals suggests that there could be cost savings for FICUs and borrowers where a written estimate of market value, as opposed to an appraisal, is obtained.

The Board also considered the amount of time it takes for lenders to receive a completed appraisal. The time it takes to complete a written estimate of market value may often be shorter than the time it takes to receive a Title XI appraisal, particularly in rural areas. As described in the *Interagency Appraisal and Evaluations Guidelines (Guidelines)*, FICUs should review the property valuation prior to entering into a transaction.¹⁸

Congress recently amended Title XI by adding an exemption to the Title XI appraisal requirement for certain mortgage loans under \$400,000 secured by property in rural areas. However, the exemption is only available where FICUs can document that they are unable to obtain an appraisal at a reasonable cost and within a reasonable timeframe, among other requirements.¹⁹ This proposed rule is broader in scope and would eliminate the requirement for an appraisal for all residential real estate transactions below \$400,000. The proposed threshold would include all such transactions in rural areas without requiring FICUs to meet the other criteria of the rural residential appraisal exemption.²⁰ The Board estimates the proposed rule would provide burden relief in rural areas at a proportional rate to the burden reduction overall.

¹⁷ See VA Appraisal Fee Schedules and Timeliness Requirements, available at https://www.benefits.va.gov/HOMELoans/appraiser_fee_schedule.asp.

¹⁸ Interagency Appraisal and Evaluations Guidelines at 75 FR 77458, 77461 (Dec. 10, 2010).

¹⁹ Public Law 115–174.

²⁰ Accordingly, the proposed rule would remove the reference to this statutory exemption.

As discussed in the *Safety and Soundness Considerations for Increasing the Residential Threshold* section below, the Board estimates that under the proposed rule, the percentage of transactions exempted from the appraisal requirement would be restored to the level it was following the last threshold increase in 2001. For all of the above reasons, the proposed rule is expected to lead to cost savings, as well as reduce the time to close residential real estate loans.

C. Consumer Protection Considerations for Increasing the Residential Threshold

Comments to the July 2019 real estate appraisal rule stated that appraisals provide some measure of consumer protection, and that increasing the appraisal threshold for residential real estate transactions could raise consumer protection issues. Appraisals can play a role in providing protection to borrowers who purchase 1-to-4 family residential property.²¹ Indeed, the Dodd-Frank Act's amendment to Title XI added the CFPB to the group of agencies assigned a role in the appraisal threshold-setting process.²² As stated previously, the CFPB concurred that the other banking agencies' residential appraisal final rule's threshold of \$400,000 provides reasonable protection for consumers who purchase "1–4 unit single-family residences."²³

The NCUA has long required written estimates of market value in lieu of appraisals for many transactions, including certain transactions exempted by an appraisal threshold. A written estimate of market value must be consistent with safe and sound business practices and should contain sufficient information and analysis to support the decision to engage in the transaction, although it may be less structured than an appraisal.²⁴

The adequacy of written estimates of market value as a substitute for appraisals has previously been raised by

²¹ The Board notes that information on property sales transactions and tax assessment values is now often widely available online.

²² 12 U.S.C. 3341(b). The Dodd-Frank Act also required the CFPB to engage in rulemakings under amendments to Title XI, including standards for appraisal management companies (12 U.S.C. 3353) and automated valuation models (12 U.S.C. 3354). In addition, the Dodd-Frank Act amended two consumer protection laws—the Truth in Lending Act (TILA), 15 U.S.C. 1601 *et seq.*, and Equal Credit Opportunity Act (ECOA), 15 U.S.C. 1691 *et seq.*—to establish new requirements for appraisals and other valuation types. See 15 U.S.C. 1639e and 1639h (TILA) and 15 U.S.C. 1691e (ECOA).

²³ Concurrence applies to the threshold, and the CFPB took no position with respect to any other aspect of the other banking agencies' residential appraisal final rule.

²⁴ *Guidelines*, 75 FR at 77461.

commenters. One concern previously expressed during the July 2019 real estate appraisal rulemaking about the adequacy of written estimates of market value is that the individuals performing them are not required to have professional credentials for valuing real estate. On this point, the Board notes that one of the benefits of written estimates over appraisals that institutions have cited is that they can more readily be performed in-house. The Board notes, however, that under the NCUA's regulations, individuals preparing written estimates of market value must be qualified, competent, and independent of the transaction and the loan production function of the institution. The Board recently formalized specific independence expectations by codifying them in the regulation. The amended regulation requires that a written estimate of market value be performed by an individual who is independent of the loan production and collection processes, has no direct, indirect, or prospective interest, financial or otherwise, in the property or the transaction, and is qualified and experienced to perform such estimates of value for the type and amount of credit being considered. The Board believes that written estimates of market value prepared accordingly provide an important level of consumer protection for transactions below the proposed appraisal threshold.

Additionally, the interim final rule on valuation independence (IFR on Valuation Independence) applies to all types of valuations (other than valuations produced solely using an automated model or system) used in connection with a consumer-purpose transaction secured by a borrower's principal dwelling.²⁵ FICUs using written evaluations for transactions covered by the IFR on Valuation Independence must meet standards for independence that carry civil liability, regardless of transaction size.

Another consideration about the adequacy of written estimates of market value as a substitute for appraisals is that written estimates of market value are not required to be in a standard form, and specific content is not mandated. Therefore, it is possible that some written estimates of market value

²⁵ The Federal Reserve Board issued the IFR on Valuation Independence in 2010 that amended Regulation Z (effective April 2011), establishing independence rules for consumer purpose residential mortgage loans secured by a consumer's primary dwelling. See 75 FR 66554 (Oct. 28, 2010) and 75 FR 80675 (Dec. 23, 2010) (implementing Dodd-Frank Act amendments to TILA at 15 U.S.C. 1639e); Federal Reserve Board: 12 CFR 226.42; and CFPB: 12 CFR 1026.42.

will be more difficult for borrowers to understand, or that written estimates lack information about the property typically included in an appraisal that could be useful to a borrower. However, the NCUA has not noted any such issues with written estimates of market value being conducted for transactions below the current \$250,000 threshold.

Another consideration when weighing consumer protection issues is the availability to borrowers of alternative valuation information, such as written estimates of market value. The Dodd-Frank Act amended the Equal Credit Opportunity Act²⁶ (ECOA) to require creditors to provide applicants free copies of appraisals and other types of valuations prepared in connection with first-lien transactions secured by a dwelling, which include written estimates of market value.²⁷ Therefore, when a FICU conducts or obtains a written estimate of market value, it must be provided to the borrower.²⁸

The Board also notes that borrowers currently have significantly more access to property valuation information than when the appraisal threshold was last increased in 2001. For example, property records are often available to the public through the internet. These records may include not only a particular property's tax assessed value, but also the property's historical sales activity and information on other recent property sales in the area.²⁹ These widely available data sources may reduce consumer reliance on appraisals. Borrowers also may obtain an appraisal before engaging in the transaction. In addition, appraisals would still be required, regardless of transaction amount, for certain higher-priced mortgage loans (HPMLs), pursuant to the HPML Appraisal Rule.³⁰

Finally, commenters have also raised concerns about the accountability of individuals performing written estimates of market value and borrowers' more limited options for recourse. For example, the Dodd-Frank Act required establishment of a national hotline for complaints against state-certified and state-licensed appraisers relating to non-compliance with appraisal independence and USPAP, including complaints from appraisers, individuals, borrowers, or other entities.³¹ State appraisal regulatory agencies have authority to discipline appraisers that violate USPAP. These consumer protection benefits are not applicable for complaints against individuals who prepare written estimates of market value. However, borrowers may have some recourse against individuals performing written estimates of market value. Borrowers may make a complaint to the CFPB consumer complaint database and, as discussed above, FICUs using written evaluations for transactions covered by the IFR on Valuation Independence may be subject to civil liability.

The Board is requesting comment specifically on the following questions related to the consumer protection aspect of appraisals.

Question 1: How often do FICUs use their own internal staff to prepare written estimates of market value?

Question 2: What valuation information, if any, would borrowers lose in practice if more written estimates of market value are performed rather than appraisals? Please provide data or other evidence to support any comments.

Question 3: To what extent do appraisals and written estimates of market value provide benefits or protections for borrowers that are purchasing 1-to-4 family residential property? What are the nature and magnitude of the differences, if any, in consumer protection? Please provide data or other evidence to support any comments.

Question 4: To what extent is useful and accurate property valuation information readily available to borrowers through public sources?

Question 5: How well have consumers understood written estimates of market value, and are there any concerns the Board should take into account? For example, would a model format for

written estimates of market value be helpful to borrowers?

Question 6: Are there any other consumer protection concerns raised by the proposal that the Board should consider?

IV. Proposed Rule

Under the current appraisal rule, generally residential real estate transactions with a transaction value less than \$250,000 do not require Title XI appraisals, but require written estimates of market value.³² The current thresholds were established in 2001 (2001 residential appraisal final rule) and effective in 2002.³³ The Board proposes to increase the appraisal threshold from \$250,000 to \$400,000 for residential real estate transactions. Residential real estate transactions below the applicable threshold would still require a written estimate of market value that is consistent with safe and sound banking practices.³⁴

A. Setting the Appropriate Threshold for Residential Real Estate Transactions

In determining the level of the proposed increase, the Board considered the comments received to the July 2019 real estate appraisal rule, as well as a variety of home price and inflation indices. In particular, the NCUA analyzed residential home prices based on the Standard & Poor's Case-Shiller Home Price Index (Case-Shiller Index)³⁵ and the FHFA Index,³⁶ as well as the Consumer Price Index (CPI).³⁷

These home price indices reflect that prices for residential real estate have increased since 2002, when the 2001 residential appraisal final rule increase became effective. Table 1 below shows that the threshold level in 2002 of \$250,000 would result in a price of approximately \$450,000 as of June 2019, when adjusted by the Case-Shiller Index

²⁶ 15 U.S.C. 1691 *et seq.*

²⁷ See 15 U.S.C. 1691(e), implemented by the CFPB at 12 CFR 1002.14. The Dodd-Frank Act also amended TILA to require creditors to provide applicants free copies of appraisals prepared in connection with certain higher-priced mortgage loans (HPMLs). See 15 U.S.C. 1639h(c), implemented jointly by the OCC, Federal Reserve Board, FDIC, NCUA, Federal Housing Finance Agency (FHFA), and CFPB. See, OCC: 12 CFR 34.203(f); Federal Reserve Board: 12 CFR 226.43(f); CFPB: 12 CFR 1026.35(c)(6); NCUA: 12 CFR 722.3(a); FHFA: 12 CFR 1222, subpart A (HPML Appraisal Rule). The FDIC adopted the HPML Appraisal Rule as published in the CFPB's regulation. See 78 FR 78520, 10370, 10415 (Dec. 26, 2013).

²⁸ 12 CFR 1002.14.

²⁹ Some states (or counties within states) do not publish sale amounts, but do provide estimates based on loan amounts or mortgage transfer taxes, which could be substantially different from the actual sale amount.

³⁰ 15 U.S.C. 1639h, implemented by the CFPB at 12 CFR 1026.35. Transactions covered by the HPML Appraisal Rule are limited due to significant

exemptions from the requirements, including an exemption for qualified mortgages.

³¹ The Dodd-Frank Act instituted a number of reforms to ensure the legitimacy, independence, and oversight of appraisals. See Dodd-Frank Act, Title XIV, Subtitle F—Appraisal Activities, Public Law 111–203, 124 Stat. 1376, 2185.

³² 12 CFR 722.3. See also, 66 FR 58656, 58662 (Nov. 23, 2001). The other banking agencies promulgated a similar rule in 1994. See 59 FR 29482 (June 7, 1994). Note that transactions with insurance or guarantees from a U.S. government agency or sponsored agency may have slightly different treatment.

³³ 66 FR 58656 (Nov. 23, 2001). The rule was effective March 1, 2002.

³⁴ 12 CFR 722.3(d).

³⁵ The Case-Shiller Index tracks the value of single-family housing within the United States. See Standard & Poor's CoreLogic Case-Shiller Home Price Indices, available at <https://us.spindices.com/index-family/real-estate/sp-corelogic-case-shiller>.

³⁶ The FHFA Index tracks changes in residential property prices. See FHFA House Price Index, available at <https://www.fhfa.gov/DataTools/Downloads/Pages/House-Price-Index.aspx>.

³⁷ The CPI, which is published by the Bureau of Labor Statistics, is a measure of the average change over time in the prices paid by urban consumers for a market basket of goods and services. See <https://www.bls.gov/cpi/>.

and the FHFA Index. Using the more general CPI, which tracks price changes for general consumer goods and

services, would result in a value of approximately \$360,000, which would be \$425,000 based on when the other

banking agencies changed their threshold to \$250,000 in 1994.

TABLE 1—APPRECIATION IN RESIDENTIAL REAL ESTATE PRICES SINCE 2002³⁸

Year	NCUA proposed threshold	Case-Shiller	FHFA	CPI
NCUA since the Last Threshold Increase				
2002	250,000	250,000	250,000	250,000
2Q 2019	400,000	455,864	452,218	361,338
Compound annual growth rate (CAGR)	2.5%	3.2%	3.2%	2.0%
Year	OBA threshold	Case-Shiller	FHFA	CPI
Other Banking Agencies since the Last Threshold Increase				
1994	250,000	250,000	250,000	250,000
2Q 2019	400,000	660,689	631,576	426,518
Compound annual growth rate (CAGR)	1.8%	3.7%	3.5%	2.0%

Several commenters to the other banking agencies' residential appraisal final rule encouraged the other banking agencies to commit to adjusting the threshold periodically, or automatically adjusting the threshold, to reflect changes in housing values, market conditions, or inflation.³⁹ The other banking agencies concluded that automatic adjustments to the threshold or agency commitments to set timetables for future threshold increases would not be appropriate. The NCUA also believes that automatic adjustments to the threshold are not appropriate. The NCUA is required by Title XI to weigh safety and soundness implications regarding any proposed threshold increase and obtain CFPB concurrence on whether the threshold provides reasonable protection for borrowers of "1–4 unit single-family residences." In addition, the NCUA already periodically reviews (at least every three years) its regulations to identify outdated or unnecessary regulatory requirements and can consider any comments concerning the thresholds through that process.

B. Safety and Soundness Considerations for Increasing the Residential Threshold

Under Title XI, in setting a threshold at or below which an appraisal performed by a state-certified or state-licensed appraiser is not required, the NCUA must determine in writing that such a threshold level does not pose a

threat to the safety and soundness of FICUs.⁴⁰ The Board evaluated a number of factors in considering the effect of the proposed residential threshold on the safety and soundness of FICUs. The Board determined that the proposed threshold of \$400,000 for residential real estate transactions is not expected to pose a threat to the safety and soundness of FICUs for the reasons discussed below.

First, the proposed threshold level of \$400,000 would exempt a similar number of transactions and dollar volume of transactions as did the current threshold of \$250,000 when it was set in 2001. The increase in the appraisal threshold in the 2001 residential appraisal final rule did not result in a material increase in risk to safety and soundness.⁴¹

The NCUA conducted analyses using 2018 data reported under the Home Mortgage Disclosure Act (HMDA), which requires a variety of financial institutions to maintain, report, and publicly disclose loan-level information about residential mortgage originations. Information reported under HMDA includes various data points relevant to the NCUA's analysis, including loan size, loan type, property type, property location, and secondary market purchaser. While the HMDA data has limitations, including that certain low-volume originators and originators located in rural areas are not required to report, the Board believes it provides a representative sample of the universe of

mortgage originations, including transactions subject to the NCUA's appraisal requirement.

As described in further detail below, the NCUA used 2018 HMDA data to estimate the effect of the proposed residential threshold increase. The NCUA used HMDA data to determine the number of transactions and dollar volume of transactions that would be affected relative to: (1) Total FICU originations reported in the HMDA data; and (2) transactions originated by NCUA-insured institutions that were not sold to a government-sponsored enterprise (GSE) or otherwise insured or guaranteed by a U.S. government agency (regulated transactions). The NCUA compared these figures with similar figures using data from 2001, which was the data set used to evaluate the 2001 residential appraisal final rule when the \$250,000 residential appraisal threshold was adopted.

As outlined in Table 2 below, the NCUA estimates that approximately 77 percent of FICU residential real estate transactions for a total of 55 percent of the dollar amount of the transactions, are currently not subject to the NCUA's residential appraisal requirement. This is estimated to increase to 94 percent of transactions and 83 percent of the dollar amount with the proposed increased threshold. For context, in 2001, an estimated 95 percent of residential transactions and 80 percent of the dollar amount of residential transactions were exempt when the current \$250,000 threshold was set.

³⁸ For this Table, the analysis uses a starting date of January 1 of the year a threshold is increased and goes until June 30, 2019. The other banking agencies conducted a similar analysis, however, used dates June 30, 1994 to June 30, 2019.

³⁹ 84 FR 53579, 53583 (Oct. 8, 2019).

⁴⁰ 12 U.S.C. 3341(b).

⁴¹ None of the 27 material loss reviews of FICU failures conducted by the NCUA's Inspector General since the mid-2000s found a lack of appraisals as the cause of a FICU's failure.

TABLE 2—2018 HMDA DATA MORTGAGE ANALYSIS

Regulated transactions by transaction amount	Exempted by current threshold of \$250,000	Newly exempted by proposed increase to \$400,000	Total exempted by proposed increase to \$400,000	Appraisal still required over \$400,000	Total
Number of transactions	215,155	45,860	261,015	16,989	278,004
% of total	77%	16%	94%	6%	100%
Dollar volume (\$ billions)	27.0	14.2	41.2	8.3	49.5
% of total	55%	29%	83%	17%	100%

As seen below in Table 3, the proposed residential threshold also would result in a level of residential

transaction coverage consistent with the coverage estimated for the 2001

threshold increase, which did not result in a risk to safety and soundness.

TABLE 3—2001 HMDA DATA MORTGAGE ANALYSIS

Regulated transactions by transaction amount	Exempted by current threshold of \$100,000	Newly exempted by proposed increase to \$250,000	Total exempted by proposed increase to \$250,000	Appraisal still required over \$250,000	Total
Number of transactions	299,674	143,185	442,859	22,575	465,434
% of total	64%	31%	95%	5%	100%
Dollar volume (\$ billions)	12.2	18.3	30.6	7.6	38.2
% of total	32%	48%	80%	20%	100%

The Board also estimates that the proposed rule would increase the share of exempt transactions from 83 percent to 95 percent for transactions that are secured by residential property located in a rural area. The Board also estimates that the proposed rule would exempt 83 percent of the dollar volume of transactions that are secured by residential property located in a rural area.

Second, the new threshold would not introduce significant additional risk to the credit union system. Based on 2018 data, the NCUA estimates the proposed new threshold would only incrementally exempt real estate-secured loans granted each year. FICUs originated approximately \$78 billion in residential transactions in 2018. Of that amount, approximately \$18 billion of transactions were sold to Federal National Mortgage Association (Fannie Mae) and Federal Home Loan Mortgage Corporation (Freddie Mac) and \$11 billion of transactions were insured or sold as part of other government guarantee programs.⁴² Therefore, approximately \$50 billion in originated residential real estate transactions were subject to the NCUA’s appraisal rule. Approximately \$27 billion of the originated residential real estate transactions were exempted from appraisal requirements because the

transaction values were under the current \$250,000 threshold. In addition, \$8 billion of originated residential real estate transactions had transaction values of \$400,000 or greater, and therefore would continue to be subject to appraisal requirements under the proposed rule. Therefore, the proposed rule would only exempt an additional \$14 billion of residential real estate transactions from appraisal requirements, or 46,000 transactions. The incremental impact of the proposed increased threshold, \$14 billion, equates to approximately 0.9 percent of FICU assets as of the June 30, 2019 Statement of Financial Condition (referred to as the Call Report). Relative to credit union system assets, the incremental level of residential transactions exempt from appraisals would not pose undue risk.

Third, the NCUA examined data reported on the (Call Report) and determined that FICUs’ residential real estate-secured loans have performed well with relatively low delinquencies and net charge-off rates.⁴³ To evaluate the impact of residential real estate transactions on the safety and soundness of the credit union system, the NCUA compared the net charge-off rates from 1994 to 2018, which includes two recessionary periods. The net charge-off rate for residential real estate transactions did not increase after the NCUA’s increase in the appraisal threshold from \$50,000 to \$100,000 in

1995, or when the NCUA threshold was increased to \$250,000 in 2001. These prior threshold increases did not have a negative impact on loan performance.

The net charge-off rate for residential real estate loans from 2001 through 2007 ranged from three to nine basis points. For context, FDIC-insured institutions experienced residential real estate net charge-offs rates of seven to 25 basis points during the same period. From 2008 through 2011, during and immediately after the last recession, FICU net charge-off rates for residential real estate loans ranged from 11 to 68 basis points. FDIC-insured institutions experienced net charge-off rates for residential real estate loans ranging from 104 to 231 basis points during the same period. The data reflects that the loss experience associated with residential real estate loans in FICUs has been relatively modest. Thus, an increase in the appraisal threshold is not expected to pose a safety and soundness risk to FICUs or the National Credit Union Share Insurance Fund.

Further, based on supervisory experience and analysis of material loss reviews conducted by the NCUA’s Inspector General, appraisals have not been a substantial factor in any material FICU failures. Of the 27 material loss reviews, 14 were residential real estate related, but none of the failures resulted from a lack of appraisals. This available data on failures during the recent recession suggests that an increase in the threshold is not expected to pose a safety and soundness risk to FICUs or

⁴² Other government guarantee programs consists of Federal Housing Administration insured (FHA), Veterans Affairs guaranteed (VA), and USDA Rural Housing Service or Farm Service Agency guaranteed (RHS or FSA).

⁴³ Net charge-offs are charge-offs minus recoveries. Net charge-offs represent losses to financial institutions.

the National Credit Union Share Insurance Fund.

Finally, the NCUA considered the requirement for transactions below applicable thresholds to obtain written estimates of market value and how this requirement contributes to safety and soundness. The NCUA's appraisal regulations require FICUs to obtain written estimates of market value for all real estate-related financial transactions that do not require a Title XI appraisal, unless the real estate-related financial transaction is explicitly exempt from written estimate of market value requirements.⁴⁴ A written estimate of market value prepared by qualified, competent, and independent individuals who use appropriate supporting information provides FICUs an alternative estimate of market value and should provide sufficient information to enable FICUs to make a prudent decision regarding the transaction.

Through the *Guidelines*, the NCUA has provided guidance to FICUs on its expectations regarding when and how written estimates of market value should be used.⁴⁵ The *Guidelines* provide guidance on obtaining appropriate written estimates of market value that are consistent with safe and sound banking practices. Written estimates of market value must be performed by persons who are competent and have the relevant experience and knowledge of the market, location, and type of real property being valued. The *Guidelines* state that a written estimate of market value should provide an estimate of the property's market value and have sufficient information and analysis to support the credit decision. The *Guidelines* also describe the content that an evaluation should contain.

In addition, the NCUA strengthened independence requirements for individuals performing written estimates of market value. Specifically, the Board recently incorporated into the NCUA's appraisal rule the existing *Guidelines* expectation that the individual performing a written estimate of market value be independent of the loan production and collection processes. The Board believes that the enhanced independence requirement is an important prudential safeguard.

Furthermore, as is the current practice, FICUs and borrowers may obtain appraisals to establish collateral value even if a transaction is exempt from the appraisal requirement. For example, this may be done for

transactions below the appraisal threshold levels. The *Guidelines* advise FICUs to develop policies and procedures for identifying instances when this would be prudent.⁴⁶ The *Guidelines* recommend that a FICU should obtain an appraisal instead of a written estimate of market value for higher-risk real estate-related financial transactions. The *Guidelines* list factors such as those involving loans with high loan-to-value ratios and properties outside the FICU's traditional lending market. The NCUA also retains the ability to require an appraisal whenever "necessary to address safety-and-soundness concerns."⁴⁷

The Board also notes that FICUs have used written estimates of market values for transactions below the applicable appraisal thresholds successfully since the issuance of the first rule implementing Title XI.⁴⁸ The Board believes written estimates of market value are a proven safe and sound alternative for transactions below the applicable thresholds. The Board will continue to evaluate a FICU's use of written estimates of market value as part of its examination and supervision program.

C. Appraisal Review

Section 1473(e) of the Dodd-Frank Act amended Title XI to include a requirement that appraisals be subject to appropriate review for compliance with USPAP.⁴⁹ The proposed rule would make a conforming amendment to the NCUA's appraisal regulation to explicitly incorporate the existing statutory requirement for easier reference. The Board proposes to mirror the statutory language for this standard. As outlined in the *Guidelines*, which provide guidance on the review process, the NCUA has long recognized that appraisal review is consistent with safe and sound lending practices.⁵⁰ The NCUA already sets minimum appraisal standards that require appraisals to conform to USPAP's generally accepted appraisal standards. In addition, the NCUA recommends that FICUs have effective quality controls over the appraisal process through a periodic review of work completed by appraisers, and for individuals selected to hold appropriate state certification or licenses. A FICU should ensure that selected appraisers have the right qualifications for a given transaction

and property in order for the appraisers to be able to make appropriate adjustments to market value for factors such as prospective improvements, lease terms, and market conditions.

D. Consistency With Other Banking Agencies

On October 9, 2019, the other banking agencies' residential appraisal final rule to amend their appraisal regulations became effective. Their final rule increased the threshold level at or below which appraisals would not be required for residential real estate transactions from \$250,000 to \$400,000. The rule, consistent with the requirement for other transactions that fall below applicable thresholds, also requires regulated institutions to obtain an evaluation of the real property collateral that is consistent with safe and sound banking practices in lieu of an appraisal.

The NCUA and the other banking agencies had the same threshold for residential transactions from 2002 up to 2019. Commenters to the July 2019 real estate appraisal rule expressed concern that any differences between the residential threshold for banks and FICUs may create a competitive disadvantage for FICUs and their 117 million members.

The Board is requesting comment specifically on the following questions related to the analysis for the proposed rule and written estimates of market value.

Question 7: Is \$400,000 an appropriate level for the residential appraisal threshold?

Question 8: Are there other sources of data that would be useful to analyze this issue?

Question 9: Will the proposed rule lead to cost savings for FICUs and/or borrowers, as well as reduce the time to close residential real estate loans?

Question 10: Will FICUs expand their use of written estimates of market value if the proposal to raise the residential threshold is finalized, or continue to use appraisals for the residential real estate transactions below \$400,000 that are eligible for this exemption? For what types of eligible residential real estate transactions are FICUs likely to obtain written estimates of market value? Please provide data or other evidence to support any comments.

Question 11: What, if any, concerns are raised by incorporating the requirement to review appraisals consistent with the referenced statutory language?

⁴⁶ *Guidelines* at 77460.

⁴⁷ 12 CFR 722.3(e).

⁴⁸ 55 FR 30199 (Jul. 25, 1990).

⁴⁹ Dodd-Frank Act, section 1473, Public Law 111-203, 124 Stat. 1376.

⁵⁰ See *Guidelines*, at 77453.

⁴⁴ See 12 CFR 722.3(d).

⁴⁵ *Guidelines* at 77460.

V. Request for Comments

In addition to the above questions outlined, the Board invites comment on all aspects of the proposed rulemaking.

VI. Regulatory Procedures

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities. A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (defined for purposes of the RFA to include FICUs with assets less than \$100 million) and publishes its certification and a short, explanatory statement in the Federal Register together with the rule.

Data currently available to the NCUA is not sufficient to estimate how many small FICUs make residential real estate loans in amounts that fall between the current and proposed thresholds. Therefore, the NCUA cannot estimate how many small entities may be affected by the increased threshold and how significant the reduction in burden may be for such small entities. The NCUA believes, however, that the proposed threshold increase will meaningfully reduce burden for small FICUs. Accordingly, the NCUA certifies that the proposed rule will not have a significant economic impact on a substantial number of small FICUs.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or modifies an existing burden (44 U.S.C. 3507(d)). For purposes of the PRA, a paperwork burden may take the form of a reporting, recordkeeping, or a third-party disclosure requirement, referred to as an information collection. The NCUA may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a valid OMB control number.

The proposed rule increases the threshold from \$250,000 to \$400,000 for residential real estate transactions for which an appraisal is required. Transaction values of less than \$400,000 do not require an appraisal, but a written estimate of market value. The information collection requirement of this part is that the FICU retain a record

of either the appraisal or estimate, whichever applies. Even though the threshold has increased, the proposal will not result in a change in burden. This recordkeeping requirement is cleared under OMB control number 3133-0125. There is no new information collection requirements associated with this proposed rule.

C. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, the NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This rulemaking will not have a substantial direct effect on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The NCUA has determined that this proposal does not constitute a policy that has federalism implications for purposes of the executive order.

D. Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this proposed rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999.

List of Subjects in 12 CFR Part 722

Appraisal, Appraiser, Credit unions, Mortgages, Reporting and recordkeeping requirements, Truth in lending.

By the National Credit Union Administration Board on November 21, 2019.

Gerard Poliquin,

Secretary of the Board.

For the reasons discussed above, the NCUA Board proposes to amend 12 CFR part 722 as follows:

PART 722—APPRAISALS

■ 1. The authority citation for part 722 continues to read as follows:

Authority: 12 U.S.C. 1766, 1789, and 3331 et seq. Section 722.3(a) is also issued under 15 U.S.C. 1639h.

■ 2. Amend § 722.3 by:
■ a. Revising paragraphs (b)(2), (c)(1); and
■ b. Removing paragraph (f).

The revision reads as follows:

§ 722.3 Appraisals and written estimates of market value requirements for real estate-related financial transactions.

* * * * *

(b) * * *

(1) * * *

(2) The transaction is complex, involves a residential real estate transaction, and \$400,000 or more of the transaction value is not insured or guaranteed by a United States government agency or United States government sponsored agency.

(c) * * *

(1) An appraisal performed by a state-certified appraiser or a state-licensed appraiser is required for any real estate-related financial transaction not exempt under paragraph (a) of this section in which the transaction is not complex, involves a residential real estate transaction, and \$400,000 or more of the transaction value is not insured or guaranteed by a United States government agency or United States government sponsored agency.

* * * * *

- 3. Amend § 722.4 by:
■ a. Republishing the introductory text;
■ b. Redesignating paragraphs (c), (d), and (e) as (d), (e), and (f), respectively;
■ c. Adding a new paragraph (c); and
■ d. Revising in newly designated paragraph (e) the text “§ 722.2(f)” and adding in its place the text “§ 722.2”.

The addition reads as follows.

§ 722.4 Minimum appraisal standards.

For federally related transactions, all appraisals shall, at a minimum:

* * * * *

(c) Be subject to appropriate review for compliance with the Uniform Standards of Professional Appraisal Practice.

* * * * *

[FR Doc. 2019-25768 Filed 11-27-19; 8:45 am]

BILLING CODE 7535-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2019-0786; Airspace Docket No. 18-AWP-1]

RIN 2120-AA66

Proposed Amendment of Class E Airspace and Establishment of Class E Airspace Extension; Battle Mountain, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify the Class E surface area, Class E airspace extending upward from 700

feet above the surface and create Class E airspace as an extension to the Class E surface area at Battle Mountain Airport, Battle Mountain, NV. After establishment of a new area navigation (RNAV) procedure and review of the airspace, the FAA found it necessary to amend the existing airspace and establish new controlled airspace for the safety and management of Instrument Flight Rules (IFR) operations at this airport. This action would also remove a reference to the Battle Mountain VORTAC from the legal description for the Class E airspace extending upward from 700 feet.

DATES: Comments must be received on or before January 13, 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: (800) 647-5527, or (202) 366-9826. You must identify FAA Docket No. FAA-2019-0786; Airspace Docket No. 18-AWP-1, 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: Richard Roberts, Federal Aviation Administration, Operations Support Group, Western Service Center, 2200 S 216th Street, Des Moines, WA 98198-6547; telephone (206) 231-2245.

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 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 existing Class E airspace and establish new Class E airspace as an extension to the Class E surface area at Battle Mountain Airport, Battle Mountain, NV, in support of IFR operations at the airport.

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 (Docket No. FAA-2019-0786; Airspace Docket No. 18-AWP-1) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at <https://www.regulations.gov>.

Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2019-0786; Airspace Docket No. 18-AWP-1." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. 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 the **ADDRESSES** section for the 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 between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays, at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S 216th St., Des Moines, WA 98198-6547.

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.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying the Class E airspace at Battle Mountain Airport, Battle Mountain, NV. The Class E surface area would be adjusted to within 4.2 miles of the airport and the surface area that extends 1 mile both sides of the 218° bearing from the 4.2 mile radius to 7.4 miles southwest of the airport eliminated. A Class E extension to the surface area would be established within 1.3 miles both sides of the 228° bearing, which will provide the required width and alignment for an extension to protect the VOR approach to runway 4 as aircraft descend through 1000 feet AGL. The Class E airspace extending upward from 700 feet AGL would be modified by establishing airspace 2 miles on both sides of the 48° bearing from the airport to 11 miles northeast, to contain a new RNAV approach to runway 22. To the west, the airspace extending upward from 700 feet AGL would be expanded from the current 4.2 mile radius to 7 miles from the airport, between the 265° bearing clockwise to the 32° bearing, to protect departures until they reach 1200 feet AGL. This action would also modify the lateral boundaries of the Class E airspace extending upward from 700 feet AGL to the southwest to within 16.5 mile radius of the airport from the 204° bearing clockwise to the 266° bearing to protect the VOR Approach to runway 4 as aircraft descend through 1500 feet. It

would also eliminate the Battle Mountain VORTAC as a reference point in the legal description as it is no longer required. This airspace would support IFR operations at Battle Mountain Airport, Battle Mountain, NV.

Class E airspace designations are published in paragraph 6002, 6004 and 6005 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 Class E airspace designation listed in this document will be published subsequently 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, is non-controversial, and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Given this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would 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

Accordingly, pursuant to the authority delegated to me, 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 14 CFR 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 6002 Class E Airspace Designated as Surface Areas.

* * * * *

AWP NV E2 Battle Mountain, NV [Amended]

Battle Mountain Airport, NV
(Lat. 40°35'57" N, long. 116°52'28" W)

That airspace extending upward from the surface to and including 2500 feet MSL within a 4.2-mile radius of Battle Mountain Airport, Battle Mountain, NV. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

AWP NV E4 Battle Mountain, NV [NEW]

Battle Mountain Airport, NV
(Lat. 40°35'57" N, long. 116°52'28" W)

That airspace extending upward from the surface within 1.3 miles each side of the 228° bearing from the Battle Mountain Airport extending from the 4.2 mile radius to 7 miles southwest of Battle Mountain Airport, Battle Mountain NV.

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AWP NV E5 Battle Mountain, NV [Amended]

Battle Mountain Airport, NV
(Lat. 40°35'57" N, long. 116°52'28" W)

That airspace extending upward from 700 feet above the surface within 16.5-mile radius of the Battle Mountain Airport beginning at the point where the 205° bearing intersects the 16.5-mile radius thence clockwise to the point where the 266° bearing intersects the 16.5-mile radius thence northeast along the 266° bearing to within 7 miles of the airport, thence clockwise along the 7-mile radius to the point where the 65° bearing intersects the 7-mile radius thence to the point where the 77° bearing intersects the 4.2-mile radius thence clockwise to the point where the 158° bearing intersects the 4.2 mile radius, thence to the point of beginning; and that airspace within 2 miles each side of the 49° bearing extending from the 4.2 mile radius to 10.5 miles from the airport.

Issued in Seattle, Washington, on November 19, 2019.

Byron Chew,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2019–25542 Filed 11–27–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. FDA–2017–F–4399]

Zinpro Corp.; Filing of Food Additive Petition (Animal Use)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification; petition for rulemaking; amendment.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that the Zinpro Corp. (Zinpro) has amended their pending petition proposing that the food additive regulations be amended to provide for the safe use of chromium DL-methionine as a nutritional source of chromium in cattle feed. The amendment provides for a change in the feeding rate.

DATES: Submit either electronic or written comments on the petitioner’s environmental assessment by December 30, 2019.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before December 30, 2019. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of December 30, 2019. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your

comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2017-F-4399 for "Zinpro Corp.; Filing of Food Additive Petition (Animal Use)." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and

contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Chelsea Cerrito, Center for Veterinary Medicine, Food and Drug Administration (HFV-224), 7519 Standish Pl., Rockville, MD 20855, 240-402-6729, Chelsea.Cerrito@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 22, 2017 (82 FR 44367), FDA announced that Zinpro Corp., 10400 Viking Dr., Suite 240, Eden Prairie, MN 55344 had filed a petition (FAP 2300) proposing to amend Title 21 of the Code of Federal Regulations (CFR) in part 573 (21 CFR part 573) *Food Additives Permitted in Feed and Drinking Water of Animals* to provide for the safe use of chromium DL-methionine as a nutritional source of chromium in cattle feed. Zinpro has amended the petition by changing the feeding rate.

Zinpro has submitted a revised environmental assessment which the Agency is placing on public display at the Dockets Management Staff for public review and comment (see **DATES** and **ADDRESSES**).

Dated: November 25, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019-25903 Filed 11-27-19; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. FDA-2019-F-5401]

Alzchem Trostberg GmbH; Filing of Food Additive Petition (Animal Use)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification; petition for rulemaking.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that Alzchem Trostberg GmbH has filed a petition proposing that the food additive regulations be amended to provide for the safe use of guanidinoacetic acid as a precursor of creatine in poultry feeds.

DATES: The food additive petition was filed on September 25, 2019.

ADDRESSES: For access to the docket, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts; and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Carissa Adams, Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240-402-6283, Carissa.Adams@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 2309) has been filed by Alzchem Trostberg GmbH, CHEMIEPARK TROSTBERG, Dr.-Albert-Frank-Str. 32, 83308 Trostberg, Germany. The petition proposes to amend Title 21 of the Code of Federal Regulations (CFR) in part 573 (21 CFR part 573) *Food Additives Permitted in Feed and Drinking Water of Animals* to provide for the safe use of guanidinoacetic acid as a precursor of creatine in poultry feeds.

The petitioner has claimed that this action is categorically excluded under 21 CFR 25.32(r) because it is of a type that does not individually or cumulatively have a significant effect on the human environment. In addition, the petitioner has stated that, to their knowledge, no extraordinary circumstances exist. If FDA determines a categorical exclusion applies, neither an environmental assessment nor an environmental impact statement is

required. If FDA determines a categorical exclusion does not apply, we will request an environmental assessment and make it available for public inspection.

Dated: November 25, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019-25904 Filed 11-27-19; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[Docket ID: DOD-2019-HA-0056]

RIN 0720-AB73

TRICARE; Reimbursement of Ambulatory Surgery Centers and Outpatient Services Provided in Cancer and Children's Hospitals

AGENCY: Office of the Secretary, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: The Department of Defense, Defense Health Agency, is proposing to amend its reimbursement of ambulatory surgery centers (ASC) and outpatient services provided in Cancer and Children's Hospitals (CCHs). Proposed revisions are in accordance with the TRICARE Statute that requires TRICARE's payment methods for institutional care be determined, to the extent practicable, in accordance with the same reimbursement rules as apply to payments to providers of services of the same type under Medicare. In accordance with this requirement, TRICARE proposes to adopt Medicare's payment methodology for ASC, and adopt Medicare's payment methodology for outpatient services provided in CCHs.

DATES: Written comments received at the address indicated below by January 28, 2020 will be accepted.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) number and title, by either of the following methods:

- *Federal Rulemaking Portal:* www.regulations.gov. Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350-1700.

Instructions: All submissions received must include the agency name and

docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Elan Green, Defense Health Agency, 303-676-3907.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Purpose of the Proposed Rule

The purpose of this rule is to propose TRICARE regulation modifications necessary to implement for Ambulatory Surgery Centers (ASC) and Cancer and Children's Hospitals (CCHs) the statutory requirement that payments for TRICARE institutional services "shall be determined to the extent practicable in accordance with the same reimbursement rules as apply to payments to providers of services of the same type under [Medicare]." Although Medicare's reimbursement methods for ASC and CCHs are different, it is prudent to propose adopting both the Medicare ASC system and to adopt the Outpatient Prospective Payment System (OPPS) with hold-harmless adjustments (meaning the provider is not reimbursed less than their costs) for CCHs simultaneously to align with our statutory requirement to reimburse like Medicare at the same time. This rule sets forth the proposed regulatory modifications necessary to implement TRICARE reimbursement methodologies similar to those applicable to Medicare beneficiaries for outpatient services rendered in ASCs and cancer and children's hospitals.

1. TRICARE proposes adopting the Medicare reimbursement methodology for ASCs. Currently, TRICARE reimburses surgical services performed in TRICARE authorized ambulatory surgery settings (*i.e.*, freestanding ASCs and other TRICARE providers exempt from the TRICARE OPPS reimbursement methodology including cancer and children's hospitals) institutional facility costs on the basis of prospectively determined amounts, in accordance with Title 32 Code of Federal Regulations (CFR) 199.14(d). The current system was modeled after Medicare's previous ASC reimbursement system. TRICARE's current reimbursement system for services provided in these ambulatory surgery settings is based on Medicare's retired system, and is difficult to

update. Adoption of Medicare's ASC reimbursement system will bring TRICARE reimbursement for ambulatory surgery care into alignment with the statutory requirement that payment methods for institutional care be, to the extent practicable, in accordance with the same reimbursement rules used by Medicare.

2. TRICARE proposes to adopt the Medicare payment methodology for outpatient services provided in CCHs. In a final rule, published December 10, 2008 (73 FR 74945-74966), TRICARE adopted Medicare's payment methodology for outpatient hospital services—the Outpatient Prospective Payment System (OPPS). Under Medicare, CCHs were held harmless and were paid the full amount of the decrease they experienced (as prior to OPPS the hospital had been paid 100% of their costs) after the implementation of OPPS, under section 1833(t)(7) of the Social Security Act. These payments are transitional outpatient payments (TOPs). Because of the complexity and because of the administrative burden/expense of calculating and maintaining the TOPs, TRICARE opted to totally exempt CCHs from OPPS initially. The agency is now revisiting the exemption of CCHs from OPPS. In this proposed rule, we propose that TRICARE adopt the Medicare methodology for reimbursement of outpatient facility services (including ambulatory surgery) rendered in a cancer or children's hospital, with modifications to address the administrative burden and complexity. The Defense Health Agency (DHA) now has the capability, and it is feasible, to adopt these reimbursement provisions with a modification that the hold-harmless provisions will be calculated annually, rather than in monthly interim payments.

B. Summary of the Major Provisions of the Proposed Rule

1. *Adopting Medicare's Ambulatory Surgical Center Reimbursement System for TRICARE Authorized Ambulatory Surgery Centers.* Per Title 10 United States Code (U.S.C.), 1079(i)(2), TRICARE's payment methods for institutional care shall be determined, to the extent practicable, in accordance with the same reimbursement rules used by Medicare. Under this proposed rule, TRICARE will reimburse ASCs for ambulatory surgical services using a method similar to Medicare's ASC reimbursement methodology. Under the proposed TRICARE ASC reimbursement method, payment for a TRICARE patient will be made at the lower of the billed charge or the Medicare-determined ASC payment rate with applicable TRICARE

cost-sharing provisions. The TRICARE ASC reimbursement method would include payment for all facility services associated with the surgical procedure that are included in the payment methodology by Medicare, but would exclude certain services also excluded by Medicare under the ASC reimbursement methodology (e.g., certain ancillary services and implantable devices with pass-through status).

2. *Adopting Medicare's Outpatient Prospective Payment System (OPPS) for Cancer and Children's Hospitals.* In a final rule, dated December 10, 2008 (73 FR 74945–74966), TRICARE adopted Medicare's payment methodology for outpatient hospital services—the outpatient prospective payment system (OPPS). Under Medicare, CCHs were held harmless and were paid the full amount of the decrease they experienced after the implementation of OPPS, under section 1833(t)(7) of the Social Security Act. These payments are transitional outpatient payments (TOPs). Because of the complexity and because of the administrative burden/expense of calculating and maintaining the TOPs, TRICARE opted to totally exempt CCHs from the TRICARE OPPS reimbursement methodology initially.

Ten years after the implementation of OPPS, the agency is now revisiting the exemption of cancer and children's hospitals from OPPS. This rule proposes TRICARE adopt the Medicare methodology for reimbursement of outpatient facility services rendered in a cancer or children's hospital, with modifications to address the administrative burden and complexity that initially led the agency to exclude these facilities from OPPS. The agency now has the capability, and it is feasible, to adopt Medicare's reimbursement provisions with two modifications: (1) That the hold-harmless provisions will be calculated annually, rather than in monthly interim payments; and (2) that the agency will use the hospital's cost-to-charge ratio (CCR) rather than the payment-to-cost ratio. With adoption of OPPS for cancer and children's hospitals, these institutions will no longer be considered TRICARE ambulatory surgery sites for application of the TRICARE ASC reimbursement methodology.

3. *Transition Period.* When implementing the ASC fee schedule, Medicare included a four-year transition which blended the payment rates of the old methodology with the new for those procedures that were paid under both methods. We evaluated the feasibility of including a similar transition, where,

the TRICARE-allowed amount would be 75 percent of the old rate and 25 percent of the new rate in year one; 50 percent of the old rate and 50 percent of the new rate in year two; and 25 percent of the old rate and 75 percent of the new rate in year three. In the fourth year the rate would be 100 percent of the new rate. However, many of the services reimbursed under TRICARE's current ASC reimbursement methodology have lower rates under Medicare, so providers would have to wait for higher reimbursements under the new system.

Therefore, we propose no transition period for the implementation of the ASC reimbursement system. Historically transitions are done to protect providers from payments below their costs. However, in this case, while revenues would decrease for some providers, payment would not be made below the provider's costs. Some providers may see dramatic increases in reimbursement, and a transition period would not be beneficial for these providers. Additionally, because alternative locations are available for these services (e.g., Hospital Outpatient Departments), concerns regarding access to care are unfounded.

Similarly, we propose no transition for cancer and children's hospitals, with the rationale that providers will be held harmless under this proposed reimbursement system. CCHs will receive, at a minimum, one hundred percent of their costs, or the OPPS payment, whichever is higher. Historically, transitions are done to protect providers from payments below their costs. However, in this case, the providers will be held-harmless, so no transition is necessary.

C. *Costs and Benefits*

Although it is unlikely that this rule will be effective before calendar year 2020, the overall economic impact of the rule is estimated based on an analysis of expected outcomes had the rule been implemented during calendar year 2018. Such analysis may be used to provide a reasonable estimate of future economic impact.

The overall economic impact of this rule is a net increase of approximately \$14 million in allowed amounts to providers for those surgical services currently listed in the TRICARE ASC list if the rule had been implemented during calendar year 2018.

The economic impact of the proposal to adopt Medicare's payment methodology for ASCs is anticipated to result in total cost-savings to the DoD of approximately \$40 million for Calendar Year (CY) 2018. This increase in savings is made up of decreased payments of

approximately \$54 million in CY 2018 for bundled and device codes that are not being reimbursed separately under Medicare's ASC reimbursement system. However, the cost-savings are partially offset by increased payments to ASCs of approximately \$14 million in CY 2018 for surgical services that are currently reimbursed using TRICARE's existing ASC reimbursement system.

The economic impact of the proposal to adopt OPPS for CCHs, including the hold harmless provisions will be reduced payments to these providers of approximately \$12 million per year if implemented in 2018.

We estimate that the effects of the provisions that would be implemented by this proposed rule would have an impact of increased cost-savings to the DoD of approximately \$52 million, including \$1.5 million in administrative costs to implement these changes.

II. Introduction and Background

1. *TRICARE ASC PPS Reimbursement*

A. Reimbursement

Medicare replaced their previous ASC system on January 1, 2008. Medicare's reimbursement system for ASCs uses OPPS relative payment rates as a guide. OPPS rates are reduced by a factor to account for the fact that ASCs have lower overhead costs than hospitals. In 2012, Medicare's ASC rates averaged 61 percent of the OPPS rates paid to acute care hospitals for surgical procedures. Under Medicare, ASCs are paid the lesser of the billed charge or the standard ASC reimbursement rate, a method which TRICARE proposes to adopt.

Under Medicare, the standard payment rate for ASC covered surgical procedures is calculated as the product of the ASC conversion factor and the ASC relative payment weight for each separately payable procedure or service. Payments are then geographically adjusted using wage-index values. Payments may also be adjusted for multiple surgical procedures or when surgical procedures are started and then discontinued.

Like Medicare, TRICARE proposes to make a single payment to ASCs for covered procedures, which includes the facility services furnished in connection with the covered procedure (e.g., nursing services, certain drugs, surgical dressings, and administrative services). We also propose to separately reimburse for ancillary services that are integral to a covered service (e.g., drugs and biologicals that are separately paid under OPPS; radiology services that are separately paid under OPPS; brachytherapy services; implantable

devices with OPPS pass-through status; and corneal tissue acquisition), similar to Medicare. Like Medicare, we propose the ASC system will not reimburse for the services of individual professional providers, Durable Medical Equipment (DME), non-implantable prosthetics, ambulance services, or independent laboratory services. These services will be reimbursed using other reimbursement systems, including the CHAMPUS Maximum Allowable Charge (CMAC), Durable Medical Equipment Prosthetics Orthotics and Supplies (DMEPOS) Fee Schedule and the Ambulance Fee Schedule. We propose that surgical procedures that are also offered in physicians' offices, and that the Centers for Medicare and Medicaid Services (CMS) classifies as "office-based," will be reimbursed the lower of the ASC rate or the non-facility practice expense relative value unit (RVU) amount of the CMAC. If there is no payment rate under the ASC reimbursement system for services that are medical in nature (such as office visits and diagnostic tests), we propose the ASC will be reimbursed as though the service was performed in a physician's office utilizing TRICARE's CMAC methodology, with no additional payment for facility charges.

B. Definition and Requirements for Ambulatory Surgery Centers

This regulatory action proposes a definition for ASCs, which will mirror Medicare's, with exceptions made for TRICARE's pediatric patients. Medicare defines an ASC as, "a distinct entity that operates exclusively for the purpose of furnishing outpatient surgical services to patients"; in this action we propose to adopt a definition at 32 CFR 199.2 that defines ASCs as those that meet the definition of an ASC under 42 CFR 416.2, including the requirement that they must participate in by Medicare as ASCs per 42 CFR 416.25, with exceptions for ASCs that do not have an agreement with Medicare due to the specialty populations they serve. Medicare also requires the provider to have an agreement with CMS; we propose that in lieu of separate certification by TRICARE, the ASC simply provide evidence that there is a valid agreement with Medicare. While the terms of the agreement with Medicare will not apply to TRICARE, only those providers with an agreement with Medicare (or those providers that meet certain exceptions as noted below), are eligible for reimbursement for ambulatory surgery services provided in ASCs. We propose to accept Medicare's determination of a facility as an ASC. If the facility meets the definition of an

ASC at 42 CFR 416.2 and has an agreement with Medicare as an ASC, we propose that they will be considered an authorized ASC under TRICARE and subject to all requirements for authorized institutional provider status under 32 CFR 199.6. ASCs must also enter into a participation agreement with TRICARE, to ensure that the ASC accepts the TRICARE reimbursement rate, and meets all other conditions of coverage. Additionally, due to the differences between the TRICARE and Medicare populations, there may be ASCs that specifically serve pediatric populations. These ASCs may not routinely enter into agreements with Medicare. We propose that these facilities may also be reimbursed under this proposed system, but they must be accredited by the Joint Commission, the Accreditation Association for Ambulatory Health Care, Inc. (AAAHC), or have other accreditation as authorized by the Director, DHA and published in the implementing instructions. Additionally, these facilities must also enter into participation agreements with TRICARE in order to receive reimbursement under the program. Facilities that do not participate under Medicare, or are otherwise accredited, and do not have participation agreements with TRICARE as noted above, shall not be TRICARE authorized providers and will not receive reimbursement for ambulatory surgery services. We do not believe that this requirement will have any impact on access to care, as ambulatory surgery services are also available in hospital outpatient departments. We believe that the flexibility offered to pediatric specialty ASCs is sufficient to serve the unique needs of our patient population, while still ensuring the program complies with the requirements of 10 U.S.C. 1079(i). These TRICARE-certified pediatric ASCs will be subject to the same reimbursement system as proposed in this regulatory action.

Title 32 CFR 199.6(b)(4)(x)(B)(1) currently includes specific requirements for ambulatory surgery centers. With this regulatory action, we propose to modify those requirements to state that ASCs that participate in Medicare meet all program requirements to be an authorized TRICARE provider; and, that those (due to the specialized nature of the patients they treat, *i.e.*, pediatric patients) ASCs that do not participate in Medicare but are otherwise accredited by an accrediting body as approved by the Director, DHA, must continue to meet all the requirements stated. All ASCs must also enter into participation agreements with TRICARE.

C. Ambulatory Surgical Center Services List

Medicare identifies and maintains a list of surgical procedures that may be performed in an ASC. This list is updated at least annually by Medicare. The ASC list of covered procedures indicates those procedures which are covered and paid for if performed in the ASC setting. The ASC list is comprised of those surgical procedures that CMS has determined do not pose a significant safety risk and are not expected to require an overnight stay following the surgical procedure. Procedures on the Medicare Hospital Outpatient Prospective Payment System (HOPPS) inpatient list (42 CFR 419.22(n)) are not eligible for designation and coverage as ASC surgical procedures. Procedures that are reported utilizing unlisted category I Current Procedural Technology® codes are also excluded from the ASC list. TRICARE proposes to adopt the Medicare ASC List, in its entirety, including any updates made by Medicare to the list in the future. We also propose no deviations or exceptions from the ASC List, as maintained and updated by CMS. No separate TRICARE ASC list would be maintained; the TRICARE program would rely upon CMS's determinations regarding those procedures determined to be appropriate in an ASC setting. We believe the maintenance of a separate ASC List for TRICARE is unnecessary as adoption of Medicare's list is practicable, and maintenance of a separate list would be extremely complex for the agency and providers to review, maintain, and update. We invite comments on this approach, especially from facilities that specialize in care for young adult, pediatric, and other specialized populations not routinely covered by Medicare. We reviewed procedures that would commonly be performed on pediatric patients and found that these were generally included on the Medicare ASC list.

These procedures included: Adenoidectomy; myringotomy; nasal endoscopy; tonsillectomy; circumcision; inguinal and umbilical hernia repair; eye muscle repair; syndactyly repair; and hypospadias repair. Fowler-Stephens Orchiopexy is not listed on Medicare's ASC list, but is priced in hospital outpatient settings (OPPS).

If an ASC provides a surgical service that is not on this list, TRICARE proposes that the facility charges will be denied, similar to Medicare. However, related professional services may be reimbursed utilizing TRICARE's allowable charge methodology. TRICARE proposes to adopt the

Medicare requirement that facility charges may be reimbursed for only those services on the "ASC List." We believe there will be no access to care concerns with this approach, as surgical care continues to be available in hospital outpatient departments, and in inpatient settings, as appropriate.

D. Services Included in the ASC Payment

This regulatory action proposes that, like Medicare, the following items currently fall within the scope of ASC facility services. Future modifications made by Medicare to the services included in the ASC payment will be adopted by TRICARE in the implementing instructions. ASCs must incorporate charges for packaged services into the charges reported for the separately payable services with which they are provided to ensure appropriate payment.

Covered ASC facility services include:

- (1) Nursing, technician, and related services;
 - (2) Use of the facility where the surgical procedures are performed;
 - (3) Any laboratory testing performed under a Clinical Laboratory Improvement Amendments of 1988 (CLIA) certificate of waiver;
 - (4) Drugs and biologicals for which separate payment is not allowed under the hospital outpatient prospective payment system (OPPS);
 - (5) Medical and surgical supplies not on pass-through status under subpart G of 42 CFR part 419;
 - (6) Equipment;
 - (7) Surgical dressings;
 - (8) Implanted prosthetic devices, including intraocular lenses (IOLs), and related accessories and supplies not on pass-through status under subpart G of 42 CFR part 419;
 - (9) Implanted DME and related accessories and supplies not on pass-through status under subpart G of 42 CFR part 419;
 - (10) Splints and casts and related devices;
 - (11) Radiology services for which separate payment is not allowed under the OPPS, and other diagnostic tests or interpretive services that are integral to a surgical procedure;
 - (12) Administrative, recordkeeping and housekeeping items and services;
 - (13) Materials, including supplies and equipment for the administration and monitoring of anesthesia; and
 - (14) Supervision of the services of an anesthetist by the operating surgeon.
- CMS may make further changes and refinements to the items included within the ASC reimbursement system. TRICARE will adopt all future

modifications and refinements to this system made by CMS, unless found to be impracticable, as approved by the Director, DHA.

E. Covered Ancillary Items and Services

We propose that separate payment will be allowed for covered ancillary items and services that are integral to a covered surgical procedure, similar to Medicare. CMS defines these services at 42 CFR 416.61.

CMS may make further changes and refinements to the ancillary services that are paid separately within this reimbursement system. TRICARE will adopt all future modifications and refinements to this system made by CMS, unless found to be impracticable, as approved by the Director, DHA.

F. Surgical Dressings, Supplies, Splints, Casts, Appliances, and Equipment

We propose that TRICARE's payment for surgical dressings, supplies, splints, casts, appliances, and equipment (e.g., gowns, masks) will mirror Medicare's payment. Currently, these items are included in the payment for the surgical procedure. TRICARE will adopt all future modifications and refinements to the payment for these supplies and equipment provided in ASCs, as made by CMS, unless found to be impracticable, as approved by the Director, DHA.

G. Drugs and Biologicals

ASC facility payment for a surgical procedure includes payment for drugs and biologicals that are usually not self-administered and that are considered to be packaged into the payment for the surgical procedure under OPPS. TRICARE proposes, similar to Medicare, to make separate payment to ASCs for drugs and biologicals that are furnished integral to an ASC covered surgical procedure and that are separately payable under OPPS, as defined by Medicare. TRICARE will adopt all future modifications and refinements to the payment for drugs and biologicals provided in ASCs, as made by CMS, unless found to be impracticable, as approved by the Director, DHA.

H. Diagnostic and Therapeutic Items

Simple diagnostic tests that are generally included in facility charges may be considered facility services (e.g., urinalysis, hematocrit levels). Diagnostic tests performed by the ASC other than those generally included in the facility's charge are not covered by this reimbursement system. ASCs with laboratories certified as independent laboratories under Medicare may bill for tests, or alternatively, the ASC may

make arrangements with an independent laboratory or other laboratory to perform the diagnostic tests it requires prior to surgery. Payment for these diagnostic and therapeutic items will be made under the existing provisions of 32 CFR 199.14. TRICARE will adopt all future modifications and refinements to the payment for diagnostic and therapeutic items provided in ASCs, as made by CMS, unless found to be impracticable, as approved by the Director, DHA.

I. Blood and Blood Products

We propose these items are considered a facility service and no separate reimbursement will be made, similar to Medicare. TRICARE will adopt all future modifications and refinements to the payment for these blood and blood products provided in ASCs, as made by CMS, unless found to be impracticable, as approved by the Director, DHA.

J. Anesthesia

We propose anesthetic agents that are not paid separately under OPPS, as well as materials necessary for administration will be included in the facility payment. TRICARE will adopt all future modifications and refinements to the payment for anesthesia provided in ASCs, as made by CMS, unless found to be impracticable, as approved by the Director, DHA.

K. Implantable Durable Medical Equipment

We propose payment for implantable DME will be included in the payment of the covered surgical procedure, with the exception of OPPS pass-through devices which are paid separately. TRICARE will adopt all future modifications and refinements to the payment for implanted DME provided in ASCs, as made by CMS, unless found to be impracticable, as approved by the Director, DHA.

L. Intraocular Lenses (IOL) and New Technology IOLs (NTIOL)

TRICARE proposes to adopt Medicare's provisions for payments of IOLs and NTIOLs provided during or subsequent to cataract surgery in ASCs. We propose that payment for the IOL is included in the ASC payment for the associated surgical procedure, except for NTIOLs designated by Medicare, and covered by TRICARE. NTIOLs may be subject to a payment adjustment, as determined by Medicare, and adopted by TRICARE. TRICARE will adopt all future modifications and refinements to the payment for IOLs and NTIOLs provided in ASCs, as made by CMS,

unless found to be impracticable, as approved by the Director, DHA.

M. Payment for ASC Facility Services

We propose to make a single payment to ASCs for covered procedures, which will include the facility services furnished in connection with the covered procedure (e.g., nursing services, certain drugs, surgical dressings, and administrative services), when the services are rendered by a provider described in the proposed definition of an ASC in 32 CFR 199.2. This payment will be the lower of the ASC payment rate or the billed charge. TRICARE proposes to adopt the Medicare ASC payment rates. We propose no TRICARE-specific adjustments or modifications to the Medicare rates.

We propose to pay separately for ancillary services that are integral to a covered service (e.g., drugs and biologicals that are separately paid under OPPS; radiology services that are separately paid under OPPS; brachytherapy services; implantable devices with OPPS pass-through status; and corneal tissue acquisition). Like OPPS, we propose that payments under this system do not include reimbursement for the services of individual professional providers, DME, non-implantable prosthetics, ambulance services, or independent laboratory services. These services will be reimbursed using other reimbursement systems like the Medicare Physician Fee Schedule (similar to CHAMPUS Maximum Allowable Charges, or CMAC), DMEPOS Fee Schedule, and the Ambulance Fee Schedule.

We propose that the small number of covered ancillary services (including OPPS pass-through devices) that are contractor-priced under Medicare's ASC reimbursement system will be priced under TRICARE utilizing the allowable charge methodology for procedures paid outside of the OPPS under 32 CFR 199.14(j)(1).

Some items are paid the same amount in ASCs as they are paid under OPPS. These items include drugs and biologicals paid separately under OPPS when they are integral to covered surgical procedures and brachytherapy sources where prospective rates are available. Corneal tissue acquisition payment is based on acquisition cost or invoice.

The actual payment to ASCs requires a comparison between actual charges and the ASC payment rate for each separately payable procedure and service. Reimbursement is based on the lower of the ASC payment rate or the actual charge. Ancillary services should

be billed on the same claim as the related ASC procedure. Should Medicare modify this process in the future, TRICARE will adopt all modifications, unless deemed to be impracticable, as approved by the Director, DHA.

N. Wage Adjustments and Labor Share

We propose that labor related adjustments to the ASC payment rates will be based on Medicare's methodology, currently the Core-Based Statistical Area methodology. The adjustment for geographic wage variation will be made based on a 50 percent labor share, subject to change by CMS. There is no adjustment for geographic wage differences for: Corneal tissue acquisition; drugs and devices with pass-through status under OPPS; brachytherapy sources; payment adjustment for NTIOLs; and separately payable drugs and biologicals. We propose to adopt this methodology, as well as any future refinements or adjustments made by Medicare to the labor-related share, the items and services subject to wage adjustments, and the methodology by which wage adjustments are made, unless determined to be impracticable by the Director, DHA.

O. Annual Adjustments

Medicare makes an annual adjustment of the payment rates for inflation based on CPI-U. We propose to adopt the annual adjustments, as well as any interim adjustments to the ASC payment rates, as made by Medicare. TRICARE will publish the annual rates and related files to the TRICARE website, and may refer contractors to the appropriate Medicare files, when available.

P. Payment for Terminated Procedures

TRICARE proposes adopting the same methodology for payment of terminated procedures as Medicare, as well as adopting all future refinements and adjustments. Currently, this process is as follows:

1. Payment will be denied when an ASC submits a claim for a procedure that is terminated before the patient is taken into the treatment or operating room.
2. Payment will be made at 50 percent of the rate if a surgical procedure is terminated due to the onset of medical complications after the patient has been prepared for surgery and taken to the operating room but before anesthesia has been induced or the procedure initiated.
3. Full payment will be made for a surgical procedure if a medical

complication arises which causes the procedure to be terminated after anesthesia has been induced or the procedure initiated.

Q. Payment for Multiple Procedures

TRICARE proposes adopting the same methodology for payment of multiple procedures as Medicare, as well as adopting all future refinements and adjustments. When multiple procedures are performed in the same operative session that are subject to the multiple procedure discount, 100% of the highest paying surgical procedure on the claim is paid, plus 50% of the applicable payment rates for the other ASC covered surgical services. The CMS OPPS/ASC annual final rules specify the surgical procedures subject to multiple discounting, which TRICARE proposes to adopt. In determining the ranking of the procedures for the discounting, the lower of the billed charge or the ASC payment amount will be used.

R. Offset for Payment for Pass-Through Devices

The ASC payment may be reduced for certain procedures when provided in conjunction with a specific pass-through device. TRICARE proposes to adopt this methodology, and accept the code pairs as assigned and updated by CMS, as well as any other future refinements or adjustments to this methodology.

S. Payment for Devices Furnished With No Cost or Full or Partial Credit

Reduced payments are made for certain procedures when a specified device is furnished without cost or for which either a partial or full credit is received (e.g., device recall). TRICARE proposes to adopt this methodology as well as any other future refinements or adjustments to this methodology.

T. Payment for Non-ASC Services

ASCs may furnish and be paid under alternate established reimbursement methodologies for services not considered ASC facility services. For example, ASCs may be reimbursed the CMAC rate for a physician office visit; facility charges are not allowed. Surgical procedures that are offered in physicians' offices, and that CMS classifies as "office-based" are reimbursed the lower of the ASC rate or the non-facility practice expense RVU amount of the CMAC. If there is no ASC payment for services that are medical in nature (such as office visits and diagnostic tests), the ASC is reimbursed as though the service was performed in a physician's office, with no additional payment for facility charges. Surgical

services that do not have an established reimbursement rate under this system may not be reimbursed in an ASC setting.

U. Transitions

TRICARE proposes no transition, since many providers will see increases in payments from adoption of this proposed reimbursement methodology.

V. ASC Quality Report Program and Value Based Purchasing

Medicare utilizes the ASC Quality Reporting program (ASCQR), under which ASCs must submit data on quality measures to receive the full payment update each year. ASCs that do not submit the required data have their payment update reduced by 2%. Performance on these measures does not impact ASC payments. For 2016, the measures included:

- ASC-1 Patient Burn
- ASC-2 Patient Fall
- ASC-3 Wrong Site, Wrong Side, Wrong Patient, Wrong Procedure, Wrong Implant
- ASC-4 Hospital Transfer/ Admission
- ASC-5 Prophylactic Intravenous (IV) Antibiotic Timing
- ASC-6 Safe Surgery Checklist Use
- ASC-7 ASC Facility Volume Data on Selected ASC Surgical Procedures
- ASC-8 Influenza Vaccination Coverage among Healthcare Personnel

Medicare contracts with outside entities to collect this quality data. Because the TRICARE program represents a small fraction of the ASC services rendered as a whole, we propose to provide the full ASC update to all ASCs, regardless of whether they report quality data. Collecting information regarding which ASCs report quality data and which do not, and building that information into the reimbursement system in a timely manner will be impracticable for the program. However, TRICARE may utilize this data, which is publicly reported at data.medicare.gov, for future initiatives related to reimbursement for ASCs. The ASCQR may lead to a value based purchasing (VBP) program for ASCs in the future; however, there were no specific proposals in Medicare's most recent ASC final rule (2016). TRICARE will adopt reimbursement modifications to the ASC reimbursement system related to VBP, if determined to be practicable by the Director, DHA. Such changes will be incorporated into the implementing instructions, as appropriate.

2. Adopt Medicare's Payment Methodology for Outpatient Services Provided in Cancer and Children's Hospitals

A. Reimbursement

We propose to adopt Medicare's reimbursement methodology for outpatient services rendered in cancer and children's hospitals, with modifications made due to the administrative complexity of the Medicare system. We propose a combined OPSS and cost-reimbursement system. We propose to pay these hospitals under TRICARE's existing OPSS, and then reimburse the hospitals the higher of the OPSS payment or one hundred percent of the hospital-specific costs for those same services, based on the hospital-specific outpatient cost to charge ratio (CCR), through an annual adjustment. We propose to modify 32 CFR 199.14(a)(6) to include cancer and children's hospitals as providers subject to OPSS, and will further describe how these providers will be held harmless under the proposed methodology.

B. Hospitals Subject to This Proposed Reimbursement System

We propose that those cancer and children's hospitals that were specifically excluded in TRICARE's OPSS final rule at 73 FR 74945, and are those cancer and children's hospitals currently held harmless from OPSS by Medicare, will be subject to the provisions of this proposed rule.

C. Transitional Outpatient Payments

While Medicare provides reimbursement through TOPs for the difference between OPSS and hospital-specific costs on a monthly basis, we propose to make these payments on an annual basis. This approach reduces the administrative complexity of the system and makes the system practicable to adopt for TRICARE's comparatively smaller beneficiary population. A precedent can be found in TRICARE's implementation of the reimbursement system for SCHs; the TRICARE contractors perform a year-end comparison of the primary methodology with the Diagnosis Related Group (DRG)-based payment methodology, and provide reimbursement where the DRG-based payment amount would have been higher than the primary methodology.

Additionally, Medicare holds CCHs harmless by calculating their pre-Balanced Budget Act (BBA) amount. The pre-BBA amount is an estimate of what the provider would have been paid during the CY for the same services

under the Medicare system that was in effect prior to OPSS. This amount is calculated by multiplying the provider's payment-to-cost ratio (PCR), based on the provider's base year cost report (generally CY 1996), times the reasonable costs the provider incurred during a calendar year to furnish the services that were paid under the OPSS. TRICARE, however, proposes to simply hold the hospital harmless based on their costs; with costs defined as the product of multiplying the hospital's total charges for covered OPSS services for a twelve-month period by the hospital-specific outpatient CCR. This modification still holds the hospital harmless and ensures payment at costs, and is also practicable to adopt for TRICARE's comparatively smaller beneficiary population, and addresses issues of administrative complexity which led the agency to exempt CCHs in the original implementation of OPSS. Additionally, for cancer hospitals, Medicare has adopted an additional adjustment, mandated by the Patient Protection and Affordable Care Act (PPACA), which applied an additional payment adjustment to account for higher costs incurred by cancer hospitals. TRICARE is not subject to the PPACA, and proposes to not adopt this additional adjustment to adjust for the average payment-to-cost ratio for cancer hospitals, due to the administrative complexity of the calculation.

For cancer and children's hospitals, the annual process is proposed to be as follows:

Step One: Identify the costs of the hospital by multiplying the total billed charges for OPSS services on claims paid during the 12-month period by the most-recent hospital-specific outpatient CCR.

Step Two: Add together total TRICARE payments, cost-shares, and deductibles applied for all Ambulatory Payment Classifications (APCs), as well as outlier payments and transitional pass-through payments for drugs, biologicals and/or devices for those same claims paid during the year as those in Step One. If the result of Step 2 is greater than Step 1, no payment is warranted because the hospital was reimbursed more from OPSS than their costs. If the result of Step 2 (OPSS payments) is less than Step 1 (hospital's costs), the hospital will be issued a payment equal to 100% of the difference between the hospital's costs and actual payments.

Adjustments may be made in subsequent years for claims not processed to completion. The implementing instructions will contain

the full instructions for calculation and payment of hold-harmless payments.

D. Transitions

TRICARE proposes no transition, since providers will be held harmless. Generally transitions are performed when providers may be exposed to payments that are below their costs; however, through the annual adjustments, providers are assured that they will receive reimbursements for their costs.

E. General Temporary Military Contingency Payment Adjustments (GTMCPA)

Under this system, at the discretion of the Director, DHA, CCHs may be eligible for GTMCPAs that will ensure network adequacy during military contingency operations, in accordance with the implementing instructions issued by the Director, DHA. These GTMCPAs will be calculated and issued in the same manner as those that are made currently under TRICARE's OPSS.

III. Regulatory Analyses for ASCs, Cancer, and Children's Hospitals

Executive Order 12866, Executive Order 13563, and Executive Order 13771

A. Overall Impact

DoD has examined the impacts of this proposed rule as required by Executive Orders (E.O.s) 12866 (September 1993, Regulatory Planning and Review), 13563 (January 18, 2011, Improving Regulation and Regulatory Review), and 13771 (January 30, 2017, Reducing Regulation and Controlling Regulatory Costs); the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354); the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4); and the Congressional Review Act (5 U.S.C. 804(2)).

1. Executive Order 12866, Executive Order 13563, and Executive Order 13771

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule

has been designated as a “not significant” regulatory action, and not economically significant, under section 3(f) of Executive Order 12866.

Accordingly, the rule has not been reviewed by the Office of Management and Budget (OMB) under the requirements of these Executive Orders.

Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) directs agencies to reduce regulation and control regulatory costs and provides that “for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.” This proposed rule is not expected to be subject to the requirements of this Executive Order because it is not significant under Executive Order 12866.

2. Congressional Review Act, 5 U.S.C. 801

Under the Congressional Review Act, a major rule may not take effect until at least 60 days after submission to Congress of a report regarding the rule. A major rule is one that would have an annual effect on the economy of \$100 million or more or have certain other impacts. This Notice of Proposed Rule Making is not a major rule under the Congressional Review Act.

3. Regulatory Flexibility Act (RFA)

The RFA requires agencies to analyze options for regulatory relief of small businesses if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals are considered to be small entities, either by being nonprofit organizations or by meeting the Small Business Administration (SBA) identification of a small business (having revenues of \$34.5 million or less in any one year). For purposes of the RFA, we have determined that the majority of ASCs and CCHs would be considered small entities according to the SBA size standards. Individuals and States are not included in the definition of a small entity. Therefore, this proposed rule would have a significant impact on a substantial number of small entities. The Regulatory Flexibility Analysis is included in the preamble of this rule.

4. Unfunded Mandates

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 one year of \$100 million in 1995 dollars, updated annually for inflation. Currently, that threshold level is approximately \$140 million. This proposed rule will not mandate any requirements for State, local, or tribal governments or the private sector.

5. Paperwork Reduction Act

This rule will not impose significant additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3502–3511). Existing information collection requirements of the TRICARE and Medicare programs will be utilized. We do not anticipate any increased costs to hospitals because of paperwork, billing, or software requirements since we are adopting Medicare's methodologies with which the ASCs and hospitals are already familiar.

6. Executive Order 13132, “Federalism”

This rule has been examined for its impact under E.O. 13132, and it does not contain policies that have federalism implications that would have substantial direct effects on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of Government. Therefore, consultation with State and local officials is not required.

B. Entities Included in and Excluded From the Proposed Reimbursement Methodologies

The TRICARE ASC reimbursement system encompasses all ASCs that meet Medicare's definition of an ASC with a Medicare agreement, and those ASCs that due to the nature of the population they serve (*i.e.*, pediatric patients) do not have a Medicare agreement but are otherwise accredited by an accrediting body as approved by the Director, DHA. The TRICARE OPSS reimbursement system encompasses all Medicare-classified cancer and children's hospitals that are also authorized for TRICARE except for hospitals in States that are paid by Medicare and TRICARE under a waiver that exempts them from Medicare's or TRICARE's OPSS, respectively. Currently, only Maryland hospitals operate under such a waiver.

C. Analysis of the Impact of Policy Changes on Payment for ASC and CCHS, and Alternatives Considered

The alternatives that were considered, the changes that we are proposing, and the reasons that we have chosen these options are discussed below:

1. Alternatives Considered for the Reimbursement of ASCs

Under the method discussed in this proposed rule, TRICARE's ASC payments would increase to certain providers by approximately \$14 million. This is due to an increase in payments for surgical services that are paid under TRICARE's current ASC reimbursement methodology of approximately \$23 million, with a decrease in payments for surgical services that are currently reimbursed outside TRICARE's current ASC reimbursement system of approximately \$9 million. The overall impact represents an approximate 25-percent increase to ASCs for surgical services. For many procedures, the reimbursement amounts will increase by more than 25 percent. However, these increases will be offset by the fact that some procedures and devices that are currently paid separately will be bundled under this proposed reimbursement system.

This rule proposes paying ASCs on the basis of the Medicare ASC fee schedule, with no exceptions to the list of procedures considered appropriate by Medicare to be performed in an ASC. This approach was adopted because TRICARE is statutorily obligated to pay like Medicare where practicable. Medicare covers approximately 3,400 procedures under the ASC payment system. The ASC list is comprised of those surgical procedures that CMS has determined do not pose a significant safety risk and are not expected to require an overnight stay following the surgical procedure. Alternatively, we considered permitting exceptions to the Medicare ASC list, however, such a process would require the creation and maintenance of an entirely separate list by TRICARE. This approach was not adopted because, first, this approach would be impracticable and complex; and second, covered services continue to be available in either hospital outpatient settings, or inpatient settings. We anticipate no impact to access to care by adopting Medicare's approach.

We have also determined that no transition period is necessary. First, as we have noted earlier, historically transitions are done to protect providers from payments below their costs. However, in this case, while revenues would decrease for some providers, some providers may see increases in reimbursement, and a transition period would not be beneficial for these providers. Second, because alternative locations are available for these services (Hospital Outpatient Departments), concerns regarding access to care are unfounded. Third, TRICARE payments

to ASCs will be equal to Medicare's. The Medicare Payment Advisory Committee (MedPAC) is an independent congressional agency which advises the U.S. Congress on issues affecting the Medicare program. MedPAC's "March 2016 Report To Congress: Medicare Payment Policy", indicates that Medicare payments to ASCs are adequate. Fourth, the number of outpatient surgeries performed in ASCs under TRICARE is very small in comparison to Medicare and the industry. If TRICARE had the Medicare reimbursement system in place during CY 2015, TRICARE would have spent approximately \$250 million on ASC services. In contrast, ASCs received over \$3.8 billion in Medicare payments and beneficiaries' cost sharing in 2014 (2015 data unavailable in the 2016 MedPAC report). In aggregate, the TRICARE ASC claims are a very small percentage of the industry's claims, so the change to reimbursement in the aggregate, is small. Finally, the 2016 MedPAC report determined that there was sufficient access to ASCs by Medicare beneficiaries, as evidenced by the continued growth and expansion of ASCs. Given that TRICARE ASC rates will be equal to Medicare ASC rates, we do not anticipate access problems for TRICARE beneficiaries.

2. Alternatives Considered for the Reimbursement of Cancer and Children's Hospitals

Under the method discussed in this proposed rule, TRICARE's payments to CCHs would decrease by approximately \$12 million. The estimated costs savings are relatively low, because the current allowed-to-billed ratio is so similar to the proposed system that major savings are unlikely. Our analysis has shown that the impact on specific hospitals varied widely, although the aggregate impact was small. Of the 25 CCHs with the highest allowed amounts in 2015, seven hospitals would have their payments reduced by more than 15 percent, and 11 hospitals would have their payments increased by more than 15 percent.

An alternative to this payment approach would be to reimburse CCHs on the basis of their costs, rather than pay utilizing OPPS and comparing utilizing OPPS, and making annual adjustments. In other words, we evaluated using a process in reverse to the one described in this proposed rule. Under the alternative approach, TRICARE would have paid the hospital at its costs (billed charges multiplied by the CCR), and then performing a comparison to what would have been paid under OPPS annually, and making

annual adjustments if needed. Although this would result in fewer end-year adjustments, it would be administratively complex to adjust all claims utilizing OPPS at the end of the year. Additionally, this approach is inconsistent with the statutory obligation to pay like Medicare. Therefore, this approach was not adopted because TRICARE is statutorily obligated to pay like Medicare where practicable. It is practicable to adopt OPPS for these institutional providers, with annual hold harmless provisions.

We also propose no transition. CCHs will receive, at a minimum, one hundred percent of their costs, or the OPPS payment, whichever is higher. Historically, transitions are done to protect providers from payments below their costs. However, in this case, the providers will be held-harmless, so no transition is necessary.

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR part 199 is proposed to be amended as follows:

PART 199—CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS)

- 1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

- 2. Amend § 199.2(b) by adding, in alphabetical order, the definitions of "Ambulatory Surgery Center", "Cancer hospital", and "Children's hospital" to read as follows:

§ 199.2 Definitions.

* * * * *

(b) * * *

Ambulatory Surgery Center (ASC). Any distinct entity that is classified by the Centers for Medicare and Medicaid Services (CMS) as an Ambulatory Surgical Center (ASC) under 42 CFR part 416 and meets the applicable requirements established by § 199.6(b)(4)(x). Any ASC that would otherwise meet the CMS classification as an ASC but does not have a participation agreement with Medicare due to the nature of the patients they treat (*e.g.*, pediatric) must meet the applicable requirements established by § 199.6(b)(4)(x) in order to be a TRICARE authorized ASC. All ASCs must also enter into participation agreements with TRICARE.

* * * * *

Cancer hospital. A specialty hospital that is classified by CMS as a Cancer

Hospital and meets the applicable requirements established by § 199.6(b)(4)(i).

Children’s hospital. A specialty hospital that is classified by CMS as a Children’s Hospital and meets the applicable requirements established by § 199.6(b)(4)(i).

■ 3. Amend § 199.6 by revising paragraph (b)(4)(x)(B)(1) to read as follows:

§ 199.6 TRICARE-authorized providers.

- (b) * * *
(4) * * *
(x) * * *
(B) * * *

(1) ASC. ASCs must meet all criteria for classification as an Ambulatory Surgical Center under 42 CFR part 416, as well as all of the requirements of this part, in order to be considered an authorized ASC under the TRICARE program. Care provided by an authorized TRICARE ASC may be cost-shared under the following circumstances:

(i) A childbirth procedure provided by a CHAMPUS-approved ASC shall not be cost-shared by CHAMPUS unless the surgical center is also a CHAMPUS-approved birthing center institutional provider as established by the birthing center provider certification requirement of this part, and then reimbursement of covered maternity care and childbirth services shall be subject to § 199.16(e).

(ii) ASCs must demonstrate they have a valid participation agreement with Medicare, except as provided under paragraph (b)(4)(x)(B)(1)(v) of this section. ASCs must also enter into a participation agreement with TRICARE in order to be considered an authorized TRICARE provider.

(iii) ASCs that do not have an agreement with Medicare due to the nature of the patients they treat (e.g., pediatric patients) shall be accredited by the Joint Commission, the Accreditation Association for Ambulatory Health Care, Inc. (AAAHC), or such other accreditation as authorized by the Director, DHA and published in the implementing instructions. Additionally, these facilities must enter into participation agreements with TRICARE under § 199.6(a)(8)(i)(A) in order to be an authorized TRICARE provider.

■ 4. Section 199.14 is amended by revising paragraphs (a)(6)(ii)(A) and (B); and (d) to read as follows:

§ 199.14 Provider reimbursement methods.

- (a) * * *
(6) * * *

(ii) Outpatient services subject to OPSS. Outpatient services provided in hospitals subject to Medicare OPSS as specified in 42 CFR 413.65 and 42 CFR 419.20, to include cancer and children’s hospitals, will be paid in accordance with the provisions outlined in sections 1833(t) of the Social Security Act and its implementing Medicare regulation (42 CFR part 419) subject to exceptions as authorized by § 199.14(a)(5)(ii). Under the provisions of this section, CHAMPUS will recognize to the extent practicable, in accordance with 10 U.S.C. 1079(i)(2), Medicare’s OPSS reimbursement methodology to include specific coding requirements, ambulatory payment classifications (APCs), nationally established APC amounts and associated adjustments (e.g., discounting for multiple surgery procedures, wage adjustments for variations in labor-related costs across geographical regions and outlier calculations). While CHAMPUS intends to remain as true as possible to Medicare’s basic OPSS methodology, there will be some deviations required to accommodate CHAMPUS’ unique benefit structure and beneficiary population as authorized under the provisions of 10 U.S.C. 1079(i)(2). Cancer and children’s hospitals will be paid on the basis of OPSS, but consistent with Medicare, payments shall be adjusted so that these providers receive 100 percent of their costs. Adjustments shall be made on an annual basis. Within 180 days of the end of the OPSS year (OPSS Year is defined as April 1 through March 30), DHA shall calculate the hospital’s costs, utilizing the hospital-specific outpatient cost-to-charge ratio (CCR). The costs shall be calculated by multiplying the hospital’s billed charges for OPSS services by the CCR. If the hospital’s costs, as calculated by DHA, exceeded the payment that had been made under OPSS, the hospital shall receive an annual payment adjustment so that the hospital receives 100% of their costs.

(A) Temporary transitional payment adjustments (TTPAs) will be in place for all hospitals, both network and non-network in order to buffer the initial decline in payments upon implementation of TRICARE’s OPSS. For network hospitals, the temporary transitional payment adjustments (TTPAs) will cover a four-year period. The four-year transition will set higher payment percentages for the ten Ambulatory Payment Classification (APC) codes 604–609 and 613–616, with

reductions in each of the transition years. For non-network hospitals, the adjustments will cover a three year period, with reductions in each of the transition years. For network hospitals, under the TTPAs, the APC payment level for the five clinic visit APCs would be set at 175 percent of the Medicare APC level, while the five ER visit APCs would be increased by 200 percent in the first year of OPSS implementation. In the second year, the APC payment levels would be set at 150 percent of the Medicare APC level for clinic visits and 175 percent for ER APCs. In the third year, the APC visit amounts would be set at 130 percent of the Medicare APC level for clinic visits and 150 percent for ER APCs. In the fourth year, the APC visit amounts would be set at 115 percent of the Medicare APC level for clinic visits and 130 percent for ER APCs. In the fifth year, the TRICARE and Medicare payment levels for the 10 APC visit codes would be identical. For non-network hospitals, under the TTPAs, the APC payment level for the five clinic and ER visit APCs would be set at 140 percent of the Medicare APC level in the first year of OPSS implementation. In the second year, the APC payment levels would be set at 125 percent of the Medicare APC level for clinic and ER visits. In the third year, the APC visit amounts would be set at 110 percent of the Medicare APC level for clinic and ER visits. In the fourth year, the TRICARE and Medicare payment levels for the 10 APC visit codes would be identical.

(B) An additional temporary military contingency payment adjustment (TMCPA) will also be available at the discretion of the Director, or a designee, at any time after implementation to adopt, modify and/or extend temporary adjustments to OPSS payments for TRICARE network hospitals deemed essential for military readiness and deployment in time of contingency operations. Any TMCPAs to OPSS payments shall be made only on the basis of a determination that it is impracticable to support military readiness or contingency operations by making OPSS payments in accordance with the same reimbursement rules implemented by Medicare. The criteria for adopting, modifying, and/or extending deviations and/or adjustments to OPSS payments shall be issued through CHAMPUS policies, instructions, procedures and guidelines as deemed appropriate by the Director, or a designee. TMCPAs may also be extended to non-network hospitals on a case-by-case basis for specific procedures where it is determined that

the procedures cannot be obtained timely enough from a network hospital. For such case-by-case extensions, “Temporary” might be less than three years at the discretion of the Director, or designee.

* * * * *

(d) *Payment of institutional facility costs for ambulatory surgery.* Surgical services provided in Ambulatory Surgery Centers (ASCs) as defined in § 199.2 will be paid in accordance with the provisions outlined in section 1833(t) of the Social Security Act and its implementing Medicare regulation (42 CFR part 416). TRICARE will recognize, to the extent practicable, in accordance with 10 U.S.C. 1079(i)(2), Medicare’s ASC reimbursement methodology to include specific coding requirements, prospectively determined rates, discounts for multiple surgical procedures, the scope of ASC services, covered surgical procedures, and the basis of payment as, as described in 42 CFR part 416 with the exception that TRICARE will implement no transitional payments. Payment for ambulatory surgery procedures is limited to those procedures that are reimbursed by Medicare in ASCs.

* * * * *

Dated: November 15, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–25213 Filed 11–27–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG–2019–0822]

Anchorage Grounds; Delaware Bay and Atlantic Ocean, Delaware

AGENCY: Coast Guard, DHS.

ACTION: Notice of inquiry; request for comments.

SUMMARY: The Coast Guard is considering amending its regulations to establish new anchorage grounds in the Delaware Bay and Atlantic Ocean. We are considering this action after receiving requests suggesting additional anchorage grounds are necessary to accommodate current and future vessel traffic, improve navigation safety, and because traditional anchorage areas may not be available due to planned or potential offshore wind energy development. We invite your comments

on whether we should initiate a rulemaking to amend our existing anchorage regulations based on this, or if the status quo should be maintained or other actions considered.

DATES: Your comments and related material must reach the Coast Guard on or before January 28, 2020.

ADDRESSES: You may submit comments identified by docket number USCG–2019–0822 using the Federal portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of inquiry, call or email Marine Science Technician Second Class (MST2) Thomas Welker, Sector Delaware Bay, U.S. Coast Guard; telephone (215) 271–4814, email Thomas.J.Welker@uscg.mil; or Mr. Jerry Barnes, Fifth Coast Guard District (dpw), U.S. Coast Guard; telephone (757) 398–6230, email Jerry.R.Barnes@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

ACPARS Atlantic Coast Port Access Study
BOEM Bureau of Ocean Energy Management
CFR Code of Federal Regulations
FR Federal Register
OCS Outer Continental Shelf
WGS84 World Geodetic System 1984

II. Background and Purpose

The Coast Guard is considering amending its regulations to establish new anchorage grounds in the Delaware Bay and Atlantic Ocean. Our authority to establish anchorage grounds comes from 33 U.S.C. 471.

The Delaware Bay and River supports a diverse marine transportation system which includes the ports of Wilmington, DE; New Castle, DE; Philadelphia, PA; Camden-Gloucester City, NJ; and serves as an entry point for vessels bound for the port of Baltimore, MD, through the Chesapeake and Delaware Canal. Global trends in shipping indicate carriers continue to invest in larger vessels and these vessels are arriving at Delaware River ports. A river deepening project is nearing completion that will increase the Federal project depth from 40 to 45 feet from Philadelphia, PA, and Camden, NJ, to the mouth of the Delaware Bay. Large vessels bound for Delaware River ports often wait offshore at anchor in unregulated areas between the Eastern Directed Traffic area and Southeastern Directed Traffic Area, or in various places along the dredged

channel through the lower bay. Vessels anchor for a broad range of purposes including taking on stores, transferring of personnel, engaging in bunkering operations, or lightering. Designated anchorage grounds are available and regulations covering the use of these anchorages are set out in 33 CFR 110.157. These anchorage regulations were last revised in November 2016 to eliminate unusable anchorage grounds and provide additional usable grounds to support port demands and enhance navigation safety. See Final Rule published in the **Federal Register** on November 25, 2016 (81 FR 85157).

In 2016, the Coast Guard published a notice of its Atlantic Coast Port Access Route Study (ACPARS) (81 FR 13307, March 14, 2016) that analyzed the Atlantic Coast waters seaward of existing port approaches within the U.S. Exclusive Economic Zone and announced the report as final in 2017 (82 FR 16510, April 5, 2017). This multiyear study began in 2011, included public participation, and identified the navigation routes customarily followed by ships engaged in commerce between international and domestic U.S. ports. See <https://navcen.uscg.gov/?pageName=PARSReports>. During the study, the Coast Guard received comments from interested stakeholders addressing cumulative impacts of wind energy areas and potential conflicts with traditional navigation routes and uses of the waters. As wind energy areas are developed and distribution cables installed, vessel traffic may be displaced or funneled into smaller areas, and available anchorage areas may be decreased. This increased vessel density may cause the mixing of vessel types and speeds while also changing the geometry of interactions as vessels come within close range of each other. These changes may increase the risk of collision, loss of property, loss of life, and environmental damage. In the vicinity of the entrance to the Delaware Bay and River, the Coast Guard received requests from a Federal pilot and the Mariners’ Advisory Committee for the Delaware Bay and River to establish two new regulated anchorages in the Atlantic Ocean as potential wind energy leases would remove traditional unregulated anchorage areas from use.

In 2018, the Coast Guard held meetings with maritime stakeholders to discuss global shipping trends, wind energy areas and potential conflicts with traditional uses of the waters in the vicinity of the entrance to the Delaware Bay and River. Attendance included the Pilots’ Association for the Bay and River Delaware, the Mariners’ Advisory Committee for the Bay and River

In 2018, the Coast Guard held meetings with maritime stakeholders to discuss global shipping trends, wind energy areas and potential conflicts with traditional uses of the waters in the vicinity of the entrance to the Delaware Bay and River. Attendance included the Pilots’ Association for the Bay and River Delaware, the Mariners’ Advisory Committee for the Bay and River

Delaware, Interport Pilots Association, and port and terminal representatives. These meetings provided valued insight toward the need for additional anchorage grounds to accommodate current and future vessel traffic, improve navigation safety, and facilitate continued growth of Delaware River ports and associated economic activity.

Potential anchorage grounds discussed included the two anchorage areas requested during the ACPARS study as well as a third in the lower bay. Following the naming convention in 33 CFR 110.157, these anchorages were notionally referred to as Anchorage B—Breakwater, Anchorage C—Cape Henlopen, and Anchorage D—Indian River.

Anchorage B—Breakwater is notionally located in the Delaware Bay beginning approximately 2.5 miles north of Cape Henlopen, DE, includes areas traditionally used by vessels for anchoring, and is in naturally deep water with charted depths between 50 and 77 feet. The anchorage grounds as contemplated include the waters bounded by a line connecting the following points:

Latitude	Longitude
38°52'44.43" N	75°06'43.93" W
38°52'06.27" N	75°05'46.69" W
38°51'19.83" N	75°5'42.73" W
38°50'45.99" N	75°06'15.49" W
38°52'44.43" N	75°08'40.57" W

(DATUM: WGS84)

Anchorage C—Cape Henlopen is notionally located in the Atlantic Ocean approximately 9.4 miles east of the Delaware coast and is in naturally deep water with charted depths between 41 and 85 feet. The anchorage ground includes areas anticipated to be used by vessels for anchoring once offshore wind energy areas are developed. The anchorage grounds as contemplated include the waters bounded by a line connecting the following points:

Latitude	Longitude
38°40'54.03" N	74°52'00.01" W
38°40'56.11" N	74°48'51.35" W
38°37'36.03" N	74°48'30.01" W

(DATUM: WGS84)

Anchorage D—Indian River is notionally located in the Atlantic Ocean beginning approximately 6 miles east of the Delaware coast, includes areas traditionally used by vessels for anchoring, and is in naturally deep water with charted depths between 40 and 85 feet. The frequency of vessels using the anchorage grounds is anticipated to increase once offshore

wind energy areas are developed. These anchorage grounds as contemplated include the waters bounded by a line connecting the following points:

Latitude	Longitude
38°34'56.28" N	74°52'19.13" W
38°33'40.94" N	74°54'41.51" W
38°31'31.11" N	74°55'27.97" W
38°29'07.38" N	74°53'29.26" W
38°28'56.90" N	74°50'28.70" W
38°30'07.40" N	74°48'08.39" W

(DATUM: WGS84)

We are considering amending our regulations to establish these three notional anchorages. You may find illustrations of these notional anchorages in the docket where indicated under **ADDRESSES**. Additionally, the notional anchorages are available for viewing on the Mid-Atlantic Ocean Data Portal at <http://portal.midatlanticocean.org/visualize/>. See the “Maritime” portion of the Data Layers section.

III. Information Requested

We seek your comments on whether we should consider a proposed rulemaking to establish additional regulated anchorage grounds in the Delaware Bay and Atlantic Ocean. In particular, the Coast Guard requests your input to determine to what extent the notional anchorages, Anchorage B—Breakwater, Anchorage C—Cape Henlopen, and Anchorage D—Indian River would accommodate current and future vessel traffic, improve navigation safety, and facilitate continued growth of Delaware River ports, offshore renewable energy and associated economic activity; or if the status quo should be maintained, or other actions should be considered.

IV. Public Participation and Request for Comments

We encourage you to submit comments through the Federal portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. In your submission, please include the docket number for this notice of inquiry and provide a reason for each suggestion or recommendation.

We accept anonymous comments. All comments received will be posted without change to <https://www.regulations.gov> and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS’s Correspondence

System of Records notice (84 FR 48645, September 26, 2018).

Documents mentioned in this notice of inquiry as being available in the docket, and all public comments, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website’s instructions.

Dated: November 22, 2019.

Keith M. Smith,
Rear Admiral, U.S. Coast Guard, Commander,
Fifth Coast Guard District.

[FR Doc. 2019-25854 Filed 11-27-19; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2019-0809]

RIN 1625-AA09

Drawbridge Operation Regulation; Chelsea River, Chelsea, MA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify the operating schedule that governs the Chelsea Street Bridge across the Chelsea River, mile 1.3, at Chelsea, Massachusetts. The bridge owner, Massachusetts Department of Transportation (MassDOT), submitted a request to allow the bridge to open to 139 feet above mean high water instead of the full open position of 175 feet unless a full bridge opening is requested. It is expected that this change to the regulations will create efficiency in drawbridge operations and better serve the needs of the community while continuing to meet the reasonable needs of navigation.

DATES: Comments and related material must reach the Coast Guard on or before January 28, 2020.

ADDRESSES: You may submit comments identified by docket number USCG-2019-0809 using Federal e-Rulemaking Portal at <http://www.regulations.gov>.

See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Jim Rousseau, Project Officer, First Coast Guard District, telephone (617) 223-8619, email James.L.Rousseau2@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
E.O.	Executive order
FR	Federal Register
OMB	Office of Management and Budget
NPRM	Notice of proposed rulemaking
Pub. L.	Public Law
§	Section
U.S.C.	United States Code

II. Background, Purpose and Legal Basis

The Chelsea Street Bridge at mile 1.3, across the Chelsea River, at Chelsea, Massachusetts, has a vertical clearance in the closed position of 9.33 feet at mean high water and 20.02 feet at mean low water. Horizontal clearance is approximately 225 feet. The waterway users include recreational and commercial vessels, including tugboat/barge combinations and tankers.

The existing drawbridge operating regulations is listed at 33 CFR 117.593.

In September of 2019, the owner of the bridge, MassDOT, requested a change to the drawbridge operation regulations to allow the Chelsea Street Bridge to open to 139 feet above mean high water, which is an acceptable height for all vessels requesting openings on the Chelsea River. The requested change in drawbridge operations is due to the increased volume of traffic across the bridge during peak commuting hours, making bridge openings up to 175 feet impractical. This change in opening height reduces the opening time by 2–6 minutes per opening. The Chelsea Street Bridge will perform a full bridge opening of 175 feet above mean high water when requested to do so. The existing regulations require the bridge to open immediately on signal and will continue to do so.

MassDOT reached out to the maritime stakeholders with the requested change proposed and received no objections.

Under this proposed rule the draw would open on signal as stated above, but only to 139 feet above mean high water, except when a full opening to 175 feet above mean high water is requested. We analyzed the bridge opening data for the Chelsea River Bridge during calendar years June 2017–June 2018, comparing the number of bridge openings required to 175 feet and the number of bridge openings required to 139 feet for each month of the year.

The bridge opening breakdown for June 2017–June 2018 is as follows: Out of the total 1967 bridge openings, none were needed to the 175 foot elevation and the remaining 100% could clear the 139 foot elevation.

The bridge tender will be aware of the vertical clearance from the low steel chord of the bridge to the water level by a sensor displaying distance on the Operator Control Panel housed in the Drawbridge Control Room at the bridge. A selector switch will be placed in the 139 foot position or full lift (175 feet) position by the bridge tender prior to operations depending on the vessel requirements.

III. Discussion of Proposed Rule

As a result of the data mentioned above the Coast Guard believes that allowing the Chelsea River Bridge to open to 139 feet, except when a request to open to 175 feet is requested, is reasonable based on the zero requests needed to open to 175 feet and to match actual operations.

Due to the unique nature of the drawbridge operation for this MassDOT Bridge, the Coast Guard also proposes to alter the lighting requirements to better meet the needs of navigation at this drawbridge. In accordance with 33 CFR 118.85, the center of the navigational channel under the operable span will be marked by a range of two green lights when the vertical span is open to navigation. The Coast Guard proposes to allow one solid green light and one flashing green light when the bridge is at the 139 footmark and two solid green lights when the bridge is fully opened to 175 feet.

We believe this proposed rule will continue to meet the reasonable needs of navigation while also improving drawbridge efficiency of operation.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive Orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

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

The Coast Guard believes this rule is not a significant regulatory action because the bridge will open fully for any vessel upon request. We believe that this proposed change to the drawbridge operation regulations at 33 CFR 117.593 will meet the reasonable needs of navigation.

B. Impact on Small Entities

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

The bridge provides 9.33 feet mean high water and 20.02 feet mean low water of vertical clearance that should accommodate all the present recreational vessel traffic except commercial tugs and deep draft vessels. The bridge will continue to open on signal. While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would call for no new collection of information under the

Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

D. Federalism and Indian Tribal Government

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule promulgates the operating regulations or procedures for drawbridges. Normally, this action is

categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3–1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal e-Rulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacynotice>.

Documents mentioned in this NPRM as being available in this docket and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; DHS Delegation No. 0170.1.

■ 2. Revise § 117.593 to read as follows:

§ 117.593 Chelsea River.

(a) All drawbridges across Chelsea River shall open on signal. The opening signal for each drawbridge is two prolonged blasts followed by two short blasts and one prolonged blast. The acknowledging signal is three prolonged blasts when the draw can be opened immediately and is two prolonged blasts when the draw cannot be open or is open and must be closed.

(b) The draw of the Chelsea Street Bridge, mile 1.3, at Chelsea, shall open as follows:

(1) The draw shall open on signal to 139 feet above mean high water for all vessel traffic unless a full bridge opening to 175 feet above mean high water is requested.

(2) The 139 foot opening will be signified by a range light display with one solid green light and one flashing green light and the full 175 foot opening will be signified with two solid green range lights.

Dated: October 25, 2019.

A.J. Tionson,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 2019–25978 Filed 11–27–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0765]

RIN 1625–AA00

Safety Zones; Waterway Training Areas, Captain of the Port Maryland-National Capital Region Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish four safety zones for certain waters of the Patapsco River, Chesapeake Bay, and Potomac River. This action is necessary to provide for the safety of life on these navigable waters at Baltimore Harbor Anchorage No. 5, between Belvidere Shoal and Kent Island, MD, between Point Lookout, MD, and St. George Island,

MD, and between Possum Point, VA, and Cockpit Point, VA, during non-lethal signaling and warning device training conducted from on board U.S. Coast Guard vessels. This proposed rulemaking would prohibit persons and vessels from being in the safety zones unless authorized by the Captain of the Port Maryland-National Capital Region or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before December 30, 2019.

ADDRESSES: You may submit comments identified by docket number USCG–2019–0765 using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Mr. Ron Houck, Sector Maryland-National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410–576–2674, email Ronald.L.Houck@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
 COTP Captain of the Port
 DOD Department of Defense
 DHS Department of Homeland Security
 FR Federal Register
 NM Nautical mile
 NPRM Notice of proposed rulemaking
 § Section
 U.S.C. United States Code

II. Background, Purpose, and Legal Basis

The U.S. Coast Guard uses the LA51, a non-lethal signaling and warning device, to support the service’s ports, waterways and coastal security mission. Coast Guard personnel use the LA51 device as a warning signal during enforcement operations for getting the attention of non-responsive vessels. The LA51 is a two-part (flash bang) ammunition round fired from a 12-gauge military shotgun to produce a visible signal at a range of 100 meters. The explosive pyrotechnic flash is a bright, white light lasting less than one second with a loud report (170 decibels at the source). To maintain ports, waterways and coastal security mission readiness, Coast Guard personnel within the Maryland-National Capital Region COTP Zone (the “Maryland-National

Capital Region”) must conduct LA51 device training shoreward of the 12 nautical miles (NM) baseline. At the present time, Coast Guard Stations within the Maryland-National Capital Region use the DOD firing range located in the Chesapeake Bay in the vicinity of Chesapeake Beach, MD, described at 33 CFR 334.170) (DOD Chesapeake Beach firing range) for LA51 training. But, the Maryland-National Capital Region needs additional LA51 training locations.

While the Coast Guard uses DOD-established and controlled water ranges for LA51 training when reasonably feasible, there are no DOD ranges other than the Chesapeake Bay zone within the Maryland-National Capital Region that are feasible for the Coast Guard to use for LA51 training. While other DOD ranges exist within the Maryland-National Capital Region, DOD has been unable to accommodate USCG’s requests to utilize these ranges for LA51 training. And, currently within the Maryland-National Capital Region there are no existing Coast Guard-designated waterway training areas. The lack of alternative feasible DOD ranges or Coast Guard waterway training areas within the Maryland-National Capital Region poses significant logistical challenges and requires some Coast Guard Station personnel to travel considerable distances to the DOD Chesapeake Beach firing range. Given that the training must occur during favorable weather conditions, the long distance to the range adds additional logistical burdens to holding these trainings. To better accommodate these training needs the COTP Maryland-National Capital Region is proposing to establish four safety zones for use as waterway training areas.

Although the LA51 has a low risk of significant injury, hazards from LA51 device training events include risks of injury or death resulting from near or actual contact among training vessels and waterway users. These risks may arise if normal vessel traffic were to interfere with the training event, and training vessels operating near designated navigation channels, as well as operating near approaches to local public boat ramps, private marinas and yacht clubs, and waterfront businesses. The COTP Maryland-National Capital Region has determined that potential hazards associated with the LA51 device trainings would be a safety concern for anyone within the waterway training areas. The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within the waterway training areas before, during, and after the training events. The proposed safety zone waterway

training areas would only be used to conduct LA51 device training as needed for Coast Guard Law Enforcement training requirements.

The COTP Maryland-National Capital Region would only activate the relevant safety zone(s) as needed. If the proposed safety zones were established, the Coast Guard would continue to first seek to use a DOD-controlled range, and check its availability for LA51 device training use, prior to activating a Coast Guard waterway training area safety zone. If these permanent Coast Guard waterway training area safety zones were not established, the COTP Maryland-National Capital Region would possibly need to establish multiple temporarily safety zones for LA51 training.

The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The COTP Maryland-National Capital Region is proposing to establish four safety zones for use as waterway training areas.

Waterway training area Alpha includes all waters of the Patapsco River encompassed by a line connecting the following points beginning at 39°14’07.98” N, 076°32’58.50” W; thence to 39°13’34.98” N, 076°32’24.00” W; thence to 39°13’22.50” N, 076°32’28.98” W; thence to 39°13’21.00” N, 076°33’12.00” W; and back to the beginning point. Waterway training area Alpha is located at the entrance to Curtis Bay, in Baltimore Harbor Anchorage No. 5, at Baltimore, MD. The safety zone is a trapezoid in shape measuring approximately 1,500 yards in length and averaging 750 yards in width.

Waterway training area Bravo includes all waters of the Chesapeake Bay encompassed by a line connecting the following points beginning at 39°05’25.98” N, 076°20’20.04” W; thence to 39°04’40.02” N, 076°19’28.98” W; thence to 39°02’45.00” N, 076°22’09.00” W; thence to 39°03’30.00” N, 076°23’00.00” W; and back to the beginning point. Waterway training area Bravo is located in the approaches to Baltimore Harbor, between Belvidere Shoal and Kent Island, MD. The safety zone is a rectangle in shape situated along a northeast-southwest axis, measuring approximately 4,500 yards in length by 1,500 yards in width.

Waterway training area Charlie includes all waters of the Potomac River encompassed by a line connecting the following points beginning at 38°00’28.80” N, 076°22’43.80” W; thence to 38°01’18.00” N, 076°21’54.00” W; thence to 38°05’06.00” N, 076°27’43.20”

W; thence to 38°04'40.20" N, 076°28'34.20" W; and back to the beginning point. Waterway training area Charlie is located between Point Lookout, MD, and St. George Island, MD. The safety zone is a rectangle in shape measuring approximately 12,500 yards in length by 1,500 yards in width.

Waterway training area Delta includes all waters of the Potomac River encompassed by a line connecting the following points beginning at 38°32'31.14" N, 077°15'29.82" W; thence to 38°32'48.18" N, 077°15'54.24" W; thence to 38°33'34.56" N, 077°15'07.20" W; thence to 38°33'15.06" N, 077°14'39.54" W; and back to the beginning point. Waterway training area Delta is located between Possum Point, VA, and Cockpit Point, VA. The safety zone is a trapezoid in shape measuring approximately 2,000 in length by 1,000 yards in width.

Proposed waterway training areas Alpha and Bravo are located outside designated navigation channels. Neither of these two zones are near areas of the Patapsco River and Chesapeake Bay that are used heavily by the boating public or popular fishing or diving sites. Proposed waterway training areas Charlie and Delta are located within a portion of navigable channels. Although these two zones are near areas of the Potomac River that may be used by the boating public or popular fishing or diving sites, vessels traffic in these areas would be able to safely transit around the safety zones. The Coast Guard would ensure that appropriate monitoring of the waterway while the safety zone is activated.

The Coast Guard anticipates that each of the four proposed safety zones would be activated for two hours on six separate occasions annually—a total of 12 annual enforcement hours for each zone. The Coast Guard anticipates that it would activate the zones at various times of the year during daylight hours only. Whenever a LA51 device training event is planned, the COTP Maryland-National Capital Region would notify the maritime community of the enforcement dates and times of the appropriate safety zone as the training event dictates. Such notification would be made by broadcast or local notice to mariners, distribution in leaflet form, on-scene oral notice, or other appropriate means in accordance with § 165.7.

The duration and enforcement of the zones is intended to ensure the safety of vessels and these navigable waters before, during, and after these training events. Except for training participants, no vessel or person would be permitted to enter the safety zone without

obtaining permission from the COTP Maryland-National Capital Region or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, duration, and location of the safety zones. It is anticipated that each of these four safety zones will be activated for six separate events annually. Although vessel traffic may not be able to safely transit around two of these safety zones while being enforced, both of which are on the Potomac River, the impact would be for 2 hours or less and such vessels would be able to seek permission to enter and transit these safety zones by contacting the COTP Maryland-National Capital Region or a designated representative by telephone or on VHF-FM channel 16. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via Marine Band Radio VHF-FM channel 16 about the zone.

B. Impact on Small Entities

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

have a significant economic impact on a substantial number of small entities.

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has

implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. *Unfunded Mandates Reform Act*

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

F. *Environment*

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves five safety zones that, when activated, will last 48 enforcement hours annually and prohibit entry within portions of the Patapsco River, Chesapeake Bay, and Potomac River. Normally such actions are categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. *Protest Activities*

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

V. **Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking, and

will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <https://www.regulations.gov> and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's Correspondence System of Records notice (84 FR 48645, September 26, 2018).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.516 to read as follows:

§ 165.516 Safety Zones; Waterway Training Areas, Captain of the Port Maryland-National Capital Region Zone.

(a) *Regulated areas.* The following areas are established as safety zones:

(1) *Waterway training area Alpha.* All waters of the Patapsco River, encompassed by a line connecting the following points beginning at

39°14'07.98" N, 076°32'58.50" W; thence to 39°13'34.98" N, 076°32'24.00" W; thence to 39°13'22.50" N, 076°32'28.98" W; thence to 39°13'21.00" N, 076°33'12.00" W; and back to the beginning point.

(2) *Waterway training area Bravo.* All waters of the Chesapeake Bay, encompassed by a line connecting the following points beginning at 39°05'25.98" N, 076°20'20.04" W; thence to 39°04'40.02" N, 076°19'28.98" W; thence to 39°02'45.00" N, 076°22'09.00" W; thence to 39°03'30.00" N, 076°23'00.00" W; and back to the beginning point.

(3) *Waterway training area Charlie.* All waters of the Potomac River, encompassed by a line connecting the following points beginning at 38°00'28.80" N, 076°22'43.80" W; thence to 38°01'18.00" N, 076°21'54.00" W; thence to 38°05'06.00" N, 076°27'43.20" W; thence to 38°04'40.20" N, 076°28'34.20" W; and back to the beginning point.

(4) *Waterway training area Delta.* All waters of the Potomac River, encompassed by a line connecting the following points beginning at 38°32'31.14" N, 077°15'29.82" W; thence to 38°32'48.18" N, 077°15'54.24" W; thence to 38°33'34.56" N, 077°15'07.20" W; thence to 38°33'15.06" N, 077°14'39.54" W; and back to the beginning point.

(5) These coordinates are based on Datum NAD 83.

(b) *Definitions.* As used in this section—

Captain of the Port (COTP) means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

Designated representative means a Coast Guard commissioned, warrant, or petty officer designated by or assisting the COTP in the enforcement of the safety zones.

Training participant means a person or vessel authorized by the COTP as participating in the training event or otherwise designated by the COTP or the COTP's designated representative as having a function tied to the training event.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zones described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) Except for training participants, all vessels underway within this safety zone at the time it is activated are to depart the zone. To seek permission to enter, contact the COTP or the COTP's designated representative by telephone number 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8

MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF-FM channel 16 (156.8 MHz). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(3) The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(d) *Enforcement.* The safety zones created by this section will be enforced only upon issuance of a Broadcast Notice to Mariners (BNM) by the COTP or the COTP's representative, as well as on-scene notice or other appropriate means in accordance with § 165.7.

Dated: November 22, 2019.

Joseph B. Loring,

Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.

[FR Doc. 2019-25853 Filed 11-27-19; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF EDUCATION

34 CFR Chapter II

[Docket ID ED-2019-OPEPD-0120]

Administrative Priorities for Discretionary Grant Programs

AGENCY: Department of Education.

ACTION: Proposed priorities.

SUMMARY: The Secretary of Education proposes to establish six priorities for discretionary grant programs that would expand the Department of Education's (the Department's) flexibility to give priority to a broader range of applicants with varying experience in administering Federal education funds (Proposed Priorities 1 and 2), applicants proposing to serve rural communities (Proposed Priorities 3 and 4), applicants that demonstrate a rationale for their proposed projects (Proposed Priority 5), or applicants proposing to collect data after the grant's original project period (Proposed Priority 6).

DATES: We must receive your comments on or before December 30, 2019.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

• *Federal eRulemaking Portal:* Go to www.regulations.gov to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "Help."

• *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about the proposed priorities, address them to Kelly Terpak, U.S. Department of Education, 400 Maryland Avenue SW, Room 4W312, Washington, DC 20202.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT:

Kelly Terpak, U.S. Department of Education, 400 Maryland Avenue SW, Room 4W312, Washington, DC 20202. Telephone: (202) 205-5231. Email: kelly.terpak@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll-free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: *Invitation to Comment:* We invite you to submit comments regarding the proposed priorities. To ensure that your comments have maximum effect in developing the notice of final priorities, we urge you to identify clearly the specific proposed priority that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866, 13563, and 13771 and their overall requirement of reducing regulatory burden that might result from the proposed priorities. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of our programs.

During and after the comment period, you may inspect all public comments about the proposed priorities in 400 Maryland Avenue SW, Room 4W312, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will

provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for the proposed priorities. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Program Authority: 20 U.S.C. 1221e-3.

Proposed Priorities

This document contains six proposed priorities. The Department seeks to expand the range of applicants benefiting from Federal funding, in part to promote greater innovation, and we believe the proposed priorities for new potential grantees and applicants proposing to serve rural communities would help the Department meet this goal. To operationalize these priorities, the Department may choose to use multiple absolute priorities to create separate funding slates for applicants that are new potential grantees compared with those that are not or for applicants that propose to serve rural communities compared with applicants that do not. Accordingly, the Department seeks to establish priorities that define the inverse populations and would only be used in conjunction with the priorities for new potential grantees or rural applicants. The Department also recognizes the importance of developing evidence for effective education interventions and strategies, particularly in areas where the existing evidence base is thin or non-existent. We propose a priority for applicants that demonstrate a rationale for their projects and a priority for applicants proposing to collect data after the grant project period.

Proposed Priority 1—Applications From New Potential Grantees

Background: The Department believes that our programs will best serve students across the country if a broader range of entities can compete on a level playing field for grants, including entities that have not typically participated in our grant programs. Under 34 CFR 75.225, the Department has been able to prioritize applicants that have never received funding under a particular program and have not received any Federal grants in the past five years. However, the definition for "novice applicant" in 34 CFR 75.225 is too restrictive for most of the Department's grant programs and frequently does not benefit many applicants. Some programs have created

program-specific definitions that are tailored to their individual contexts to address this issue, highlighting the fact that 34 CFR 75.225 does not work in all contexts. We believe that this proposed priority defines “new potential grantee” more flexibly than 34 CFR 75.225 currently defines “novice applicant,” and more discretionary grant programs will be able to use it. The proposed priority would more effectively promote the Department’s interest in awarding grants to a wider variety of applicants while also streamlining our work, because discretionary grant programs would no longer need to create their own program-specific priorities in order to encourage new entities to apply for grants. A grant program would be able to choose any of the elements identified that most appropriately defines a new potential grantee for the given program, specifying in the notice inviting applications (NIA) for that program which portions of this priority apply. We believe that establishing this priority is the most efficient way to ensure a level playing field for new potential grantees and to provide needed flexibility for programs in encouraging new potential grantees to apply. The Department would not use this proposed priority for any grant programs that, by statute, prohibit its use.

Proposed Priority:

(a) Under this priority, an applicant must demonstrate one or more of the following:

(i) The applicant has never received a grant, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, under the program from which it seeks funds.

(ii) The applicant does not, as of the deadline date for submission of applications, have an active grant, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, under the program from which it seeks funds.

(iii) The applicant has not had an active discretionary grant under the program from which it seeks funds, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, in the number of years stated in the notice inviting applications before the deadline date for submission of applications under the program.

(iv) The applicant has not had an active discretionary grant from the Department, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, in the number of years

stated in the notice inviting applications before the deadline date for submission of applications under the program from which it seeks funds.

(v) The applicant has not had an active contract from the Department in the number of years stated in the notice inviting applications before the deadline date for submission of applications under the program for which it seeks funds.

(b) For the purpose of this priority, a grant or contract is active until the end of the grant’s or contract’s project or funding period, including any extensions of those periods that extend the grantee’s or contractor’s authority to obligate funds.

Proposed Priority 2—Applications From Grantees That Are Not New Potential Grantees

Background: As described above, the Department believes that our programs will best serve students across the country if our grants benefit a broad range of entities. One way of operationalizing this goal is to create multiple funding slates using multiple absolute priorities. Accordingly, the Department proposes to establish a priority that would serve as the inverse of Proposed Priority 1. Using both priorities, a program could include all eligible entities but allow for different funding slates, which provides the flexibility for the Department to evaluate applicants on each separate slate against only the other applicants on that slate. A grant program would use the elements that most appropriately define a grantee that is not a new potential grantee for a given program, specifying in the NIA for that program which portions of this priority apply. We believe that establishing this priority is the most efficient way to provide needed flexibility for programs in encouraging applications from the broadest possible range of eligible applicants. The Department would not use this proposed priority for any grant programs that, by statute, prohibit its use.

Proposed Priority:

(a) Under this priority, an applicant must demonstrate one or more of the following:

(i) The applicant has received a grant, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, under the program from which it seeks funds.

(ii) The applicant has, as of the deadline date for submission of applications, an active grant, including through membership in a group application submitted in accordance

with 34 CFR 75.127–75.129, under the program from which it seeks funds.

(iii) The applicant has had an active discretionary grant under the program from which it seeks funds, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, in the number of years stated in the notice inviting applications before the deadline date for submission of applications under the program.

(iv) The applicant has had an active discretionary grant from the Department, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, in the number of years stated in the notice inviting applications before the deadline date for submission of applications under the program from which it seeks funds.

(v) The applicant has had an active contract from the Department in the number of years stated in the notice inviting applications before the deadline date for submission of applications under the program for which it seeks funds.

(b) For the purpose of this priority, a grant or contract is active until the end of the grant’s or contract’s project or funding period, including any extensions of those periods that extend the grantee’s or contractor’s authority to obligate funds.

(c) This priority can only be used in competitions where the priority for *Applications from New Potential Grantees* is used.

Proposed Priority 3—Rural Applicants

Background:

Rural communities face unique challenges and have unique opportunities. These factors are reflected in the statutory priority accorded to applicants that serve rural communities in many Department programs, but the Department believes that it is appropriate for it to have the option to give priority to applicants that will serve rural communities under any of its discretionary grant programs. In addition, some rural districts receive very small allocations under the Department’s formula grant programs that may have limited impact. For these reasons, the Department strongly believes that new authority to specifically encourage applications that will provide services in rural communities is essential to more equitable administration of Federal education programs.

Proposed Priority:

Under this priority, an applicant must demonstrate one or more of the following:

(a) The applicant proposes to serve a local educational agency (LEA) that is eligible under the Small Rural School Achievement (SRSA) program or the Rural and Low-Income School (RLIS) program authorized under Title V, Part B of the Elementary and Secondary Education Act of 1965, as amended.

(b) The applicant proposes to serve a community that is served by one or more LEAs—

(i) With a locale code of 32, 33, 41, 42, or 43; or

(ii) With a locale code of 41, 42, or 43.

(c) The applicant proposes a project in which a majority of the schools served—

(i) Have a locale code of 32, 33, 41, 42, or 43; or

(ii) Have a locale code of 41, 42, or 43.

(d) The applicant is an institution of higher education (IHE) with a rural campus setting, or the applicant proposes to serve a campus with a rural setting. Rural settings include any of the following: Town-Fringe, Town-Distant, Town-Remote, Rural Fringe, Rural-Distant, Rural-Remote, as defined by the National Center for Education Statistics (NCES) College Navigator search tool.

Note: To determine whether a particular LEA is eligible for SRSA or RLIS, refer to the Department's website at <https://www2.ed.gov/nclb/freedom/local/reap.html>. Applicants are encouraged to retrieve locale codes from the NCES School District search tool (<https://nces.ed.gov/ccd/districtsearch/>), where LEAs can be looked up individually to retrieve locale codes, and Public School search tool (<https://nces.ed.gov/ccd/schoolsearch/>), where individual schools can be looked up to retrieve locale codes. Applicants are encouraged to retrieve campus settings from the NCES College Navigator search tool (<https://nces.ed.gov/collegenavigator/>) where IHEs can be looked up individually to determine the campus setting.

Proposed Priority 4—Non-Rural Applicants

Background: As described above, the Department believes that our programs will best serve students across the country if our grants benefit a broad range of entities. One way of operationalizing this goal is to create multiple funding slates using multiple absolute priorities. Accordingly, the Department proposes to establish a priority that would serve as the inverse of Proposed Priority 3. Using both priorities, a program could include all eligible entities but allow for different funding slates, which provides the flexibility for the Department to evaluate applicants on each separate

slate against only the other applicants on that slate. A grant program would use the elements that most appropriately define a grantee that is not a rural applicant for a given program, specifying in the NIA for that program which portions of this priority apply. We believe that establishing this priority is the most efficient way to provide needed flexibility for programs in encouraging applications from the broadest possible range of eligible applicants. The Department would not use this proposed priority for any grant programs that, by statute, prohibit its use.

Proposed Priority:

Under this priority, an applicant must demonstrate one or more of the following:

(a) The applicant does not propose to serve a local educational agency (LEA) that is eligible under the Small Rural School Achievement (SRSA) program or the Rural and Low-Income School (RLIS) program authorized under Title V, Part B of the Elementary and Secondary Education Act of 1965, as amended.

(b) The applicant does not propose to serve a community that is served by one or more LEAs—

(i) With a locale code of 32, 33, 41, 42, or 43; or

(ii) With a locale code of 41, 42, or 43.

(c) The applicant does not propose a project in which a majority of the schools served—

(i) Have a locale code of 32, 33, 41, 42, or 43; or

(ii) Have a locale code of 41, 42, or 43.

(d) The applicant is not an institution of higher education (IHE) with a rural campus setting, or the applicant proposes to serve a campus with a rural setting. Rural settings include any of the following: Town-Fringe, Town-Distant, Town-Remote, Rural Fringe, Rural-Distant, Rural-Remote, as defined by the National Center for Education Statistics (NCES) College Navigator search tool.

(e) This priority can only be used in competitions where the priority for Rural Applicants is used.

Note: To determine whether a particular LEA is eligible for SRSA or RLIS, refer to the Department's website at <https://www2.ed.gov/nclb/freedom/local/reap.html>. Applicants are encouraged to retrieve locale codes from the NCES School District search tool (<https://nces.ed.gov/ccd/districtsearch/>), where LEAs can be looked up individually to retrieve locale codes, and Public School search tool (<https://nces.ed.gov/ccd/schoolsearch/>), where individual schools can be looked up to retrieve locale codes. Applicants are encouraged to retrieve campus settings

from the NCES College Navigator search tool (<https://nces.ed.gov/collegeNavigator/>) where IHEs can be looked up individually to determine the campus setting.

Proposed Priority 5—Applications That Demonstrate a Rationale in the Project's Logic Model

Background:

Consistent with 34 CFR 77.1, a project demonstrates a rationale if a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes. Logic models describe the need for a program, its inputs and outputs, and the intended outcomes. Logic models are helpful tools for applicants to use when establishing timelines and resource needs. They also are helpful to the Department and reviewers in understanding the applicant's rationale for how its proposed project will achieve the project outcomes. Finally, the requirement that a key project component identified in the logic model be informed by research and evaluation findings that suggest it is likely to improve relevant outcomes establishes a standard of evidence that should improve the overall quality of funded applications. As such, the Department may choose to prioritize applications that demonstrate a rationale through the use of a logic model to support project planning and implementation. In addition, we believe this proposed priority would allow us to focus Federal dollars on evidence-based proposals, even for programs where the relevant evidence base is relatively nascent.

Proposed Priority:

Under this priority, an applicant proposes a project that demonstrates a rationale (as defined in 34 CFR 77.1).

Proposed Priority 6—Data Collection

Background:

With the recent passage of the Foundations for Evidence-Based Policymaking Act of 2018 (Pub. L. 115–435), along with Strategy 3: Decision-Making and Accountability of the 2018 President's Management Agenda ([performance.gov/PMA](https://www.performance.gov/PMA)), Congress and the President have signaled an active interest in having the Federal government collect more comprehensive performance data in order to support policy decisions informed by a strong body of evidence. Accordingly, the Department is particularly interested in collecting outcomes data from grantees after the end of the project period of a grant, assuming availability of funds. By requiring or encouraging applicants to

collect data, the Department hopes to further expand the evidence base for existing grant programs and report more comprehensive outcomes data to Congress and the public. To address the proposed priority, an applicant would include in its application a budget for and a description of its proposed post-project data collection efforts, which would be funded by the Department under 34 CFR 75.250(b).

Proposed Priority: Under this priority, an applicant includes a data collection period after the conclusion of the grant project period, for a period of time to be specified in the notice inviting applications, consistent with 34 CFR 75.250(b).

Types of Priorities: When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priorities: We will announce the final priorities in a notice in the **Federal Register**. We will determine the final priorities after considering responses to the proposed priorities and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use one or more of these priorities, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866, 13563, and 13771

Regulatory Impact Analysis

Under Executive Order 12866, it must be determined whether this regulatory

action is “significant” and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a “significant regulatory action” as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an “economically significant” rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f)(4) of Executive Order 12866.

Under Executive Order 13771, for each new regulation that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866, and that imposes total costs greater than zero, it must identify two deregulatory actions. For FY 2020, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions. However, Executive Order 13771 does not apply to “transfer rules” that cause only income transfers between taxpayers and program beneficiaries, such as those regarding discretionary grant programs. Because the proposed priorities would be used in connection with one or more discretionary grant programs, Executive Order 13771 does not apply.

We have also reviewed these proposed regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency “to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.” The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

We issue these proposed priorities only on a reasoned determination that their benefits would justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on an analysis of anticipated costs and benefits, we believe that these proposed regulations are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

Potential Costs and Benefits

We have reviewed the proposed priorities in accordance with Executive Order 12866 and do not believe that these priorities would generate a considerable increase in burden. We believe any additional costs imposed by the proposed priorities would be negligible, primarily because they would create new opportunities to prioritize applicants that may have submitted applications regardless of these changes, changes that do not impose additional burden. Moreover, we believe any costs will be significantly outweighed by the

potential benefits of making funding opportunities increasingly available to the widest possible field of applicants and the benefits of expanding the research base. In addition, generally, participation in a discretionary grant program is entirely voluntary; as a result, these proposed priorities do not impose any particular burden except when an entity voluntarily elects to apply for a grant.

Proposed priority 1 would give the Department the opportunity to prioritize a “new potential grantee” with greater flexibility than is currently available through existing methods of giving special consideration to “novice applicants.” We believe that this proposed priority could result in a number of changes in the behavior of both Department staff and applicants. First, we believe that the additional flexibility in the new definition would increase the number of competitions in which we prioritize a “new potential grantee.” Second, we believe that it could result in additional applicants submitting applications for competitions that include such a priority. Finally, we believe that the proposed priority could shift at least some of the Department’s grants among eligible entities. However, because this proposed priority, in conjunction with Proposed Priority 2, would neither expand nor restrict the universe of eligible entities for any Department grant program, and since application submission and participation in our discretionary grant programs is voluntary, we do not think that it would be appropriate to characterize any increased participation in our grant competitions as costs associated with this priority.

Proposed Priority 2, as the inverse of Proposed Priority 1, would similarly not create costs or benefits, but may have the result of shifting at least some of the Department’s grants among eligible entities. Again, since application submission and participation in our discretionary grant programs is voluntary, we do not think that it would be appropriate to characterize any increased participation or differences in which entities receive awards as costs associated with this priority.

Similarly, Proposed Priority 3 would give the Department the opportunity to prioritize rural applicants. We believe that this proposed priority could result in changes in the behavior of both Department staff and applicants similar to those described above with respect to proposed priority 1. First, we believe that the availability of a priority related to supporting rural communities will increase the number of competitions in

which we prioritize rural applicants, since a program could use this priority without going through program-specific rulemaking. Second, we believe that it may result in additional applicants submitting applications for competitions that include such a priority. Finally, we believe that the proposed priority could shift at least some of the Department’s grants among eligible entities. However, because this proposed priority would neither expand nor restrict the universe of eligible entities for any Department grant program, and since application submission and participation in our discretionary grant programs is voluntary, we do not think that it would be appropriate to characterize any increased participation in our grant competitions as costs associated with this priority.

Similar to Proposed Priority 2, Proposed Priority 4, as the inverse of Proposed Priority 3, would not create costs or benefits. Instead, Proposed Priorities 3 and 4 may have the result of shifting at least some of the Department’s grants among eligible entities. Again, since application submission and participation in our discretionary grant programs is voluntary, we do not think that it would be appropriate to characterize any increased participation or differences in which entities receive awards as costs associated with this priority.

The combined benefits of Proposed Priorities 1, 2, 3 and 4 could be an increased diversity of awardees. To the extent a program helps build the evidence base on a particular action or approach, such as through Proposed Priorities 5 and 6, there may be a benefit in the form of broadened information about the evidence on the grantee’s approach in the grantee’s setting. However, it is not possible to quantify the extent of such a benefit without knowing which programs will use these priorities and in what circumstances.

Proposed priority 5 would allow the Secretary to require applicants to submit a logic model, which is unlikely to generate any quantifiable costs or benefits but may result in qualitative benefits if grantees use the logic model to better plan and more clearly communicate the intended effects of the project. Many grant competitions already include this requirement and, to the extent it is included in additional competitions in the future, we do not believe that it would create a substantial burden for applicants, because we assume that applicants in those programs would likely already have conceptualized an implicit logic model for their applications and would,

therefore, experience only minimal paperwork burden associated with explaining it in their applications.

Finally, proposed priority 6 would allow the Department to give priority to applications that propose data collection after the original project period. We believe that this would result only in transfers between applicants that do not propose post-project data collection and the grantees that benefited from this priority, since the proposed priority would not require a grantee to fund the data collection itself. Rather, at the completion of a project period, the Department would make data collection awards under existing authority to do so. As with proposed priorities 1 and 2, because this proposed priority would neither expand nor restrict the universe of eligible entities for any Department grant program, and since application submission and participation in our discretionary grant programs is voluntary, we do not think that it would be appropriate to characterize any participation in data collection awards as costs associated with this regulation. However, it is possible that, in electing to provide data collection grants to a particular cohort of grantees, the Department would have fewer funds available to fund new awards. At this time, absent specific funding scenarios, it is not possible to predict the specific costs related to shifts from new awards to data collection awards. Longitudinal data are valuable as a resource for practitioners, researchers, and the Department. Therefore, providing grants to allow for extended data collection would likely benefit the field as a whole, including by providing better evidence about what works and what does not. Absent a particular context, it is not feasible to calculate a specific benefit, but we anticipate benefits related to better information about program effects.

Regulatory Flexibility Act Certification

The Secretary certifies that this proposed regulatory action would not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below \$7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they

are operated by a government overseeing a population below 50,000.

Of the impacts we estimate accruing to grantees or eligible entities, all are voluntary and related mostly to an increase in the number of applications prepared and submitted annually for competitive grant competitions. Therefore, we do not believe that the proposed priorities would significantly impact small entities beyond the potential for increasing the likelihood of their applying for, and receiving, competitive grants from the Department.

Paperwork Reduction Act

The proposed priorities do not contain any information collection requirements.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., Braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other documents of the Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: November 22, 2019.

Betsy DeVos,
Secretary.

[FR Doc. 2019-25765 Filed 11-27-19; 8:45 am]

BILLING CODE 4000-01-P

LIBRARY OF CONGRESS

U.S. Copyright Office

37 CFR Part 210

[Docket No. 2019-5]

Music Modernization Act Implementing Regulations for the Blanket License for Digital Uses and Mechanical Licensing Collective: Extension of Comment Period

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Notification of inquiry; extension of comment period.

SUMMARY: The U.S. Copyright Office is extending the deadline for the submission of written reply comments in response to its September 24, 2019 notification of inquiry regarding implementation regulations for the Musical Works Modernization Act, title I of the Orrin G. Hatch-Bob Goodlatte Music Modernization Act.

DATES: The reply comment period for the notification of inquiry published September 24, 2019, at 84 FR 49966, is extended. Written reply comments must be received no later than 5:00 p.m. Eastern Time on December 20, 2019.

ADDRESSES: For reasons of government efficiency, the Copyright Office is using the *regulations.gov* system for the submission and posting of public comments in this proceeding. All comments are therefore to be submitted electronically through *regulations.gov*. Specific instructions for submitting comments are available on the Copyright Office's website at <https://www.copyright.gov/rulemaking/mma-implementation/>. If electronic submission of comments is not feasible due to lack of access to a computer and/or the internet, please contact the Office using the contact information below for special instructions.

FOR FURTHER INFORMATION CONTACT: Regan A. Smith, General Counsel and Associate Register of Copyrights, by email at regans@copyright.gov, Anna Chauvet, Associate General Counsel, by email at achau@copyright.gov, or Jason E. Sloan, Assistant General Counsel, by email at jslo@copyright.gov. Each can be contacted by telephone by calling (202) 707-8350.

SUPPLEMENTARY INFORMATION: On September 24, 2019, the U.S. Copyright Office issued a notification of inquiry ("NOI") regarding implementation regulations for the Musical Works Modernization Act, title I of the Orrin G. Hatch-Bob Goodlatte Music Modernization Act ("MMA"). 84 FR

49966 (Sept. 24, 2019). The Office solicited public comments on a broad range of subjects concerning the administration of the new blanket compulsory license for digital uses of musical works that was created by the MMA, including regulations regarding notices of license, notices of nonblanket activity, usage reports and adjustments, information to be included in the mechanical licensing collective's database, database usability, interoperability, and usage restrictions, and the handling of confidential information.

To ensure that members of the public have sufficient time to respond, and to ensure that the Office has the benefit of a complete record, the Office is extending the deadline for the submission of written reply comments to no later than 5:00 p.m. Eastern Time on December 20, 2019.

Dated: November 22, 2019.

Regan A. Smith,

General Counsel and Associate Register of Copyrights.

[FR Doc. 2019-25805 Filed 11-27-19; 8:45 am]

BILLING CODE 1410-30-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[EPA-HQ-TRI-2019-0146; FRL-9995-92]

RIN 2070-AK53

Community Right-to-Know; Corrections to Toxics Release Inventory (TRI) Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing corrections to existing regulatory language for the Toxics Release Inventory (TRI) Program. EPA is proposing corrections that will update identifiers, formulas, and names for certain TRI-listed chemicals and updates to the text that identifies which chemicals the 0.1 percent *de minimis* concentration applies to in order to remedy a cross-reference to a no-longer-accurate Occupational Safety and Health Administration (OSHA) regulatory citation. These proposed corrections maintain previous regulatory actions and do not alter existing reporting requirements or impact compliance burdens or costs.

DATES: Comments must be received on or before January 28, 2020.

ADDRESSES: Submit your comments, identified by docket identification (ID)

number EPA-HQ-TRI-2019-0146, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

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

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Daniel Bushman, Toxics Release Inventory Program Division, Mailcode 7410M, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 566-0743; email address: bushman.daniel@epa.gov.

For general information contact: The Emergency Planning and Community Right-to-Know Hotline; telephone numbers: toll free at (800) 424-9346 (select menu option 3) or (703) 348-5070 in the Washington, DC Area and International; or go to <https://www.epa.gov/home/epa-hotlines>.

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 otherwise use any TRI listed chemical. 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:

- Facilities included in the following NAICS manufacturing codes (corresponding to Standard Industrial Classification (SIC) codes 20 through 39): 311*, 312*, 313*, 314*, 315*, 316, 321, 322, 323*, 324, 325*, 326*, 327, 331, 332, 333, 334*, 335*, 336, 337*, 339*, 111998*, 211130*, 212324*, 212325*, 212393*, 212399*, 488390*, 511110, 511120, 511130, 511140*,

511191, 511199, 512230*, 512250*, 519130*, 541713*, 541715* or 811490*. *Exceptions and/or limitations exist for these NAICS codes.

- Facilities included in the following NAICS codes (corresponding to SIC codes other than SIC codes 20 through 39): 212111, 212112, 212113 (corresponds to SIC code 12, Coal Mining (except 1241)); or 212221, 212222, 212230, 212299 (corresponds to SIC code 10, Metal Mining (except 1011, 1081, and 1094)); or 221111, 221112, 221113, 221118, 221121, 221122, 221330 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce) (corresponds to SIC codes 4911, 4931, and 4939, Electric Utilities); or 424690, 425110, 425120 (limited to facilities previously classified in SIC code 5169, Chemicals and Allied Products, Not Elsewhere Classified); or 424710 (corresponds to SIC code 5171, Petroleum Bulk Terminals and Plants); or 562112 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis (previously classified under SIC code 7389, Business Services, NEC)); or 562211, 562212, 562213, 562219, 562920 (limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*) (corresponds to SIC code 4953, Refuse Systems).

- Federal facilities.

To determine whether your facility would be affected by this action, you should carefully examine the applicability criteria in part 372, subpart B, of title 40 of the Code of Federal Regulations (CFR). If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What action is the Agency taking?

EPA is proposing corrections to existing regulatory language for the TRI Program. EPA is proposing (a) editorial corrections that will update identifiers, formulas, and names for certain TRI-listed chemicals described in the CFR, and (b) updated text to indicate for which chemicals the 0.1 percent *de minimis* concentration applies to remedy a cross-reference to a no-longer-accurate OSHA regulatory citation. This action does not change the regulatory requirements of the TRI Program. This action is a “housekeeping” rulemaking intended to correct inaccuracies in regulatory text.

C. What is the Agency’s authority for taking these actions?

EPA is taking these actions under sections 313(g)(1) and 328 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. 11023(g)(1) and 11048. In general, EPCRA section 313 requires owners and operators of covered facilities in specified SIC codes that manufacture, process, or otherwise use listed toxic chemicals in amounts above specified threshold levels to report certain facility specific information about such chemicals, including the annual releases and other waste management quantities. EPCRA section 313(g)(1) requires EPA to publish a uniform toxic chemical release form for these reporting purposes, and it also prescribes, in general terms, the types of information that must be submitted on the form. Congress also granted EPA broad rulemaking authority to allow the Agency to fully implement the statute. EPCRA section 328 states that: “The Administrator may prescribe such regulations as may be necessary to carry out this chapter.” 42 U.S.C. 11048.

II. Background

A. What specific changes are the Agency proposing to make?

EPA is proposing corrections that will update identifiers, formulas, and names for certain TRI-listed chemicals described in the CFR. Specifically, this proposal will (i) remove chemical names for those chemicals that have been delisted or moved to other listings, (ii) incorporate listings in 40 CFR 372.65(b) for chemicals that are listed in 40 CFR 372.65(a) but are not listed in 40 CFR 372.65(b), (iii) correct inaccurate Chemical Abstracts Service Registry Numbers (CASRNs), (iv) correct errors in chemical category definitions, (v) remedy other known errors in the CFR chemical lists, (vi) remove leading zeros from CASRNs, (vii) correct errors in the list of lower thresholds for chemicals of special concern, and (viii) revise the list of chemical names to include only the TRI primary name and the EPA registry name (if different from the TRI primary name) as a synonym. In addition, EPA is proposing to replace an existing outdated cross-referenced regulatory citation and modify the text of the *de minimis* exemption, without changing the substance of the exemption itself.

B. What chemical listings are EPA proposing to remove?

1. *Ammonium nitrate (solution)* (CASRN: 6484-52-2). Ammonium nitrate solution is listed with an asterisk in the CFR with an associated footnote

that states that it “. . . is removed from this listing; the removal is effective July 2, 1995, for the 1995 reporting year.” Incorporation of this language was a result of a final rule that removed ammonium nitrate solution from the EPCRA section 313 chemical list (June 30, 1995, 60 FR 34172, FRL-4962-4). Ammonium nitrate solution was removed because the ammonia portion of the solution is reportable under the listing for ammonia and the nitrate portion of the solution is reportable under the listing for nitrate compounds. EPA is proposing to remove this listing and associated footnote from the CFR under both the alphabetical ordered listing at 40 CFR 372.65(a) and the CASRN ordered listing at 40 CFR 372.65(b).

2. *Ammonium sulfate (solution)* (CASRN: 7783-20-2). Ammonium sulfate (solution) was delisted in a final rule published on June 30, 1995 (60 FR 34172, FRL-4962-4) but remains in the CFR in the CASRN ordered list at 40 CFR 372.65(b). EPA is proposing to remove the listing for ammonium sulfate (solution) from the CASRN ordered list at 40 CFR 372.65(b).

3. *Flumetralin* (CASRN: 62924-70-3). Flumetralin was deferred from listing in the 1994 chemical expansion final rule published on November 30, 1994 (59 FR 61432, FRL-4922-2) but was mistakenly added to the CASRN ordered list at 40 CFR 372.65(b). EPA is proposing to remove the listing for flumetralin from the CASRN ordered list at 40 CFR 372.65(b).

4. *Methylenebis (phenylisocyanate)* (MDI) (CASRN: 101-68-8). In the 1994 chemical expansion final rule published on November 30, 1994 (59 FR 61432, FRL-4922-2), MDI was moved to the diisocyanates category at 40 CFR 372.65(c). However, the regulatory text did not remove MDI as an individually listed chemical under the alphabetical ordered listing at 40 CFR 372.65(a) or the CASRN ordered listing at 40 CFR 372.65(b) and thus it remains as an individually listed chemical in the CFR. EPA is proposing to remove the individual listings in the CFR for MDI from both the alphabetical ordered listing at 40 CFR 372.65(a) and the CASRN ordered listing at 40 CFR 372.65(b). MDI will remain a member of the diisocyanates category.

C. *What chemicals are EPA proposing to incorporate into 40 CFR 372.65(b)?*

1. *Toluene-2,4-diisocyanate (2,4-TDI)* (CASRN: 584-84-9). 2,4-TDI was part of the original EPCRA section 313 chemical list created by Congress, however it was never added to the CASRN ordered listing at 40 CFR

372.65(b) in the CFR. It only appears under the alphabetical ordered listing at 40 CFR 372.65(a). EPA is proposing to add 2,4-TDI to the CASRN ordered list at 40 CFR 372.65(b).

2. *Vinyl bromide* (CASRN: 593-60-2). Vinyl bromide was part of the original EPCRA section 313 chemical list created by Congress, however it was never added to the CASRN ordered listing at 40 CFR 372.65(b) in the CFR. It only appears under the alphabetical ordered listing at 40 CFR 372.65(a). EPA is proposing to add vinyl bromide to the CASRN ordered list at 40 CFR 372.65(b).

D. *What CASRNs are EPA proposing to correct?*

1. *Phosphorus (yellow or white)*. The current CASRN for phosphorus (yellow or white), 7723-14-0, as originally assigned by Congress, is not assigned by the Chemical Abstracts Service (CAS) to the yellow or white form of phosphorus. CASRN 7723-14-0 is assigned by the CAS to phosphorus (black or red). The CASRN assigned to phosphorus (yellow or white) is 12185-10-3. At the time that the original list was developed, EPA believes that phosphorus yellow and white were listed as chemical synonyms under CASRN 7723-14-0. EPA also believes that the name phosphorus (yellow or white) correctly identified the chemical that Congress intended to include under EPCRA section 313. Therefore, EPA is proposing to change the CASRN for phosphorus (yellow or white) to 12185-10-3 under both the alphabetical ordered listing at 40 CFR 372.65(a) and the CASRN ordered listing at 40 CFR 372.65(b).

2. *d-trans-Allethrin*. d-trans-Allethrin is listed with a CASRN of 28057-48-9, however, that CASRN has been dropped by CAS and replaced with CASRN 28434-00-6. Therefore, EPA is proposing to change the CASRN for d-trans-allethrin to 28434-00-6 under both the alphabetical ordered listing at 40 CFR 372.65(a) and the CASRN ordered listing at 40 CFR 372.65(b). Any facility currently reporting for d-trans-allethrin under the old CASRN should still report using the new CASRN.

E. *What category chemical definitions are EPA proposing to correct?*

1. *Cyanide compounds category*. The definition for the cyanide compounds category is: “X+CN⁻ where X = H⁺ or any other group where a formal dissociation can be made. For example, KCN or Ca(CN)₂.” However, there are two errors in the CFR which has the category listed as: “X=CN⁻ where X = H⁻ or any other group where a formal dissociation can be made. For example,

KCN or Ca(CN)₂.” The X= in the CFR definition should be X⁺ and the H⁻ in the CFR definition should be H⁺; as written the definition in the CFR is not chemically correct. Also, the formula for the cyanide compounds category captures hydrogen cyanide (when X = H⁺), but hydrogen cyanide is an individually listed chemical. EPA’s guidance to reporters is to not report hydrogen cyanide under the cyanide compounds category since it is an individually listed chemical. Therefore, EPA is proposing to remove H⁺ from the cyanide compounds category definition to avoid any confusion over whether hydrogen cyanide is reportable under the category. The revised definition would be: “X+CN⁻ where X⁺ = any group (except H⁺) where a formal dissociation can be made. For example: KCN or Ca(CN)₂.”

2. *Polychlorinated alkanes category*. The formula for the polychlorinated alkanes (C₁₀ to C₁₃) category should be: C_x H_{2x-y+2} Cl_y. However, there is an error in the CFR which has the category formula listed as: C_x H_{2x-y=2} Cl_y. The CFR formula is not chemically correct since the y=2 should be y+2. Therefore, EPA is proposing to correct the CFR formula by changing the y=2 to y+2.

F. *What other chemical list errors are EPA proposing to correct?*

1. *2,2-Dibromo-3-nitropropionamide* (DBNPA) (CASRN: 10222-01-2). DBNPA is listed with a footnote but is missing an asterisk to link it to the footnote. The footnote at the end of 40 CFR 372.65(a) and (b) for DBNPA reads as follows: “*Note: The listing of 2,2-dibromo-3-nitropropionamide (DBNPA) (CASRN No. 10222-01-2) is stayed. The stay will remain in effect until further administrative action is taken.” A footnote should be added to the entries for DBNPA in both the alphabetically ordered list at 40 CFR 372.65(a) and the CASRN ordered list at 40 CFR 372.65(b) so that the reader is directed to the existing footnote. Therefore, EPA is proposing to add a footnote to the listings for DBNPA.

2. *Methyl mercaptan* (74-93-1). Methyl mercaptan is listed in the CFR at 40 CFR 372.65(a) and (b) without a footnote explaining that the reporting for this chemical has been stayed. There is an effective date note at the end of 40 CFR 372.65 which states “EFFECTIVE DATE NOTE: At 59 FR 43050, Aug. 22, 1994, in 40 CFR 372.65, in paragraph (a), the methyl mercaptan entry and in paragraph (b), the entry for CASRN No. 74-93-1 were stayed indefinitely.” Unless the reader happens to look at the very end of 40 CFR 372.65 they would not be aware of the reporting status for

methyl mercaptan. As was done for DBNPA, there should be a footnote that explains the reporting status and the entries for methyl mercaptan at 40 CFR 372.65(a) and (b). Therefore, EPA is proposing to add a footnote to the listings for methyl mercaptan at 40 CFR 372.65(a) and (b) and a footnote that states "The listing of methyl mercaptan (CASRN No. 74-93-1) is stayed. The stay will remain in effect until further administrative action is taken."

3. *Polybrominated biphenyls (PBBs) category.* The chemical structure associated with the PBB category is out of place in the CFR at 40 CFR 372.65(c). It appears well past the entry for the category. The chemical structure for the PBB category should appear immediately after the entry for the category. EPA is proposing that the structure for the PBB category be placed adjacent to the entry for the category.

4. *Remove leading zeros from CASRNs.* EPA is proposing to remove the leading zeros from the chemicals listed at 40 CFR 372.65(a), (b) and (c). CASRNs should not have leading zeros and nearly all the chemicals listed at 40 CFR 372.65 are listed without leading zeros. However, there are some chemicals listed in 40 CFR 372.65 whose CASRNs are listed with leading zeros. Further, the leading zeros in the CASRN ordered list at 40 CFR 372.65(b) result in the chemicals appearing out of order.

The following chemicals all have leading zeros added to their CASRNs in the CFR in both the alphabetical list at 40 CFR 372.65(a) and the CASRN ordered list at 40 CFR 372.65(b). EPA proposes removing these leading zeroes from the CFR text for these chemicals. Tetraabromobisphenol A (00079-94-7) Benz[*g,h,i*]perylene (00191-24-2) Pentachlorobenzene (00608-93-5)

The following chemicals all have leading zeros added to their CASRNs in the alphabetical list at 40 CFR 372.65(a) only:

Vinyl fluoride (00075-02-5)
Nitromethane (00075-52-5)
Phenolphthalein (00077-09-8)
Isoprene (00078-79-5)
1-Amino-2,4-dibromoanthraquinone (00081-49-2)
o-Nitroanisole (00091-23-6)
Methyleugenol (00093-15-2)
Furan (00110-00-9)
Tetrafluoroethylene (00116-14-3)
Tetranitromethane (00509-14-8)
Glycidol (00556-52-5)
2,2-bis(Bromomethyl)-1,3-propanediol (003296-90-0)
o-Nitrotoluene (00088-72-2)

CASRNs with leading zeros also appear in some of the chemical

categories listed at 40 CFR 372.65(c). This includes some members of the diisocyanates category (19 of 20), the dioxin and dioxin-like compounds category (2 of 17), and the polycyclic aromatic compounds category (22 of 25). Diisocyanates category (members of the category whose CASRNs have leading zeros)

038661-72-2 1,3-Bis(methylisocyanate)cyclohexane
010347-54-3 1,4-Bis(methylisocyanate)cyclohexane
002556-36-7 1,4-Cyclohexane diisocyanate
004128-73-8 4,4'-Diisocyanatodiphenyl ether
075790-87-3 2,4'-Diisocyanatodiphenyl sulfide
000091-93-0 3,3'-Dimethoxybenzidine-4,4'-diisocyanate
000091-97-4 3,3'-Dimethyl-4,4'-diphenylene diisocyanate
000139-25-3 3,3'-Dimethyldiphenylmethane-4,4'-diisocyanate
000822-06-0 Hexamethylene-1,6-diisocyanate
004098-71-9 Isophorone diisocyanate
075790-84-0 4-Methyldiphenylmethane-3,4-diisocyanate
005124-30-1 1,1-Methylene bis(4-isocyanatocyclohexane)
000101-68-8 Methylenebis(phenylisocyanate) (MDI)
003173-72-6 1,5-Naphthalene diisocyanate
000123-61-5 1,3-Phenylene diisocyanate
000104-49-4 1,4-Phenylene diisocyanate
009016-87-9 Polymeric diphenylmethane diisocyanate
016938-22-0 2,2,4-Trimethylhexamethylene diisocyanate
015646-96-5 2,4,4-Trimethylhexamethylene diisocyanate
Dioxin and dioxin-like compounds category (members of the category whose CASRNs have leading zeros)
03268-87-9 1,2,3,4,6,7,8,9-Octachlorodibenzo-*p*-dioxin
01746-01-6 2,3,7,8-Tetrachlorodibenzo-*p*-dioxin
Polycyclic aromatic compounds category (members of the category whose CASRNs have leading zeros)
00056-55-3 Benz[*a*]anthracene
00218-01-9 Benzo[*a*]phenanthrene
00050-32-8 Benzo[*a*]pyrene
00205-99-2 Benzo[*b*]fluoranthene
00205-82-3 Benzo[*j*]fluoranthene
00207-08-9 Benzo[*k*]fluoranthene
00206-44-0 Benzo[*j,k*]fluorene
00189-55-9 Benzo[*rst*]pentaphene

00226-36-8 Dibenz[*a,h*]acridine
00224-42-0 Dibenz[*a,j*]acridine
00053-70-3 Dibenzo[*a,h*]anthracene
05385-75-1 Dibenzo[*a,e*]fluoranthene
00192-65-4 Dibenzo[*a,e*]pyrene
00189-64-0 Dibenzo[*a,h*]pyrene
00191-30-0 Dibenzo[*a,l*]pyrene
00194-59-2 7H-Dibenzo[*c,g*]carbazole
00057-97-6 7,12-Dimethylbenz[*a*]anthracene
00193-39-5 Indeno[1,2,3-*cd*]pyrene
00056-49-5 3-Methylcholanthrene
03697-24-3 5-Methylchrysene
07496-02-8 6-Nitrochrysene
05522-43-0 1-Nitropyrene

5. *Correct errors in the list of lower thresholds for chemicals of special concern.* In the CFR at 40 CFR 372.28(a)(2), there are two errors in the table for "Chemical categories in alphabetic order." The entries for the hexabromocyclododecane (HBCD) and lead compounds categories are listed among the members of the dioxin and dioxin-like compounds category. The HBCD and lead compounds categories should appear after the entry for the dioxin and dioxin-like compounds category and before the entry for the mercury compounds category. EPA is proposing to fix the misplacements of the HBCD and lead compounds categories in the table at 40 CFR 372.28(a)(2) and make the table less confusing by listing only the chemical category names and not the individual members of the dioxin and dioxin-like compounds category, the HBCD category, and the polycyclic aromatic compounds category, which are listed in 40 CFR 372.65(c).

6. *Revision of chemical names.* The EPCRA section 313 chemical list, as it appears in 40 CFR 372.65(a) and (b), consists of a primary chemical name and in some cases a secondary chemical name listed as a synonym in brackets or parenthesis. Some of these secondary synonyms are other common chemical names or acronyms while others are the CAS preferred names. When the EPCRA section 313 chemical list was created through rulemaking, EPA indicated that for chemicals originally listed by Congress under a common trade name, EPA would also include the CAS preferred name in brackets next to the common trade name as a synonym (See 52 FR 21153, June 4, 1987 (proposed rule) and 53 FR 4513, February 16, 1988 (final rule)). At the time, EPA gave reporting facilities the option to include either name on the reporting form since the CASRN would be the unique identifier. However, this approach has not been consistently followed, resulting in many chemicals listed under a common trade name without

their corresponding CAS preferred name as a synonym. In addition, the EPCRA section 313 electronic reporting system only allows reporting under the primary chemical name even if it is a common trade name. EPA is not aware of any issues concerning the use of common trade names as the primary chemical name for reporting, and the common trade name is often more familiar to the public. Therefore, EPA is proposing to revise the EPCRA section 313 chemical list by including only the primary chemical name, even if it is a common trade name, and removing most secondary names. The only secondary names that will remain are the EPA registry names from EPA's Substance Registry Services (SRS) (https://iaspub.epa.gov/sor_internet/registry/substreg/home/overview/home.do). Many of the EPCRA section 313 primary chemical names listed in 40 CFR 372.65(a) and (b) already match the EPA registry name or have the EPA registry name listed as a secondary name. There are 34 EPCRA section 313 primary names in 40 CFR 372.65(a) and (b) to which EPA is proposing to add the EPA registry name as a secondary name. There are also a few primary chemical names that will have minor edits (e.g., added dashes, commas, prefixes) to make them match the EPA registry name. While EPA is removing many of the current secondary names, these synonyms are still available in EPA's common synonyms document (available via the Toxic Chemical Release Inventory Reporting Forms and Instructions guidance document) and are linked to the primary chemical names in the TRI reporting software. The proposed revised chemical list is presented in the regulatory text section at the end of this notice. To see all the changes that were made, consult the changes document (Ref. 1). Note that EPA is also proposing to add the EPA registry name for 9 members of chemical categories in 40 CFR 372.65(c) whose primary name is different from the EPA registry name.

G. What changes are EPA proposing to make to the text of the *de minimis* definition?

In response to comments on the proposed rule to implement the reporting requirements of EPCRA section 313 (52 FR 21152, June 4, 1987), EPA established a *de minimis* concentration for mixtures and trade name products in the final rule (53 FR 4500, February 16, 1988). EPA applied a *de minimis* concentration limitation of 1 percent (or 0.1 percent if the chemical is a carcinogen) consistent with the

Standard (HCS) in 29 CFR 1910.1200. The “*De minimis* concentrations of a toxic chemical in a mixture” was codified under the Exemptions section at 40 CFR 372.38(a) to provide that if a toxic chemical is present in a mixture of chemicals at a covered facility and the toxic chemical is in a concentration in the mixture which is below 1 percent of the mixture, or 0.1 percent of the mixture in the case of a toxic chemical which is a carcinogen as defined in 29 CFR 1910.1200(d)(4), a person is not required to consider the quantity of the toxic chemical present in such mixture when determining whether an applicable threshold has been met under § 372.25 or determining the amount of release to be reported under § 372.30.

To incorporate the OSHA carcinogen definition, the text of the *de minimis* exemption cross-references a specific OSHA regulatory provision (i.e., 29 CFR 1910.1200(d)(4)), which then-stated that chemical manufacturers, importers and employers evaluating chemicals shall treat the following sources as establishing that a chemical is a carcinogen or potential carcinogen for hazard communication purposes:

- National Toxicology Program (NTP), Annual Report on Carcinogens (latest edition);
- International Agency for Research on Cancer (IARC) Monographs (latest editions); or
- 29 CFR part 1910, subpart Z, Toxic and Hazardous Substances, Occupational Safety and Health Administration.

In 2012, however, OSHA revised its hazard communication standard. OSHA altered the location and, to some degree, the substance of the definition of “carcinogen,” and completely removed 29 CFR 1910.1200(d)(4) from the CFR (58 FR 17574, March 26, 2012). The “old” OSHA definition currently resides in substantively unchanged (although not identical) language, now as an optional alternative definition, in part A.6.4 of appendix A to 29 CFR 1910.1200. Thus, the current *de minimis* exemption at 40 CFR 372.38(a) cross-references a regulatory citation that no longer exists. To be consistent with the past carcinogen definition used for EPCRA section 313 *de minimis* determinations and to maintain the status quo, EPA is proposing to incorporate the previous definition from 29 CFR 1910.1200(d)(4) into the EPCRA section 313 regulations at 40 CFR 372.38(a). EPA proposes to replace the existing cross-referenced regulatory citation and modify the text to read as set out in the regulatory text below.

The addition of this language will result in no changes to the way that carcinogens are defined for purposes of EPCRA section 313 *de minimis* determinations.

III. References

EPA has established an official public docket for this action under Docket ID No. EPA-HQ-TRI-2019-0146. The public docket includes information considered by EPA in developing this action, including the documents listed below, which are electronically or physically located in the docket.

USEPA. Proposed Changes to the Toxic Release Inventory (TRI) Chemical List, March 18, 2019.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

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

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not expected to be an Executive Order 13771 (82 FR 9339) regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden. Facilities that are affected by this action are already required to report for the chemicals impacted by this action under EPCRA section 313 and section 6607 of the Pollution Prevention Act (PPA), 42 U.S.C. 13101 *et seq.* OMB has previously approved the information collection requirements contained in 40 CFR part 372 under the provisions of the PRA, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2025-0009 (EPA ICR No. 1363.21) for Form R and Form A.

Under the PRA, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers are

displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

D. Regulatory Flexibility Act (RFA)

Pursuant to the RFA section 605(b), 5 U.S.C. 601 *et seq.*, I certify that this action will not have a significant economic impact on a substantial number of small entities. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. This proposed rule adds no new reporting requirements, and there would be no increase in respondent burden or costs. This proposed rule will not impose any requirements on reporting entities, including small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action would impose no enforceable duty on any state, local or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). It will not have substantial direct effects on the states, on the relationship

between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This proposed rule will not impose substantial direct compliance costs on Indian tribal governments. Thus, Executive Order 13175 does not apply to this action.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997), as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of Executive Order 13045 has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

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

This action is not a “significant energy action” as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution or use of energy.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards that would require

Agency consideration under NTTAA section 12(d), 15 U.S.C. 272 note.

K. 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), because it does not establish an environmental health or safety standard. This action involves corrections that do not change the reporting requirements or otherwise affect the level of protection provided to human health or the environment.

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: November 18, 2019.

Alexandra Dapolito Dunn,
Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

Therefore, EPA proposes to amend 40 CFR chapter I as follows:

PART 372—[AMENDED]

■ 1. The authority citation for part 372 continues to read as follows:

Authority: 42 U.S.C. 11023 and 11048.

■ 2. In § 372.28(a)(2), add a heading for the table and revise the table to read as follows:

§ 372.28 Lower thresholds for chemicals of special concern.

*	*	*	*	*
(a)	*	*	*	
(2)	*	*	*	

TABLE 1 TO PARAGRAPH (a)(2)

Category name	Reporting threshold (in pounds unless otherwise noted)
Dioxin and dioxin-like compounds (Manufacturing; and the processing or otherwise use of dioxin and dioxin-like compounds if the dioxin and dioxin-like compounds are present as contaminants in a chemical and if they were created during the manufacturing of that chemical) (see § 372.65(c) for a list of chemicals covered by this category).	0.1 grams.
Hexabromocyclododecane (see § 372.65(c) for a list of chemicals covered by this category)	100.
Lead Compounds	100.
Mercury compounds	10.
Polycyclic aromatic compounds (PACs) (see § 372.65(c) for a list of chemicals covered by this category) ...	100.

* * * * *

■ 3. In § 372.38, revise paragraph (a) to read as follows:

§ 372.38 Exemptions.

(a) *De minimis concentrations of a toxic chemical in a mixture.* (1) If a toxic chemical is present in a mixture of chemicals at a covered facility and the toxic chemical is in a concentration in

the mixture which is below 1 percent of the mixture, or 0.1 percent of the mixture in the case of a toxic chemical which is a carcinogen, a person is not required to consider the quantity of the toxic chemical present in such mixture

when determining whether an applicable threshold has been met under § 372.25 or determining the amount of release to be reported under § 372.30. For purposes of the exemption in this paragraph (a), the following sources establish a chemical as a carcinogen or potential carcinogen:

(i) National Toxicology Program (NTP), Annual Report on Carcinogens (latest edition);

(ii) International Agency for Research on Cancer (IARC) Monographs (latest editions); or

(iii) 29 CFR part 1910, subpart Z, Toxic and Hazardous Substances, Occupational Safety and Health Administration.

(2) The exemption in this paragraph (a) applies whether the person received the mixture from another person or the person produced the mixture, either by mixing the chemicals involved or by causing a chemical reaction which resulted in the creation of the toxic chemical in the mixture. However, this exemption applies only to the quantity of the toxic chemical present in the mixture. If the toxic chemical is also manufactured (including imported), processed, or otherwise used at the covered facility other than as part of the mixture or in a mixture at higher concentrations, in excess of an applicable threshold quantity set forth in § 372.25, the person is required to

report under § 372.30. This exemption does not apply to toxic chemicals listed in § 372.28, except for purposes of § 372.45(d)(1).

* * * * *

■ 4. In § 372.65:

■ a. Add a heading for the table and revise the table in paragraph (a).

■ b. Add a heading for the table and revise the table in paragraph (b).

■ c. Add a heading for the table and revise the table in paragraph (c).

The revisions read as follows:

§ 372.65 Chemicals and chemical categories to which this part applies.

* * * * *

(a) * * *

TABLE 1 TO PARAGRAPH (a)

Chemical name	CAS No.	Effective date
Abamectin	71751-41-2	1/1/95
Acephate	30560-19-1	1/1/95
Acetaldehyde	75-07-0	1/1/87
Acetamide	60-35-5	1/1/87
Acetonitrile	75-05-8	1/1/87
Acetophenone	98-86-2	1/1/94
2-Acetylaminofluorene	53-96-3	1/1/87
Acifluorfen, sodium salt	62476-59-9	1/1/95
Acrolein	107-02-8	1/1/87
Acrylamide	79-06-1	1/1/87
Acrylic acid	79-10-7	1/1/87
Acrylonitrile	107-13-1	1/1/87
Alachlor	15972-60-8	1/1/95
Aldicarb	116-06-3	1/1/95
Aldrin	309-00-2	1/1/87
<i>d-trans</i> -Allethrin	28434-00-6	1/1/95
Allyl alcohol	107-18-6	1/1/90
Allylamine	107-11-9	1/1/95
Allyl chloride	107-05-1	1/1/87
Aluminum (fume or dust)	7429-90-5	1/1/87
Aluminum oxide (fibrous forms) (Alumina)	1344-28-1	1/1/87
Aluminum phosphide	20859-73-8	1/1/95
Ametryn	834-12-8	1/1/95
2-Aminoanthraquinone	117-79-3	1/1/87
4-Aminoazobenzene	60-09-3	1/1/87
4-Aminobiphenyl	92-67-1	1/1/87
1-Amino-2,4-dibromoanthraquinone	81-49-2	1/1/11
1-Amino-2-methylantraquinone	82-28-0	1/1/87
Amitraz	33089-61-1	1/1/95
Amitrole	61-82-5	1/1/94
Ammonia (includes anhydrous ammonia and aqueous ammonia from water dissociable ammonium salts and other sources; 10 percent of total aqueous ammonia is reportable under this listing)	7664-41-7	1/1/87
Anilazine	101-05-3	1/1/95
Aniline	62-53-3	1/1/87
<i>o</i> -Anisidine	90-04-0	1/1/87
<i>p</i> -Anisidine	104-94-9	1/1/87
<i>o</i> -Anisidine hydrochloride	134-29-2	1/1/87
Anthracene	120-12-7	1/1/87
Antimony	7440-36-0	1/1/87
Arsenic	7440-38-2	1/1/87
Asbestos (friable)	1332-21-4	1/1/87
Atrazine	1912-24-9	1/1/95
Barium	7440-39-3	1/1/87
Bendiocarb	22781-23-3	1/1/95
Benfluralin	1861-40-1	1/1/95
Benomyl	17804-35-2	1/1/95
Benzal chloride	98-87-3	1/1/87
Benzamide	55-21-0	1/1/87
Benzene	71-43-2	1/1/87
Benzidine	92-87-5	1/1/87
Benzo[<i>g,h,i</i>]perylene	191-24-2	1/1/00

TABLE 1 TO PARAGRAPH (a)—Continued

Chemical name	CAS No.	Effective date
Benzoic trichloride (Benzotrichloride)	98-07-7	1/1/87
Benzoyl chloride	98-88-4	1/1/87
Benzoyl peroxide	94-36-0	1/1/87
Benzyl chloride	100-44-7	1/1/87
Beryllium	7440-41-7	1/1/87
Bifenthrin	82657-04-3	1/1/95
Biphenyl	92-52-4	1/1/87
2,2-Bis(bromomethyl)-1,3-propanediol	3296-90-0	1/1/11
Bis(2-chloroethoxy)methane	111-91-1	1/1/94
Bis(2-chloroethyl) ether	111-44-4	1/1/87
Bis(chloromethyl) ether	542-88-1	1/1/87
Bis(2-chloro-1-methylethyl) ether	108-60-1	1/1/87
Bis(tributyltin) oxide	56-35-9	1/1/95
Boron trichloride	10294-34-5	1/1/95
Boron trifluoride	7637-07-2	1/1/95
Bromacil	314-40-9	1/1/95
Bromacil, lithium salt	53404-19-6	1/1/95
Bromine	7726-95-6	1/1/95
1-Bromo-1-(bromomethyl)-1,3-propanedicarbonitrile	35691-65-7	1/1/95
Bromochlorodifluoromethane (Halon 1211)	353-59-3	7/8/90
Bromoform (Tribromomethane)	75-25-2	1/1/87
Bromomethane (Methyl bromide)	74-83-9	1/1/87
1-Bromopropane	106-94-5	1/1/16
Bromotrifluoromethane (Halon 1301)	75-63-8	7/8/90
Bromoxynil	1689-84-5	1/1/95
Bromoxynil octanoate	1689-99-2	1/1/95
Brucine	357-57-3	1/1/95
1,3-Butadiene	106-99-0	1/1/87
Butyl acrylate	141-32-2	1/1/87
<i>n</i> -Butyl alcohol (1-Butanol)	71-36-3	1/1/87
<i>sec</i> -Butyl alcohol (2-Butanol)	78-92-2	1/1/87
<i>tert</i> -Butyl alcohol (tert-Butanol)	75-65-0	1/1/87
1,2-Butylene oxide	106-88-7	1/1/87
Butyraldehyde	123-72-8	1/1/87
C.I. Acid Green 3	4680-78-8	1/1/87
C.I. Acid Red 114	6459-94-5	1/1/95
C.I. Basic Green 4 (Malachite green)	569-64-2	1/1/87
C.I. Basic Red 1	989-38-8	1/1/87
C.I. Direct Black 38	1937-37-7	1/1/87
C.I. Direct Blue 6	2602-46-2	1/1/87
C.I. Direct Blue 218	28407-37-6	1/1/95
C.I. Direct Brown 95	16071-86-6	1/1/87
C.I. Disperse Yellow 3	2832-40-8	1/1/87
C.I. Food Red 5	3761-53-3	1/1/87
C.I. Food Red 15 (Rhodamine B)	81-88-9	1/1/87
C.I. Solvent Orange 7	3118-97-6	1/1/87
C.I. Solvent Yellow 3	97-56-3	1/1/87
C.I. Solvent Yellow 14	842-07-9	1/1/87
C.I. Solvent Yellow 34 (Auramine)	492-80-8	1/1/87
C.I. Vat Yellow 4	128-66-5	1/1/87
Cadmium	7440-43-9	1/1/87
Calcium cyanamide	156-62-7	1/1/87
Captan	133-06-2	1/1/87
Carbaryl	63-25-2	1/1/87
Carbofuran	1563-66-2	1/1/95
Carbon disulfide	75-15-0	1/1/87
Carbon tetrachloride	56-23-5	1/1/87
Carbonyl sulfide	463-58-1	1/1/87
Carboxin	5234-68-4	1/1/95
Catechol	120-80-9	1/1/87
Chinomethionate	2439-01-2	1/1/95
Chloramben	133-90-4	1/1/87
Chlordane	57-74-9	1/1/87
Chlorendic acid	115-28-6	1/1/95
Chlorimuron-ethyl	90982-32-4	1/1/95
Chlorine	7782-50-5	1/1/87
Chlorine dioxide	10049-04-4	1/1/87
Chloroacetic acid	79-11-8	1/1/87
2-Chloroacetophenone	532-27-4	1/1/87
1-(3-Chloroallyl)-3,5,7-triaza-1-azoniaadamantane chloride	4080-31-3	1/1/95
<i>p</i> -Chloroaniline	106-47-8	1/1/95
Chlorobenzene	108-90-7	1/1/87

TABLE 1 TO PARAGRAPH (a)—Continued

Chemical name	CAS No.	Effective date
Chlorobenzilate	510-15-6	1/1/87
1-Chloro-1,1-difluoroethane (HCFC-142b)	75-68-3	1/1/94
Chlorodifluoromethane (HCFC-22)	75-45-6	1/1/94
Chloroethane	75-00-3	1/1/87
Chloroform	67-66-3	1/1/87
Chloromethane	74-87-3	1/1/87
Chloromethyl methyl ether	107-30-2	1/1/87
3-Chloro-2-methyl-1-propene	563-47-3	1/1/95
<i>p</i> -Chlorophenyl isocyanate	104-12-1	1/1/95
Chloropicrin	76-06-2	1/1/95
Chloroprene	126-99-8	1/1/87
3-Chloropropionitrile	542-76-7	1/1/95
Chlorotetrafluoroethane	63938-10-3	1/1/94
1-Chloro-1,1,2,2-tetrafluoroethane (HCFC-124a)	354-25-6	1/1/94
2-Chloro-1,1,1,2-tetrafluoroethane (HCFC-124)	2837-89-0	1/1/94
Chlorothalonil	1897-45-6	1/1/87
<i>p</i> -Chloro- <i>o</i> -toluidine (4-Chloro-2-methylaniline)	95-69-2	1/1/95
2-Chloro-1,1,1-trifluoroethane (HCFC-133a)	75-88-7	1/1/95
Chlorotrifluoromethane (CFC-13)	75-72-9	1/1/95
3-Chloro-1,1,1-trifluoropropane (HCFC-253fb)	460-35-5	1/1/95
Chlorpyrifos-methyl	5598-13-0	1/1/95
Chlorsulfuron	64902-72-3	1/1/95
Chromium	7440-47-3	1/1/87
Cobalt	7440-48-4	1/1/87
Copper	7440-50-8	1/1/87
Creosote	8001-58-9	1/1/90
<i>p</i> -Cresidine	120-71-8	1/1/87
Cresol (mixed isomers)	1319-77-3	1/1/87
<i>m</i> -Cresol	108-39-4	1/1/87
<i>o</i> -Cresol	95-48-7	1/1/87
<i>p</i> -Cresol	106-44-5	1/1/87
Crotonaldehyde	4170-30-3	1/1/95
Cumene	98-82-8	1/1/87
Cumene hydroperoxide	80-15-9	1/1/87
Cupferron	135-20-6	1/1/87
Cyanazine	21725-46-2	1/1/95
Cycloate	1134-23-2	1/1/95
Cyclohexane	110-82-7	1/1/87
Cyclohexanol	108-93-0	1/1/95
Cyfluthrin	68359-37-5	1/1/95
Cyhalothrin	68085-85-8	1/1/95
2,4-D	94-75-7	1/1/87
Dazomet	533-74-4	1/1/95
Dazomet, sodium salt	53404-60-7	1/1/95
2,4-DB	94-82-6	1/1/95
2,4-D 2-butoxyethyl ester	1929-73-3	1/1/95
2,4-D butyl ester	94-80-4	1/1/95
2,4-D chlorocrotyl ester	2971-38-2	1/1/95
Decabromodiphenyl oxide	1163-19-5	1/1/87
Desmedipham	13684-56-5	1/1/95
2,4-D 2-ethylhexyl ester	1928-43-4	1/1/95
2,4-D 2-ethyl-4-methylpentyl ester	53404-37-8	1/1/95
Diallate	2303-16-4	1/1/87
2,4-Diaminoanisole	615-05-4	1/1/87
2,4-Diaminoanisole sulfate	39156-41-7	1/1/87
4,4'-Diaminodiphenyl ether	101-80-4	1/1/87
Diaminotoluene (mixed isomers) (Toluenediamine)	25376-45-8	1/1/87
2,4-Diaminotoluene (2,4-Toluenediamine)	95-80-7	1/1/87
Diazinon	333-41-5	1/1/95
Diazomethane	334-88-3	1/1/87
Dibenzofuran	132-64-9	1/1/87
1,2-Dibromo-3-chloropropane	96-12-8	1/1/87
2,2-Dibromo-3-nitropropionamide ¹	10222-01-2	1/1/95
1,2-Dibromoethane (Ethylene dibromide)	106-93-4	1/1/87
Dibromotetrafluoroethane (1,2-Dibromo-1,1,2,2-tetrafluoroethane)	124-73-2	7/8/90
Dibutyl phthalate	84-74-2	1/1/87
Dicamba	1918-00-9	1/1/95
Dichloran	99-30-9	1/1/95
Dichlorobenzene (mixed isomers)	25321-22-6	1/1/87
1,2-Dichlorobenzene (<i>o</i> -Dichlorobenzene)	95-50-1	1/1/87
1,3-Dichlorobenzene (<i>m</i> -Dichlorobenzene)	541-73-1	1/1/87
1,4-Dichlorobenzene (<i>p</i> -Dichlorobenzene)	106-46-7	1/1/87

TABLE 1 TO PARAGRAPH (a)—Continued

Chemical name	CAS No.	Effective date
3,3'-Dichlorobenzidine	91-94-1	1/1/87
3,3'-Dichlorobenzidine dihydrochloride	612-83-9	1/1/95
3,3'-Dichlorobenzidine sulfate	64969-34-2	1/1/95
Dichlorobromomethane	75-27-4	1/1/87
1,4-Dichloro-2-butene	764-41-0	1/1/94
<i>trans</i> -1,4-Dichloro-2-butene	110-57-6	1/1/95
1,2-Dichloro-1,1-difluoroethane (HCFC-132b)	1649-08-7	1/1/95
Dichlorodifluoromethane (CFC-12)	75-71-8	7/8/90
1,2-Dichloroethane	107-06-2	1/1/87
1,2-Dichloroethylene	540-59-0	1/1/87
1,1-Dichloro-1-fluoroethane (HCFC-141b)	1717-00-6	1/1/94
Dichlorofluoromethane (HCFC-21)	75-43-4	1/1/95
Dichloromethane (Methylene chloride)	75-09-2	1/1/87
Dichloropentafluoropropane	127564-92-5	1/1/95
1,1-Dichloro-1,2,2,3,3-pentafluoropropane (HCFC-225cc)	13474-88-9	1/1/95
1,1-Dichloro-1,2,3,3,3-pentafluoropropane (HCFC-225eb)	111512-56-2	1/1/95
1,2-Dichloro-1,1,2,3,3-pentafluoropropane (HCFC-225bb)	422-44-6	1/1/95
1,2-Dichloro-1,1,3,3,3-pentafluoropropane (HCFC-225da)	431-86-7	1/1/95
1,3-Dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb)	507-55-1	1/1/95
1,3-Dichloro-1,1,2,3,3-pentafluoropropane (HCFC-225ea)	136013-79-1	1/1/95
2,2-Dichloro-1,1,1,3,3-pentafluoropropane (HCFC-225aa)	128903-21-9	1/1/95
2,3-dichloro-1,1,1,2,3-pentafluoropropane (HCFC-225ba)	422-48-0	1/1/95
3,3-Dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca)	422-56-0	1/1/95
Dichlorophene	97-23-4	1/1/95
2,4-Dichlorophenol	120-83-2	1/1/87
1,2-Dichloropropane	78-87-5	1/1/87
2,3-Dichloropropene	78-88-6	1/1/90
<i>trans</i> -1,3-Dichloropropene	10061-02-6	1/1/95
1,3-Dichloropropylene (1,3-Dichloropropene)	542-75-6	1/1/87
Dichlorotetrafluoroethane (CFC-114)	76-14-2	7/8/90
Dichlorotrifluoroethane	34077-87-7	1/1/94
Dichloro-1,1,2-trifluoroethane	90454-18-5	1/1/94
1,1-Dichloro-1,2,2-trifluoroethane (HCFC-123b)	812-04-4	1/1/94
1,2-Dichloro-1,1,2-trifluoroethane (HCFC-123a)	354-23-4	1/1/94
2,2-Dichloro-1,1,1-trifluoroethane (HCFC-123)	306-83-2	1/1/94
Dichlorvos	62-73-7	1/1/87
Diclofop methyl	51338-27-3	1/1/95
Dicofol	115-32-2	1/1/87
Dicyclopentadiene	77-73-6	1/1/95
Diepoxybutane	1464-53-5	1/1/87
Diethanolamine	111-42-2	1/1/87
Diethyl ethyl	38727-55-8	1/1/95
Di(2-ethylhexyl) phthalate	117-81-7	1/1/87
Diethyl sulfate	64-67-5	1/1/87
Diflubenzuron	35367-38-5	1/1/95
Diglycidyl resorcinol ether	101-90-6	1/1/95
Dihydrosafrole	94-58-6	1/1/94
Dimethipin	55290-64-7	1/1/95
Dimethoate	60-51-5	1/1/95
3,3'-Dimethoxybenzidine	119-90-4	1/1/87
3,3'-Dimethoxybenzidine dihydrochloride	20325-40-0	1/1/95
3,3'-Dimethoxybenzidine monohydrochloride	111984-09-9	1/1/95
Dimethylamine	124-40-3	1/1/95
Dimethylamine dicamba	2300-66-5	1/1/95
4-Dimethylaminoazobenzene	60-11-7	1/1/87
<i>N,N</i> -Dimethylaniline	121-69-7	1/1/87
3,3'-Dimethylbenzidine	119-93-7	1/1/87
3,3'-Dimethylbenzidine dihydrochloride	612-82-8	1/1/95
3,3'-Dimethylbenzidine dihydrofluoride	41766-75-0	1/1/95
Dimethylcarbamoyl chloride	79-44-7	1/1/87
Dimethyl chlorothiophosphate	2524-03-0	1/1/95
<i>N,N</i> -Dimethylformamide	68-12-2	1/1/95
1,1-Dimethylhydrazine	57-14-7	1/1/87
2,4-Dimethylphenol	105-67-9	1/1/87
Dimethyl phthalate	131-11-3	1/1/87
Dimethyl sulfate	77-78-1	1/1/87
<i>m</i> -Dinitrobenzene	99-65-0	1/1/90
<i>o</i> -Dinitrobenzene	528-29-0	1/1/90
<i>p</i> -Dinitrobenzene	100-25-4	1/1/90
Dinitrobutyl phenol (Dinoseb)	88-85-7	1/1/95
4,6-Dinitro- <i>o</i> -cresol	534-52-1	1/1/87
2,4-Dinitrophenol	51-28-5	1/1/87

TABLE 1 TO PARAGRAPH (a)—Continued

Chemical name	CAS No.	Effective date
2,4-Dinitrotoluene	121-14-2	1/1/87
2,6-Dinitrotoluene	606-20-2	1/1/87
Dinitrotoluene (mixed isomers)	25321-14-6	1/1/90
Dinocap	39300-45-3	1/1/95
1,4-Dioxane	123-91-1	1/1/87
Diphenamid	957-51-7	1/1/95
Diphenylamine	122-39-4	1/1/95
1,2-Diphenylhydrazine	122-66-7	1/1/87
Dipotassium endothall	2164-07-0	1/1/95
Dipropyl isocinchomeronate	136-45-8	1/1/95
Disodium cyanodithioimidocarbonate	138-93-2	1/1/95
2,4-D isopropyl ester	94-11-1	1/1/95
2,4-Dithiobiuret (Dithiobiuret)	541-53-7	1/1/95
Diuron	330-54-1	1/1/95
Dodine	2439-10-3	1/1/95
2,4-DP (Dichlorprop)	120-36-5	1/1/95
2,4-D propylene glycol butyl ether ester (2,4-D 2-butoxymethylethyl ester)	1320-18-9	1/1/95
2,4-D sodium salt	2702-72-9	1/1/95
Epichlorohydrin	106-89-8	1/1/87
Ethoprop	13194-48-4	1/1/95
2-Ethoxyethanol	110-80-5	1/1/87
Ethyl acrylate	140-88-5	1/1/87
Ethylbenzene	100-41-4	1/1/87
Ethyl chloroformate	541-41-3	1/1/87
S-Ethyl dipropylthiocarbamate	759-94-4	1/1/95
Ethylene	74-85-1	1/1/87
Ethylene glycol	107-21-1	1/1/87
Ethyleneimine (Aziridine)	151-56-4	1/1/87
Ethylene oxide	75-21-8	1/1/87
Ethylene thiourea	96-45-7	1/1/87
Ethylidene dichloride (1,1-Dichloroethane)	75-34-3	1/1/94
Famphur	52-85-7	1/1/95
Fenarimol	60168-88-9	1/1/95
Fenbutatin oxide	13356-08-6	1/1/95
Fenoxaprop-ethyl	66441-23-4	1/1/95
Fenoxycarb	72490-01-8	1/1/95
Fenpropathrin	39515-41-8	1/1/95
Fenthion	55-38-9	1/1/95
Fenvalerate	51630-58-1	1/1/95
Ferbam	14484-64-1	1/1/95
Fluazifop-butyl	69806-50-4	1/1/95
Fluometuron	2164-17-2	1/1/87
Fluorine	7782-41-4	1/1/95
Fluorouracil (5-Fluorouracil)	51-21-8	1/1/95
Fluvalinate	69409-94-5	1/1/95
Folpet	133-07-3	1/1/95
Fomesafen	72178-02-0	1/1/95
Formaldehyde	50-00-0	1/1/87
Formic acid	64-18-6	1/1/94
Freon 113 (CFC-113)	76-13-1	1/1/87
Furan	110-00-9	1/1/11
Glycidol	556-52-5	1/1/11
Heptachlor	76-44-8	1/1/87
Hexachlorobenzene	118-74-1	1/1/87
Hexachloro-1,3-butadiene (Hexachlorobutadiene)	87-68-3	1/1/87
<i>alpha</i> -Hexachlorocyclohexane	319-84-6	1/1/95
Hexachlorocyclopentadiene	77-47-4	1/1/87
Hexachloroethane	67-72-1	1/1/87
Hexachloronaphthalene	1335-87-1	1/1/87
Hexachlorophene	70-30-4	1/1/94
Hexamethylphosphoramide	680-31-9	1/1/87
<i>n</i> -Hexane (Hexane)	110-54-3	1/1/95
Hexazinone	51235-04-2	1/1/95
Hydramethylnon	67485-29-4	1/1/95
Hydrazine	302-01-2	1/1/87
Hydrazine sulfate (1:1)	10034-93-2	1/1/87
Hydrochloric acid (acid aerosols including mists, vapors, gas, fog, and other airborne forms of any particle size)	7647-01-0	1/1/87
Hydrogen cyanide	74-90-8	1/1/87
Hydrogen fluoride (Hydrofluoric acid)	7664-39-3	1/1/87
Hydrogen sulfide	7783-06-4	1/1/94
Hydroquinone	123-31-9	1/1/87

TABLE 1 TO PARAGRAPH (a)—Continued

Chemical name	CAS No.	Effective date
Imazalil	35554-44-0	1/1/95
3-Iodo-2-propynyl butylcarbamate	55406-53-6	1/1/95
Iron pentacarbonyl	13463-40-6	1/1/95
Isobutyraldehyde	78-84-2	1/1/87
Isodrin	465-73-6	1/1/95
Isufenphos	25311-71-1	1/1/95
Isoprene	78-79-5	1/1/11
Isopropyl alcohol (Isopropanol) (only persons who manufacture by the strong acid process are subject, no supplier notification)	67-63-0	1/1/87
4,4'-Isopropylidenediphenol	80-05-7	1/1/87
Isosafrole	120-58-1	1/1/90
Lactofen	77501-63-4	1/1/95
Lead	7439-92-1	1/1/87
Lindane	58-89-9	1/1/87
Linuron	330-55-2	1/1/95
Lithium carbonate	554-13-2	1/1/95
Malathion	121-75-5	1/1/95
Maleic anhydride	108-31-6	1/1/87
Malononitrile	109-77-3	1/1/94
Maneb	12427-38-2	1/1/87
Manganese	7439-96-5	1/1/87
Mecoprop	93-65-2	1/1/95
2-Mercaptobenzothiazole	149-30-4	1/1/95
Mercury	7439-97-6	1/1/87
Merphos	150-50-5	1/1/95
Methacrylonitrile	126-98-7	1/1/94
Metham sodium (Sodium methylthiocarbamate)	137-42-8	1/1/95
Methanol	67-56-1	1/1/87
Methazole	20354-26-1	1/1/95
Methiocarb	2032-65-7	1/1/95
Methoxone (MCPA)	94-74-6	1/1/95
Methoxone sodium salt	3653-48-3	1/1/95
Methoxychlor	72-43-5	1/1/87
2-Methoxyethanol	109-86-4	1/1/87
Methyl acrylate	96-33-3	1/1/87
Methyl tert-butyl ether	1634-04-4	1/1/87
Methyl chlorocarbonate	79-22-1	1/1/94
4,4'-Methylenebis(2-chloroaniline)	101-14-4	1/1/87
4,4'-Methylenebis(N,N-dimethyl)benzenamine (4,4'-Methylenebis[N,N-dimethylaniline])	101-61-1	1/1/87
Methylene bromide (Dibromomethane)	74-95-3	1/1/87
4,4'-Methylenedianiline	101-77-9	1/1/87
Methyleugenol	93-15-2	1/1/11
Methyl hydrazine	60-34-4	1/1/87
Methyl iodide	74-88-4	1/1/87
Methyl isobutyl ketone	108-10-1	1/1/87
Methyl isocyanate	624-83-9	1/1/87
Methyl isothiocyanate	556-61-6	1/1/95
2-Methylactonitrile (Acetone cyanohydrin)	75-86-5	1/1/95
Methyl mercaptan ²	74-93-1	1/1/94
Methyl methacrylate	80-62-6	1/1/87
N-Methylolacrylamide	924-42-5	1/1/95
Methyl parathion	298-00-0	1/1/95
2-Methylpyridine	109-06-8	1/1/94
N-Methyl-2-pyrrolidone	872-50-4	1/1/95
Metiram	9006-42-2	1/1/95
Metribuzin	21087-64-9	1/1/95
Mevinphos	7786-34-7	1/1/95
Michler's ketone	90-94-8	1/1/87
Molinate	2212-67-1	1/1/95
Molybdenum trioxide	1313-27-5	1/1/87
Monochloropentafluoroethane (CFC-115)	76-15-3	7/8/90
Monuron	150-68-5	1/1/95
Mustard gas	505-60-2	1/1/87
Myclobutanil	88671-89-0	1/1/95
Nabam	142-59-6	1/1/95
Naled	300-76-5	1/1/95
Naphthalene	91-20-3	1/1/87
alpha-Naphthylamine (1-Naphthalenamine)	134-32-7	1/1/87
beta-Naphthylamine (2-Naphthalenamine)	91-59-8	1/1/87
Nickel	7440-02-0	1/1/87
Nitrapyrin	1929-82-4	1/1/95
Nitric acid	7697-37-2	1/1/87

TABLE 1 TO PARAGRAPH (a)—Continued

Chemical name	CAS No.	Effective date
Nitriiotriacetic acid	139-13-9	1/1/87
<i>p</i> -Nitroaniline	100-01-6	1/1/95
5-Nitro- <i>o</i> -anisidine (2-Methoxy-5-nitroaniline)	99-59-2	1/1/87
<i>o</i> -Nitroanisole	91-23-6	1/1/11
Nitrobenzene	98-95-3	1/1/87
4-Nitrobiphenyl	92-93-3	1/1/87
Nitrofen	1836-75-5	1/1/87
Nitrogen mustard (HN-2)	51-75-2	1/1/87
Nitroglycerin	55-63-0	1/1/87
Nitromethane	75-52-5	1/1/11
2-Nitrophenol (<i>o</i> -Nitrophenol)	88-75-5	1/1/87
4-Nitrophenol (<i>p</i> -Nitrophenol)	100-02-7	1/1/87
2-Nitropropane	79-46-9	1/1/87
<i>N</i> -Nitrosodi- <i>n</i> -butylamine	924-16-3	1/1/87
<i>N</i> -Nitrosodiethylamine	55-18-5	1/1/87
<i>N</i> -Nitrosodimethylamine	62-75-9	1/1/87
<i>N</i> -Nitrosodiphenylamine	86-30-6	1/1/87
<i>p</i> -Nitrosodiphenylamine	156-10-5	1/1/87
<i>N</i> -Nitrosodi- <i>n</i> -propylamine	621-64-7	1/1/87
<i>N</i> -Nitroso- <i>N</i> -ethylurea	759-73-9	1/1/87
<i>N</i> -Nitroso- <i>N</i> -methylurea	684-93-5	1/1/87
<i>N</i> -Nitrosomethylvinylamine	4549-40-0	1/1/87
<i>N</i> -Nitrosomorpholine	59-89-2	1/1/87
<i>N</i> -Nitrosonornicotine	16543-55-8	1/1/87
<i>N</i> -Nitrosopiperidine	100-75-4	1/1/87
<i>o</i> -Nitrotoluene	88-72-2	1/1/14
5-Nitro- <i>o</i> -toluidine (2-Methyl-5-nitroaniline)	99-55-8	1/1/94
Norflurazon	27314-13-2	1/1/95
Octachloronaphthalene	2234-13-1	1/1/87
Octachlorostyrene	29082-74-4	1/1/00
Oryzalin	19044-88-3	1/1/95
Osmium tetroxide	20816-12-0	1/1/87
Oxydemeton-methyl	301-12-2	1/1/95
Oxadiazon	19666-30-9	1/1/95
Oxyfluorfen	42874-03-3	1/1/95
Ozone	10028-15-6	1/1/95
Paraldehyde	123-63-7	1/1/94
Paraquat dichloride	1910-42-5	1/1/95
Parathion	56-38-2	1/1/87
Pebulate	1114-71-2	1/1/95
Pendimethalin	40487-42-1	1/1/95
Pentachlorobenzene	608-93-5	1/1/00
Pentachloroethane	76-01-7	1/1/94
Pentachlorophenol	87-86-5	1/1/87
Pentobarbital sodium	57-33-0	1/1/95
Peracetic acid	79-21-0	1/1/87
Perchloromethyl mercaptan	594-42-3	1/1/95
Permethrin	52645-53-1	1/1/95
Phenanthrene	85-01-8	1/1/95
Phenol	108-95-2	1/1/87
Phenolphthalein (3,3-Bis(4-hydroxyphenyl)phthalide)	77-09-8	1/1/11
Phenothrin	26002-80-2	1/1/95
<i>p</i> -Phenylenediamine	106-50-3	1/1/87
1,2-Phenylenediamine	95-54-5	1/1/95
1,3-Phenylenediamine	108-45-2	1/1/95
1,2-Phenylenediamine dihydrochloride	615-28-1	1/1/95
1,4-Phenylenediamine dihydrochloride	624-18-0	1/1/95
2-Phenylphenol	90-43-7	1/1/87
Phenytoin	57-41-0	1/1/95
Phosgene	75-44-5	1/1/87
Phosphine	7803-51-2	1/1/95
Phosphorus (yellow or white)	12185-10-3	1/1/87
Phthalic anhydride	85-44-9	1/1/87
Picloram	1918-02-1	1/1/95
Picric acid	88-89-1	1/1/87
Piperonyl butoxide	51-03-6	1/1/95
Pirimiphos-methyl	29232-93-7	1/1/95
Polychlorinated biphenyls	1336-36-3	1/1/87
Potassium bromate	7758-01-2	1/1/95
Potassium dimethyldithiocarbamate	128-03-0	1/1/95
Potassium <i>N</i> -methylthiocarbamate	137-41-7	1/1/95
Profenofos	41198-08-7	1/1/95

TABLE 1 TO PARAGRAPH (a)—Continued

Chemical name	CAS No.	Effective date
Prometryn	7287-19-6	1/1/95
Pronamide	23950-58-5	1/1/94
Propachlor	1918-16-7	1/1/95
1,3-Propane sultone	1120-71-4	1/1/87
Propanil	709-98-8	1/1/95
Propargite	2312-35-8	1/1/95
Propargyl alcohol	107-19-7	1/1/95
Propetamphos	31218-83-4	1/1/95
Propiconazole	60207-90-1	1/1/95
beta-Propiolactone	57-57-8	1/1/87
Propionaldehyde	123-38-6	1/1/87
Propoxur	114-26-1	1/1/87
Propylene	115-07-1	1/1/87
Propyleneimine	75-55-8	1/1/87
Propylene oxide	75-56-9	1/1/87
Pyridine	110-86-1	1/1/87
Quinoline	91-22-5	1/1/87
Quinone	106-51-4	1/1/87
Quintozene (Pentachloronitrobenzene)	82-68-8	1/1/87
Quizalofop-ethyl	76578-14-8	1/1/95
Resmethrin	10453-86-8	1/1/95
Saccharin (only persons who manufacture are subject, no supplier notification)	81-07-2	1/1/87
Safrole	94-59-7	1/1/87
Selenium	7782-49-2	1/1/87
Sethoxydim	74051-80-2	1/1/95
Silver	7440-22-4	1/1/87
Simazine	122-34-9	1/1/95
Sodium azide	26628-22-8	1/1/95
Sodium dicamba	1982-69-0	1/1/95
Sodium dimethyldithiocarbamate	128-04-1	1/1/95
Sodium fluoroacetate	62-74-8	1/1/95
Sodium nitrite	7632-00-0	1/1/95
Sodium pentachlorophenate	131-52-2	1/1/95
Sodium o-phenylphenoxide	132-27-4	1/1/95
Styrene	100-42-5	1/1/87
Styrene oxide	96-09-3	1/1/87
Sulfuric acid (acid aerosols including mists, vapors, gas, fog, and other airborne forms of any particle size)	7664-93-9	1/1/87
Sulfuryl fluoride	2699-79-8	1/1/95
Sulprofos	35400-43-2	1/1/95
Tebuthiuron	34014-18-1	1/1/95
Temephos	3383-96-8	1/1/95
Terbacil	5902-51-2	1/1/95
Tetrabromobisphenol A	79-94-7	1/1/00
1,1,1,2-Tetrachloroethane	630-20-6	1/1/94
1,1,2,2-Tetrachloroethane	79-34-5	1/1/87
Tetrachloroethylene	127-18-4	1/1/87
1,1,1,2-Tetrachloro-2-fluoroethane (HCFC-121a)	354-11-0	1/1/95
1,1,2,2-Tetrachloro-1-fluoroethane (HCFC-121)	354-14-3	1/1/95
Tetrachlorvinphos	961-11-5	1/1/87
Tetracycline hydrochloride	64-75-5	1/1/95
Tetrafluoroethylene (Tetrafluoroethene)	116-14-3	1/1/11
Tetramethrin	7696-12-0	1/1/95
Tetranitromethane	509-14-8	1/1/11
Thallium	7440-28-0	1/1/87
Thiabendazole	148-79-8	1/1/95
Thioacetamide	62-55-5	1/1/87
Thiobencarb	28249-77-6	1/1/95
4,4'-Thiodianiline	139-65-1	1/1/87
Thiodicarb	59669-26-0	1/1/95
Thiophanate-ethyl	23564-06-9	1/1/95
Thiophanate-methyl	23564-05-8	1/1/95
Thiosemicarbazide	79-19-6	1/1/95
Thiourea	62-56-6	1/1/87
Thiram	137-26-8	1/1/94
Thorium dioxide	1314-20-1	1/1/87
Titanium tetrachloride	7550-45-0	1/1/87
Toluene	108-88-3	1/1/87
Toluene-2,4-diisocyanate	584-84-9	1/1/87
Toluene-2,6-diisocyanate	91-08-7	1/1/87
Toluene diisocyanate (mixed isomers)	26471-62-5	1/1/90
o-Toluidine	95-53-4	1/1/87
o-Toluidine hydrochloride	636-21-5	1/1/87

TABLE 1 TO PARAGRAPH (a)—Continued

Chemical name	CAS No.	Effective date
Toxaphene	8001-35-2	1/1/87
Triadimefon	43121-43-3	1/1/95
Triallate	2303-17-5	1/1/95
Triaziquone	68-76-8	1/1/87
Tribenuron-methyl	101200-48-0	1/1/95
Tributyltin fluoride	1983-10-4	1/1/95
Tributyltin methacrylate	2155-70-6	1/1/95
S,S,S-Tributyltrithiophosphate (Tribufos)	78-48-8	1/1/95
Trichlorfon	52-68-6	1/1/87
Trichloroacetyl chloride	76-02-8	1/1/95
1,2,4-Trichlorobenzene	120-82-1	1/1/87
1,1,1-Trichloroethane	71-55-6	1/1/87
1,1,2-Trichloroethane	79-00-5	1/1/87
Trichloroethylene	79-01-6	1/1/87
Trichlorofluoromethane (CFC-11)	75-69-4	7/8/90
2,4,5-Trichlorophenol	95-95-4	1/1/87
2,4,6-Trichlorophenol	88-06-2	1/1/87
1,2,3-Trichloropropane	96-18-4	1/1/95
Triclopyr-triethylammonium salt	57213-69-1	1/1/95
Triethylamine	121-44-8	1/1/95
Trifluralin	1582-09-8	1/1/87
Triforine	26644-46-2	1/1/95
1,2,4-Trimethylbenzene	95-63-6	1/1/87
2,3,5-Trimethylphenyl methylcarbamate	2655-15-4	1/1/95
Triphenyltin chloride	639-58-7	1/1/95
Triphenyltin hydroxide	76-87-9	1/1/95
Tris(2,3-dibromopropyl) phosphate	126-72-7	1/1/87
Trypan blue	72-57-1	1/1/94
Urethane	51-79-6	1/1/87
Vanadium (except when contained in an alloy)	7440-62-2	1/1/00
Vinclozolin	50471-44-8	1/1/95
Vinyl acetate	108-05-4	1/1/87
Vinyl bromide	593-60-2	1/1/87
Vinyl chloride	75-01-4	1/1/87
Vinyl fluoride	75-02-5	1/1/11
Vinylidene chloride (1,1-Dichloroethylene)	75-35-4	1/1/87
Xylene (mixed isomers)	1330-20-7	1/1/87
<i>m</i> -Xylene	108-38-3	1/1/87
<i>o</i> -Xylene	95-47-6	1/1/87
<i>p</i> -Xylene	106-42-3	1/1/87
2,6-Xylidine	87-62-7	1/1/87
Zinc (fume or dust)	7440-66-6	1/1/87
Zineb	12122-67-7	1/1/87

¹ The listing of 2,2-dibromo-3-nitropropionamide (CAS No. 10222-01-2) is stayed. The stay will remain in effect until further administrative action is taken.

² The listing of methyl mercaptan (CAS No. 74-93-1) is stayed. The stay will remain in effect until further administrative action is taken.

(b) * * *

TABLE 2 TO PARAGRAPH (b)

CAS No.	Chemical name	Effective date
50-00-0	Formaldehyde	1/1/87
51-03-6	Piperonyl butoxide	1/1/95
51-21-8	Fluorouracil (5-Fluorouracil)	1/1/95
51-28-5	2,4-Dinitrophenol	1/1/87
51-75-2	Nitrogen mustard (HN-2)	1/1/87
51-79-6	Urethane	1/1/87
52-68-6	Trichlorfon	1/1/87
52-85-7	Famphur	1/1/95
53-96-3	2-Acetylaminofluorene	1/1/87
55-18-5	<i>N</i> -Nitrosodiethylamine	1/1/87
55-21-0	Benzamide	1/1/87
55-38-9	Fenthion	1/1/95
55-63-0	Nitroglycerin	1/1/87
56-23-5	Carbon tetrachloride	1/1/87
56-35-9	Bis(tributyltin) oxide	1/1/95
56-38-2	Parathion	1/1/87

TABLE 2 TO PARAGRAPH (b)—Continued

CAS No.	Chemical name	Effective date
57-14-7	1,1-Dimethylhydrazine	1/1/87
57-33-0	Pentobarbital sodium	1/1/95
57-41-0	Phenytoin	1/1/95
57-57-8	<i>beta</i> -Propiolactone	1/1/87
57-74-9	Chlordane	1/1/87
58-89-9	Lindane	1/1/87
59-89-2	<i>N</i> -Nitrosomorpholine	1/1/87
60-09-3	4-Aminoazobenzene	1/1/87
60-11-7	4-Dimethylaminoazobenzene	1/1/87
60-34-4	Methyl hydrazine	1/1/87
60-35-5	Acetamide	1/1/87
60-51-5	Dimethoate	1/1/95
61-82-5	Amitrole	1/1/94
62-53-3	Aniline	1/1/87
62-55-5	Thioacetamide	1/1/87
62-56-6	Thiourea	1/1/87
62-73-7	Dichlorvos	1/1/87
62-74-8	Sodium fluoroacetate	1/1/95
62-75-9	<i>N</i> -Nitrosodimethylamine	1/1/87
63-25-2	Carbaryl	1/1/87
64-18-6	Formic acid	1/1/94
64-67-5	Diethyl sulfate	1/1/87
64-75-5	Tetracycline hydrochloride	1/1/95
67-56-1	Methanol	1/1/87
67-63-0	Isopropyl alcohol (Isopropanol) (only persons who manufacture by the strong acid process are subject, no supplier notification).	1/1/87
67-66-3	Chloroform	1/1/87
67-72-1	Hexachloroethane	1/1/87
68-12-2	<i>N,N</i> -Dimethylformamide	1/1/95
68-76-8	Triaziquone	1/1/87
70-30-4	Hexachlorophene	1/1/94
71-36-3	<i>n</i> -Butyl alcohol (1-Butanol)	1/1/87
71-43-2	Benzene	1/1/87
71-55-6	1,1,1-Trichloroethane	1/1/87
72-43-5	Methoxychlor	1/1/87
72-57-1	Trypan blue	1/1/94
74-83-9	Bromomethane (Methyl bromide)	1/1/87
74-85-1	Ethylene	1/1/87
74-87-3	Chloromethane	1/1/87
74-88-4	Methyl iodide	1/1/87
74-90-8	Hydrogen cyanide	1/1/87
74-93-1	Methyl mercaptan ¹	1/1/94
74-95-3	Methylene bromide (Dibromomethane)	1/1/87
75-00-3	Chloroethane	1/1/87
75-01-4	Vinyl chloride	1/1/87
75-02-5	Vinyl fluoride	1/1/11
75-05-8	Acetonitrile	1/1/87
75-07-0	Acetaldehyde	1/1/87
75-09-2	Dichloromethane (Methylene chloride)	1/1/87
75-15-0	Carbon disulfide	1/1/87
75-21-8	Ethylene oxide	1/1/87
75-25-2	Bromoform (Tribromomethane)	1/1/87
75-27-4	Dichlorobromomethane	1/1/87
75-34-3	Ethylidene dichloride (1,1-Dichloroethane)	1/1/94
75-35-4	Vinylidene chloride (1,1-Dichloroethylene)	1/1/87
75-43-4	Dichlorofluoromethane (HCFC-21)	1/1/95
75-44-5	Phosgene	1/1/87
75-45-6	Chlorodifluoromethane (HCFC-22)	1/1/94
75-52-5	Nitromethane	1/1/11
75-55-8	Propyleneimine	1/1/87
75-56-9	Propylene oxide	1/1/87
75-63-8	Bromotrifluoromethane (Halon 1301)	7/8/90
75-65-0	<i>tert</i> -Butyl alcohol (tert-Butanol)	1/1/87
75-68-3	1-Chloro-1,1-difluoroethane (HCFC-142b)	1/1/94
75-69-4	Trichlorofluoromethane (CFC-11)	7/8/90
75-71-8	Dichlorodifluoromethane (CFC-12)	7/8/90
75-72-9	Chlorotrifluoromethane (CFC-13)	1/1/95
75-86-5	2-Methylactonitrile (Acetone cyanohydrin)	1/1/95
75-88-7	2-Chloro-1,1,1-trifluoroethane (HCFC-133a)	1/1/95
76-01-7	Pentachloroethane	1/1/94
76-02-8	Trichloroacetyl chloride	1/1/95

TABLE 2 TO PARAGRAPH (b)—Continued

CAS No.	Chemical name	Effective date
76-06-2	Chloropicrin	1/1/95
76-13-1	Freon 113 (CFC-113)	1/1/87
76-14-2	Dichlorotetrafluoroethane (CFC-114)	7/8/90
76-15-3	Monochloropentafluoroethane (CFC-115)	7/8/90
76-44-8	Heptachlor	1/1/87
76-87-9	Triphenyltin hydroxide	1/1/95
77-09-8	Phenolphthalein (3,3-Bis(4-hydroxyphenyl)phthalide)	1/1/11
77-47-4	Hexachlorocyclopentadiene	1/1/87
77-73-6	Dicyclopentadiene	1/1/95
77-78-1	Dimethyl sulfate	1/1/87
78-48-8	S,S,S-Tributyltrithiophosphate (Tribufos)	1/1/95
78-79-5	Isoprene	1/1/11
78-84-2	Isobutyraldehyde	1/1/87
78-87-5	1,2-Dichloropropane	1/1/87
78-88-6	2,3-Dichloropropene	1/1/90
78-92-2	sec-Butyl alcohol (2-Butanol)	1/1/87
79-00-5	1,1,2-Trichloroethane	1/1/87
79-01-6	Trichloroethylene	1/1/87
79-06-1	Acrylamide	1/1/87
79-10-7	Acrylic acid	1/1/87
79-11-8	Chloroacetic acid	1/1/87
79-19-6	Thiosemicarbazide	1/1/95
79-21-0	Peracetic acid	1/1/87
79-22-1	Methyl chlorocarbonate	1/1/94
79-34-5	1,1,2,2-Tetrachloroethane	1/1/87
79-44-7	Dimethylcarbamoyl chloride	1/1/87
79-46-9	2-Nitropropane	1/1/87
79-94-7	Tetrabromobisphenol A	1/1/00
80-05-7	4,4'-Isopropylidenediphenol	1/1/87
80-15-9	Cumene hydroperoxide	1/1/87
80-62-6	Methyl methacrylate	1/1/87
81-07-2	Saccharin (only persons who manufacture are subject, no supplier notification)	1/1/87
81-49-2	1-Amino-2,4-dibromoanthraquinone	1/1/11
81-88-9	C.I. Food Red 15 (Rhodamine B)	1/1/87
82-28-0	1-Amino-2-methylantraquinone	1/1/87
82-68-8	Quintozene (Pentachloronitrobenzene)	1/1/87
84-74-2	Dibutyl phthalate	1/1/87
85-01-8	Phenanthrene	1/1/95
85-44-9	Phthalic anhydride	1/1/87
86-30-6	N-Nitrosodiphenylamine	1/1/87
87-62-7	2,6-Xylidine	1/1/87
87-68-3	Hexachloro-1,3-butadiene (Hexachlorobutadiene)	1/1/87
87-86-5	Pentachlorophenol	1/1/87
88-06-2	2,4,6-Trichlorophenol	1/1/87
88-72-2	o-Nitrotoluene	1/1/14
88-75-5	2-Nitrophenol (o-Nitrophenol)	1/1/87
88-85-7	Dinitrobutyl phenol (Dinoseb)	1/1/95
88-89-1	Picric acid	1/1/87
90-04-0	o-Anisidine	1/1/87
90-43-7	2-Phenylphenol	1/1/87
90-94-8	Michler's ketone	1/1/87
91-08-7	Toluene-2,6-diisocyanate	1/1/87
91-20-3	Naphthalene	1/1/87
91-22-5	Quinoline	1/1/87
91-23-6	o-Nitroanisole	1/1/11
91-59-8	beta-Naphthylamine (2-Naphthalenamine)	1/1/87
91-94-1	3,3'-Dichlorobenzidine	1/1/87
92-52-4	Biphenyl	1/1/87
92-67-1	4-Aminobiphenyl	1/1/87
92-87-5	Benzidine	1/1/87
92-93-3	4-Nitrobiphenyl	1/1/87
93-15-2	Methyleugenol	1/1/11
93-65-2	Mecoprop	1/1/95
94-11-1	2,4-D isopropyl ester	1/1/95
94-36-0	Benzoyl peroxide	1/1/87
94-58-6	Dihydrosafrole	1/1/94
94-59-7	Safrole	1/1/87
94-74-6	Methoxone (MCPA)	1/1/95
94-75-7	2,4-D	1/1/87
94-80-4	2,4-D butyl ester	1/1/95
94-82-6	2,4-DB	1/1/95

TABLE 2 TO PARAGRAPH (b)—Continued

CAS No.	Chemical name	Effective date
95-47-6	<i>o</i> -Xylene	1/1/87
95-48-7	<i>o</i> -Cresol	1/1/87
95-50-1	1,2-Dichlorobenzene (<i>o</i> -Dichlorobenzene)	1/1/87
95-53-4	<i>o</i> -Toluidine	1/1/87
95-54-5	1,2-Phenylenediamine	1/1/95
95-63-6	1,2,4-Trimethylbenzene	1/1/87
95-69-2	<i>p</i> -Chloro- <i>o</i> -toluidine (4-Chloro-2-methylaniline)	1/1/95
95-80-7	2,4-Diaminotoluene (2,4-Toluenediamine)	1/1/87
95-95-4	2,4,5-Trichlorophenol	1/1/87
96-09-3	Styrene oxide	1/1/87
96-12-8	1,2-Dibromo-3-chloropropane	1/1/87
96-18-4	1,2,3-Trichloropropane	1/1/95
96-33-3	Methyl acrylate	1/1/87
96-45-7	Ethylene thiourea	1/1/87
97-23-4	Dichlorophene	1/1/95
97-56-3	C.I. Solvent Yellow 3	1/1/87
98-07-7	Benzoic trichloride (Benzotrichloride)	1/1/87
98-82-8	Cumene	1/1/87
98-86-2	Acetophenone	1/1/94
98-87-3	Benzal chloride	1/1/87
98-88-4	Benzoyl chloride	1/1/87
98-95-3	Nitrobenzene	1/1/87
99-30-9	Dichloran	1/1/95
99-55-8	5-Nitro- <i>o</i> -toluidine (2-Methyl-5-nitroaniline)	1/1/94
99-59-2	5-Nitro- <i>o</i> -anisidine (2-Methoxy-5-nitroaniline)	1/1/87
99-65-0	<i>m</i> -Dinitrobenzene	1/1/90
100-01-6	<i>p</i> -Nitroaniline	1/1/95
100-02-7	4-Nitrophenol (<i>p</i> -Nitrophenol)	1/1/87
100-25-4	<i>p</i> -Dinitrobenzene	1/1/90
100-41-4	Ethylbenzene	1/1/87
100-42-5	Styrene	1/1/87
100-44-7	Benzyl chloride	1/1/87
100-75-4	<i>N</i> -Nitrosopiperidine	1/1/87
101-05-3	Anilazine	1/1/95
101-14-4	4,4'-Methylenebis(2-chloroaniline)	1/1/87
101-61-1	4,4'-Methylenebis(<i>N,N</i> -dimethyl)benzenamine (4,4'-Methylenebis[<i>N,N</i> -dimethylaniline])	1/1/87
101-77-9	4,4'-Methylenedianiline	1/1/87
101-80-4	4,4'-Diaminodiphenyl ether	1/1/87
101-90-6	Diglycidyl resorcinol ether	1/1/95
104-12-1	<i>p</i> -Chlorophenyl isocyanate	1/1/95
104-94-9	<i>p</i> -Anisidine	1/1/87
105-67-9	2,4-Dimethylphenol	1/1/87
106-42-3	<i>p</i> -Xylene	1/1/87
106-44-5	<i>p</i> -Cresol	1/1/87
106-46-7	1,4-Dichlorobenzene (<i>p</i> -Dichlorobenzene)	1/1/87
106-47-8	<i>p</i> -Chloroaniline	1/1/95
106-50-3	<i>p</i> -Phenylenediamine	1/1/87
106-51-4	Quinone	1/1/87
106-88-7	1,2-Butylene oxide	1/1/87
106-89-8	Epichlorohydrin	1/1/87
106-93-4	1,2-Dibromoethane (Ethylene dibromide)	1/1/87
106-94-5	1-Bromopropane	1/1/16
106-99-0	1,3-Butadiene	1/1/87
107-02-8	Acrolein	1/1/87
107-05-1	Allyl chloride	1/1/87
107-06-2	1,2-Dichloroethane	1/1/87
107-11-9	Allylamine	1/1/95
107-13-1	Acrylonitrile	1/1/87
107-18-6	Allyl alcohol	1/1/90
107-19-7	Propargyl alcohol	1/1/95
107-21-1	Ethylene glycol	1/1/87
107-30-2	Chloromethyl methyl ether	1/1/87
108-05-4	Vinyl acetate	1/1/87
108-10-1	Methyl isobutyl ketone	1/1/87
108-31-6	Maleic anhydride	1/1/87
108-38-3	<i>m</i> -Xylene	1/1/87
108-39-4	<i>m</i> -Cresol	1/1/87
108-45-2	1,3-Phenylenediamine	1/1/95
108-60-1	Bis(2-chloro-1-methylethyl) ether	1/1/87
108-88-3	Toluene	1/1/87
108-90-7	Chlorobenzene	1/1/87

TABLE 2 TO PARAGRAPH (b)—Continued

CAS No.	Chemical name	Effective date
108-93-0	Cyclohexanol	1/1/95
108-95-2	Phenol	1/1/87
109-06-8	2-Methylpyridine	1/1/94
109-77-3	Malononitrile	1/1/94
109-86-4	2-Methoxyethanol	1/1/87
110-00-9	Furan	1/1/11
110-54-3	<i>n</i> -Hexane (Hexane)	1/1/95
110-57-6	<i>trans</i> -1,4-Dichloro-2-butene	1/1/95
110-80-5	2-Ethoxyethanol	1/1/87
110-82-7	Cyclohexane	1/1/87
110-86-1	Pyridine	1/1/87
111-42-2	Diethanolamine	1/1/87
111-44-4	Bis(2-chloroethyl) ether	1/1/87
111-91-1	Bis(2-chloroethoxy)methane	1/1/94
114-26-1	Propoxur	1/1/87
115-07-1	Propylene	1/1/87
115-28-6	Chlorendic acid	1/1/95
115-32-2	Dicofol	1/1/87
116-06-3	Aldicarb	1/1/95
116-14-3	Tetrafluoroethylene (Tetrafluoroethene)	1/1/11
117-79-3	2-Aminoanthraquinone	1/1/87
117-81-7	Di(2-ethylhexyl) phthalate	1/1/87
118-74-1	Hexachlorobenzene	1/1/87
119-90-4	3,3'-Dimethoxybenzidine	1/1/87
119-93-7	3,3'-Dimethylbenzidine	1/1/87
120-12-7	Anthracene	1/1/87
120-36-5	2,4-DP (Dichlorprop)	1/1/95
120-58-1	Isosafrole	1/1/90
120-71-8	<i>p</i> -Cresidine	1/1/87
120-80-9	Catechol	1/1/87
120-82-1	1,2,4-Trichlorobenzene	1/1/87
120-83-2	2,4-Dichlorophenol	1/1/87
121-14-2	2,4-Dinitrotoluene	1/1/87
121-44-8	Triethylamine	1/1/95
121-69-7	<i>N,N</i> -Dimethylaniline	1/1/87
121-75-5	Malathion	1/1/95
122-34-9	Simazine	1/1/95
122-39-4	Diphenylamine	1/1/95
122-66-7	1,2-Diphenylhydrazine	1/1/87
123-31-9	Hydroquinone	1/1/87
123-38-6	Propionaldehyde	1/1/87
123-63-7	Paraldehyde	1/1/94
123-72-8	Butyraldehyde	1/1/87
123-91-1	1,4-Dioxane	1/1/87
124-40-3	Dimethylamine	1/1/95
124-73-2	Dibromotetrafluoroethane (1,2-Dibromo-1,1,2,2-tetrafluoroethane)	7/8/90
126-72-7	Tris(2,3-dibromopropyl) phosphate	1/1/87
126-98-7	Methacrylonitrile	1/1/94
126-99-8	Chloroprene	1/1/87
127-18-4	Tetrachloroethylene	1/1/87
128-03-0	Potassium dimethyldithiocarbamate	1/1/95
128-04-1	Sodium dimethyldithiocarbamate	1/1/95
128-66-5	C.I. Vat Yellow 4	1/1/87
131-11-3	Dimethyl phthalate	1/1/87
131-52-2	Sodium pentachlorophenate	1/1/95
132-27-4	Sodium <i>o</i> -phenylphenoxide	1/1/95
132-64-9	Dibenzofuran	1/1/87
133-06-2	Captan	1/1/87
133-07-3	Folpet	1/1/95
133-90-4	Chloramben	1/1/87
134-29-2	<i>o</i> -Anisidine hydrochloride	1/1/87
134-32-7	<i>alpha</i> -Naphthylamine (1-Naphthalenamine)	1/1/87
135-20-6	Cupferron	1/1/87
136-45-8	Dipropyl isocinchomerate	1/1/95
137-26-8	Thiram	1/1/94
137-41-7	Potassium <i>N</i> -methylthiocarbamate	1/1/95
137-42-8	Metham sodium (Sodium methylthiocarbamate)	1/1/95
138-93-2	Disodium cyanodithioimidocarbonate	1/1/95
139-13-9	Nitrilotriacetic acid	1/1/87
139-65-1	4,4'-Thiodianiline	1/1/87
140-88-5	Ethyl acrylate	1/1/87

TABLE 2 TO PARAGRAPH (b)—Continued

CAS No.	Chemical name	Effective date
141-32-2	Butyl acrylate	1/1/87
142-59-6	Nabam	1/1/95
148-79-8	Thiabendazole	1/1/95
149-30-4	2-Mercaptobenzothiazole	1/1/95
150-50-5	Merphos	1/1/95
150-68-5	Monuron	1/1/95
151-56-4	Ethyleneimine (Aziridine)	1/1/87
156-10-5	<i>p</i> -Nitrosodiphenylamine	1/1/87
156-62-7	Calcium cyanamide	1/1/87
191-24-2	Benzo[<i>g,h,i</i>]perylene	1/1/00
298-00-0	Methyl parathion	1/1/95
300-76-5	Naled	1/1/95
301-12-2	Oxydemeton-methyl	1/1/95
302-01-2	Hydrazine	1/1/87
306-83-2	2,2-Dichloro-1,1,1-trifluoroethane (HCFC-123)	1/1/94
309-00-2	Aldrin	1/1/87
314-40-9	Bromacil	1/1/95
319-84-6	<i>alpha</i> -Hexachlorocyclohexane	1/1/95
330-54-1	Diuron	1/1/95
330-55-2	Linuron	1/1/95
333-41-5	Diazinon	1/1/95
334-88-3	Diazomethane	1/1/87
353-59-3	Bromochlorodifluoromethane (Halon 1211)	7/8/90
354-11-0	1,1,1,2-Tetrachloro-2-fluoroethane (HCFC-121a)	1/1/95
354-14-3	1,1,1,2,2-Tetrachloro-1-fluoroethane (HCFC-121)	1/1/95
354-23-4	1,2-Dichloro-1,1,2-trifluoroethane (HCFC-123a)	1/1/94
354-25-6	1-Chloro-1,1,2,2-tetrafluoroethane (HCFC-124a)	1/1/94
357-57-3	Brucine	1/1/95
422-44-6	1,2-Dichloro-1,1,2,3,3-pentafluoropropane (HCFC-225bb)	1/1/95
422-48-0	2,3-dichloro-1,1,1,2,3-pentafluoropropane (HCFC-225ba)	1/1/95
422-56-0	3,3-Dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca)	1/1/95
431-86-7	1,2-Dichloro-1,1,3,3,3-pentafluoropropane (HCFC-225da)	1/1/95
460-35-5	3-Chloro-1,1,1-trifluoropropane (HCFC-253fb)	1/1/95
463-58-1	Carbonyl sulfide	1/1/87
465-73-6	Isodrin	1/1/95
492-80-8	C.I. Solvent Yellow 34 (Auramine)	1/1/87
505-60-2	Mustard gas	1/1/87
507-55-1	1,3-Dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb)	1/1/95
509-14-8	Tetranitromethane	1/1/11
510-15-6	Chlorobenzilate	1/1/87
528-29-0	<i>o</i> -Dinitrobenzene	1/1/90
532-27-4	2-Chloroacetophenone	1/1/87
533-74-4	Dazomet	1/1/95
534-52-1	4,6-Dinitro- <i>o</i> -cresol	1/1/87
540-59-0	1,2-Dichloroethylene	1/1/87
541-41-3	Ethyl chloroformate	1/1/87
541-53-7	2,4-Dithiobiuret (Dithiobiuret)	1/1/95
541-73-1	1,3-Dichlorobenzene (<i>m</i> -Dichlorobenzene)	1/1/87
542-75-6	1,3-Dichloropropylene (1,3-Dichloropropene)	1/1/87
542-76-7	3-Chloropropionitrile	1/1/95
542-88-1	Bis(chloromethyl) ether	1/1/87
554-13-2	Lithium carbonate	1/1/95
556-52-5	Glycidol	1/1/11
556-61-6	Methyl isothiocyanate	1/1/95
563-47-3	3-Chloro-2-methyl-1-propene	1/1/95
569-64-2	C.I. Basic Green 4 (Malachite green)	1/1/87
584-84-9	Toluene-2,4-diisocyanate	1/1/87
593-60-2	Vinyl bromide	1/1/87
594-42-3	Perchloromethyl mercaptan	1/1/95
606-20-2	2,6-Dinitrotoluene	1/1/87
608-93-5	Pentachlorobenzene	1/1/00
612-82-8	3,3'-Dimethylbenzidine dihydrochloride	1/1/95
612-83-9	3,3'-Dichlorobenzidine dihydrochloride	1/1/95
615-05-4	2,4-Diaminoanisole	1/1/87
615-28-1	1,2-Phenylenediamine dihydrochloride	1/1/95
621-64-7	<i>N</i> -Nitrosodi- <i>n</i> -propylamine	1/1/87
624-18-0	1,4-Phenylenediamine dihydrochloride	1/1/95
624-83-9	Methyl isocyanate	1/1/87
630-20-6	1,1,1,2-Tetrachloroethane	1/1/94
636-21-5	<i>o</i> -Toluidine hydrochloride	1/1/87
639-58-7	Triphenyltin chloride	1/1/95

TABLE 2 TO PARAGRAPH (b)—Continued

CAS No.	Chemical name	Effective date
680-31-9	Hexamethylphosphoramide	1/1/87
684-93-5	<i>N</i> -Nitroso- <i>N</i> -methylurea	1/1/87
709-98-8	Propanil	1/1/95
759-73-9	<i>N</i> -Nitroso- <i>N</i> -ethylurea	1/1/87
759-94-4	<i>S</i> -Ethyl dipropylthiocarbamate	1/1/95
764-41-0	1,4-Dichloro-2-butene	1/1/94
812-04-4	1,1-Dichloro-1,2,2-trifluoroethane (HCFC-123b)	1/1/94
834-12-8	Ametryn	1/1/95
842-07-9	C.I. Solvent Yellow 14	1/1/87
872-50-4	<i>N</i> -Methyl-2-pyrrolidone	1/1/95
924-16-3	<i>N</i> -Nitrosodi- <i>n</i> -butylamine	1/1/87
924-42-5	<i>N</i> -Methylolacrylamide	1/1/95
957-51-7	Diphenamid	1/1/95
961-11-5	Tetrachlorvinphos	1/1/87
989-38-8	C.I. Basic Red 1	1/1/87
1114-71-2	Pebulate	1/1/95
1120-71-4	1,3-Propane sultone	1/1/87
1134-23-2	Cycloate	1/1/95
1163-19-5	Decabromodiphenyl oxide	1/1/87
1313-27-5	Molybdenum trioxide	1/1/87
1314-20-1	Thorium dioxide	1/1/87
1319-77-3	Cresol (mixed isomers)	1/1/87
1320-18-9	2,4-D propylene glycol butyl ether ester (2,4-D 2-butoxymethylethyl ester)	1/1/95
1330-20-7	Xylene (mixed isomers)	1/1/87
1332-21-4	Asbestos (friable)	1/1/87
1335-87-1	Hexachloronaphthalene	1/1/87
1336-36-3	Polychlorinated biphenyls	1/1/87
1344-28-1	Aluminum oxide (fibrous forms) (Alumina)	1/1/87
1464-53-5	Diepoxybutane	1/1/87
1563-66-2	Carbofuran	1/1/95
1582-09-8	Trifluralin	1/1/87
1634-04-4	Methyl <i>tert</i> -butyl ether	1/1/87
1649-08-7	1,2-Dichloro-1,1-difluoroethane (HCFC-132b)	1/1/95
1689-84-5	Bromoxynil	1/1/95
1689-99-2	Bromoxynil octanoate	1/1/95
1717-00-6	1,1-Dichloro-1-fluoroethane (HCFC-141b)	1/1/94
1836-75-5	Nitrofen	1/1/87
1861-40-1	Benfluralin	1/1/95
1897-45-6	Chlorothalonil	1/1/87
1910-42-5	Paraquat dichloride	1/1/95
1912-24-9	Atrazine	1/1/95
1918-00-9	Dicamba	1/1/95
1918-02-1	Picloram	1/1/95
1918-16-7	Propachlor	1/1/95
1928-43-4	2,4-D 2-ethylhexyl ester	1/1/95
1929-73-3	2,4-D 2-butoxyethyl ester	1/1/95
1929-82-4	Nitrapyrin	1/1/95
1937-37-7	C.I. Direct Black 38	1/1/87
1982-69-0	Sodium dicamba	1/1/95
1983-10-4	Tributyltin fluoride	1/1/95
2032-65-7	Methiocarb	1/1/95
2155-70-6	Tributyltin methacrylate	1/1/95
2164-07-0	Dipotassium endothall	1/1/95
2164-17-2	Fluometuron	1/1/87
2212-67-1	Molinate	1/1/95
2234-13-1	Octachloronaphthalene	1/1/87
2300-66-5	Dimethylamine dicamba	1/1/95
2303-16-4	Diallate	1/1/87
2303-17-5	Triallate	1/1/95
2312-35-8	Propargite	1/1/95
2439-01-2	Chinomethionate	1/1/95
2439-10-3	Dodine	1/1/95
2524-03-0	Dimethyl chlorothiophosphate	1/1/95
2602-46-2	C.I. Direct Blue 6	1/1/87
2655-15-4	2,3,5-Trimethylphenyl methylcarbamate	1/1/95
2699-79-8	Sulfuryl fluoride	1/1/95
2702-72-9	2,4-D sodium salt	1/1/95
2832-40-8	C.I. Disperse Yellow 3	1/1/87
2837-89-0	2-Chloro-1,1,1,2-tetrafluoroethane (HCFC-124)	1/1/94
2971-38-2	2,4-D chlorocrotyl ester	1/1/95
3118-97-6	C.I. Solvent Orange 7	1/1/87

TABLE 2 TO PARAGRAPH (b)—Continued

CAS No.	Chemical name	Effective date
3296-90-0	2,2-Bis(bromomethyl)-1,3-propanediol	1/1/11
3383-96-8	Temephos	1/1/95
3653-48-3	Methoxone sodium salt	1/1/95
3761-53-3	C.I. Food Red 5	1/1/87
4080-31-3	1-(3-Chloroallyl)-3,5,7-triaza-1-azoniaadamantane chloride	1/1/95
4170-30-3	Crotonaldehyde	1/1/95
4549-40-0	N-Nitrosomethylvinylamine	1/1/87
4680-78-8	C.I. Acid Green 3	1/1/87
5234-68-4	Carboxin	1/1/95
5598-13-0	Chlorpyrifos-methyl	1/1/95
5902-51-2	Terbacil	1/1/95
6459-94-5	C.I. Acid Red 114	1/1/95
7287-19-6	Prometryn	1/1/95
7429-90-5	Aluminum (fume or dust)	1/1/87
7439-92-1	Lead	1/1/87
7439-96-5	Manganese	1/1/87
7439-97-6	Mercury	1/1/87
7440-02-0	Nickel	1/1/87
7440-22-4	Silver	1/1/87
7440-28-0	Thallium	1/1/87
7440-36-0	Antimony	1/1/87
7440-38-2	Arsenic	1/1/87
7440-39-3	Barium	1/1/87
7440-41-7	Beryllium	1/1/87
7440-43-9	Cadmium	1/1/87
7440-47-3	Chromium	1/1/87
7440-48-4	Cobalt	1/1/87
7440-50-8	Copper	1/1/87
7440-62-2	Vanadium (except when contained in an alloy)	1/1/00
7440-66-6	Zinc (fume or dust)	1/1/87
7550-45-0	Titanium tetrachloride	1/1/87
7632-00-0	Sodium nitrite	1/1/95
7637-07-2	Boron trifluoride	1/1/95
7647-01-0	Hydrochloric acid (acid aerosols including mists, vapors, gas, fog, and other airborne forms of any particle size).	1/1/87
7664-39-3	Hydrogen fluoride (Hydrofluoric acid)	1/1/87
7664-41-7	Ammonia (includes anhydrous ammonia and aqueous ammonia from water dissociable ammonium salts and other sources; 10 percent of total aqueous ammonia is reportable under this listing).	1/1/87
7664-93-9	Sulfuric acid (acid aerosols including mists, vapors, gas, fog, and other airborne forms of any particle size)	1/1/87
7696-12-0	Tetramethrin	1/1/95
7697-37-2	Nitric acid	1/1/87
7726-95-6	Bromine	1/1/95
7758-01-2	Potassium bromate	1/1/95
7782-41-4	Fluorine	1/1/95
7782-49-2	Selenium	1/1/87
7782-50-5	Chlorine	1/1/87
7783-06-4	Hydrogen sulfide	1/1/94
7786-34-7	Mevinphos	1/1/95
7803-51-2	Phosphine	1/1/95
8001-35-2	Toxaphene	1/1/87
8001-58-9	Creosote	1/1/90
9006-42-2	Metiram	1/1/95
10028-15-6	Ozone	1/1/95
10034-93-2	Hydrazine sulfate (1:1)	1/1/87
10049-04-4	Chlorine dioxide	1/1/87
10061-02-6	trans-1,3-Dichloropropene	1/1/95
10222-01-2	2,2-Dibromo-3-nitrilopropionamide ²	1/1/95
10294-34-5	Boron trichloride	1/1/95
10453-86-8	Resmethrin	1/1/95
12122-67-7	Zineb	1/1/87
12185-10-3	Phosphorus (yellow or white)	1/1/87
12427-38-2	Maneb	1/1/87
13194-48-4	Ethoprop	1/1/95
13356-08-6	Fenbutatin oxide	1/1/95
13463-40-6	Iron pentacarbonyl	1/1/95
13474-88-9	1,1-Dichloro-1,2,2,3,3-pentafluoropropane (HCFC-225cc)	1/1/95
13684-56-5	Desmedipham	1/1/95
14484-64-1	Ferbam	1/1/95
15972-60-8	Alachlor	1/1/95
16071-86-6	C.I. Direct Brown 95	1/1/87
16543-55-8	N-Nitrosornicotine	1/1/87

TABLE 2 TO PARAGRAPH (b)—Continued

CAS No.	Chemical name	Effective date
17804-35-2 ...	Benomyl	1/1/95
19044-88-3 ...	Oryzalin	1/1/95
19666-30-9 ...	Oxadiazon	1/1/95
20325-40-0 ...	3,3'-Dimethoxybenzidine dihydrochloride	1/1/95
20354-26-1 ...	Methazole	1/1/95
20816-12-0 ...	Osmium tetroxide	1/1/87
20859-73-8 ...	Aluminum phosphide	1/1/95
21087-64-9 ...	Metribuzin	1/1/95
21725-46-2 ...	Cyanazine	1/1/95
22781-23-3 ...	Bendiocarb	1/1/95
23564-05-8 ...	Thiophanate-methyl	1/1/95
23564-06-9 ...	Thiophanate-ethyl	1/1/95
23950-58-5 ...	Pronamide	1/1/94
25311-71-1 ...	Isofenphos	1/1/95
25321-14-6 ...	Dinitrotoluene (mixed isomers)	1/1/90
25321-22-6 ...	Dichlorobenzene (mixed isomers)	1/1/87
25376-45-8 ...	Diaminotoluene (mixed isomers) (Toluenediamine)	1/1/87
26002-80-2 ...	Phenothrin	1/1/95
26471-62-5 ...	Toluene diisocyanate (mixed isomers)	1/1/90
26628-22-8 ...	Sodium azide	1/1/95
26644-46-2 ...	Triforine	1/1/95
27314-13-2 ...	Norflurazon	1/1/95
28249-77-6 ...	Thiobencarb	1/1/95
28407-37-6 ...	C.I. Direct Blue 218	1/1/95
28434-00-6 ...	<i>d-trans</i> -Allethrin	1/1/95
29082-74-4 ...	Octachlorostyrene	1/1/00
29232-93-7 ...	Pirimiphos-methyl	1/1/95
30560-19-1 ...	Acephate	1/1/95
31218-83-4 ...	Propetamphos	1/1/95
33089-61-1 ...	Amitraz	1/1/95
34014-18-1 ...	Tebuthiuron	1/1/95
34077-87-7 ...	Dichlorotrifluoroethane	1/1/94
35367-38-5 ...	Diflubenzuron	1/1/95
35400-43-2 ...	Sulprofos	1/1/95
35554-44-0 ...	Imazalil	1/1/95
35691-65-7 ...	1-Bromo-1-(bromomethyl)-1,3-propanedicarbonitrile	1/1/95
38727-55-8 ...	Diethatyl ethyl	1/1/95
39156-41-7 ...	2,4-Diaminoanisole sulfate	1/1/87
39300-45-3 ...	Dinocap	1/1/95
39515-41-8 ...	Fenpropathrin	1/1/95
40487-42-1 ...	Pendimethalin	1/1/95
41198-08-7 ...	Profenofos	1/1/95
41766-75-0 ...	3,3'-Dimethylbenzidine dihydrofluoride	1/1/95
42874-03-3 ...	Oxyfluorfen	1/1/95
43121-43-3 ...	Triadimefon	1/1/95
50471-44-8 ...	Vinclozolin	1/1/95
51235-04-2 ...	Hexazinone	1/1/95
51338-27-3 ...	Diclofop methyl	1/1/95
51630-58-1 ...	Fenvalerate	1/1/95
52645-53-1 ...	Permethrin	1/1/95
53404-19-6 ...	Bromacil, lithium salt	1/1/95
53404-37-8 ...	2,4-D 2-ethyl-4-methylpentyl ester	1/1/95
53404-60-7 ...	Dazomet, sodium salt	1/1/95
55290-64-7 ...	Dimethipin	1/1/95
55406-53-6 ...	3-Iodo-2-propynyl butylcarbamate	1/1/95
57213-69-1 ...	Triclopyr-triethylammonium salt	1/1/95
59669-26-0 ...	Thiodicarb	1/1/95
60168-88-9 ...	Fenarimol	1/1/95
60207-90-1 ...	Propiconazole	1/1/95
62476-59-9 ...	Acifluorfen, sodium salt	1/1/95
63938-10-3 ...	Chlorotetrafluoroethane	1/1/94
64902-72-3 ...	Chlorsulfuron	1/1/95
64969-34-2 ...	3,3'-Dichlorobenzidine sulfate	1/1/95
66441-23-4 ...	Fenoxaprop-ethyl	1/1/95
67485-29-4 ...	Hydramethylnon	1/1/95
68085-85-8 ...	Cyhalothrin	1/1/95
68359-37-5 ...	Cyfluthrin	1/1/95
69409-94-5 ...	Fluvalinate	1/1/95
69806-50-4 ...	Fluazifop-butyl	1/1/95
71751-41-2 ...	Abamectin	1/1/95
72178-02-0 ...	Fomesafen	1/1/95

TABLE 2 TO PARAGRAPH (b)—Continued

CAS No.	Chemical name	Effective date
72490-01-8 ...	Fenoxycarb	1/1/95
74051-80-2 ...	Sethoxydim	1/1/95
76578-14-8 ...	Quizalofop-ethyl	1/1/95
77501-63-4 ...	Lactofen	1/1/95
82657-04-3 ...	Bifenthrin	1/1/95
88671-89-0 ...	Myclobutanil	1/1/95
90454-18-5 ...	Dichloro-1,1,2-trifluoroethane	1/1/94
90982-32-4 ...	Chlorimuron-ethyl	1/1/95
101200-48-0	Tribenuron-methyl	1/1/95
111512-56-2	1,1-Dichloro-1,2,3,3,3-pentafluoropropane (HCFC-225eb)	1/1/95
111984-09-9	3,3'-Dimethoxybenzidine monohydrochloride	1/1/95
127564-92-5	Dichloropentafluoropropane	1/1/95
128903-21-9	2,2-Dichloro-1,1,1,3,3-pentafluoropropane (HCFC-225aa)	1/1/95
136013-79-1	1,3-Dichloro-1,1,2,3,3-pentafluoropropane (HCFC-225ea)	1/1/95

¹ The listing of methyl mercaptan (CAS No. 74-93-1) is stayed. The stay will remain in effect until further administrative action is taken.

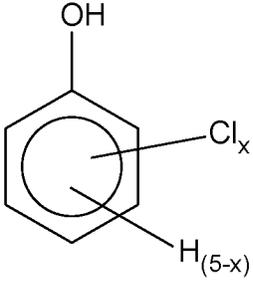
² The listing of 2,2-dibromo-3-nitrilopropionamide (CAS No. 10222-01-2) is stayed. The stay will remain in effect until further administrative action is taken.

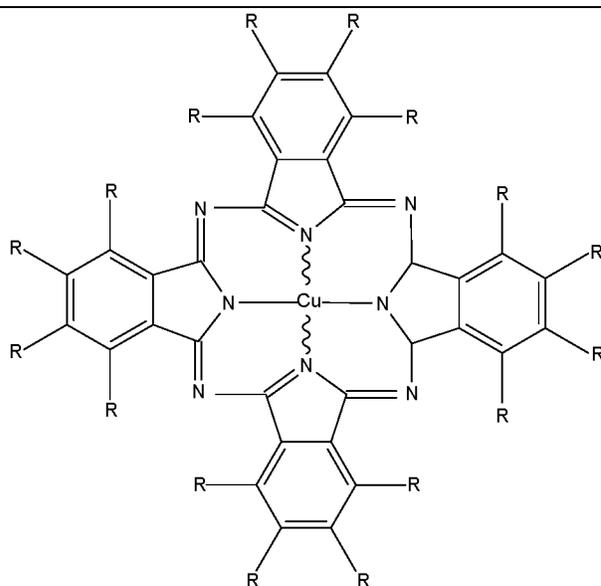
(c) * * *

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Table 3 to Paragraph (c)

Category name	Effective Date
Antimony compounds: Includes any unique chemical substance that contains antimony as part of that chemical's infrastructure	1/1/87
Arsenic compounds: Includes any unique chemical substance that contains arsenic as part of that chemical's infrastructure	1/1/87
Barium compounds: Includes any unique chemical substance that contains barium as part of that chemical's infrastructure (except for barium sulfate (CAS No. 7727-43-7))	1/1/87
Beryllium compounds: Includes any unique chemical substance that contains beryllium as part of that chemical's infrastructure	1/1/87
Cadmium compounds: Includes any unique chemical substance that contains cadmium as part of that chemical's infrastructure	1/1/87
Certain glycol ethers	1/1/95

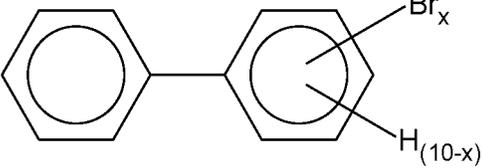
<p>$R-(OCH_2CH_2)_n-OR'$ Where: $n = 1, 2, \text{ or } 3$; $R = \text{alkyl C7 or less; or}$ $R = \text{phenyl or alkyl substituted phenyl;}$ $R' = H \text{ or alkyl C7 or less; or}$ OR' consisting of carboxylic acid ester, sulfate, phosphate, nitrate, or sulfonate.</p>	
<p>Chlorophenols</p> <div style="text-align: center;">  </div> <p>Where $x = 1 \text{ to } 5$</p>	1/1/87
<p>Chromium compounds: Includes any unique chemical substance that contains chromium as part of that chemical's infrastructure (except for chromite ore mined in the Transvaal Region of South Africa and the unreacted ore component of the chromite ore processing residue (COPR). COPR is the solid waste remaining after aqueous extraction of oxidized chromite ore that has been combined with soda ash and kiln roasted at approximately 2,000 °F.)</p>	1/1/87
<p>Cobalt compounds: Includes any unique chemical substance that contains cobalt as part of that chemical's infrastructure</p>	1/1/87
<p>Copper compounds: Includes any unique chemical substance that contains copper as part of that chemical's infrastructure (except for C.I. Pigment Blue 15 (PB-15, CAS No. 147-14-8), C.I. Pigment Green 7 (PG-7, CAS No. 1328-53-6), and C.I. Pigment Green 36 (PG-36, CAS No. 14302-13-7)) and except copper phthalocyanine compounds that are substituted with only hydrogen and/or bromine and/or chlorine that meet the following molecular structure definition:</p>	1/1/87



Where R = H and/or Br and/or Cl only

Cyanide compounds: X^+CN^- where X^+ = any group (except H^+) where a formal dissociation can be made. For example KCN or $Ca(CN)_2$	1/1/87
<p>Diisocyanates (This category includes only those chemicals listed below)</p> <p>38661-72-2 1,3-Bis(methylisocyanate)cyclohexane</p> <p>10347-54-3 1,4-Bis(methylisocyanate)cyclohexane</p> <p>2556-36-7 1,4-Cyclohexane diisocyanate</p> <p>134190-37-7 Diethyldiisocyanatobenzene</p> <p>4128-73-8 4,4'-Diisocyanatodiphenyl ether</p> <p>75790-87-3 2,4'-Diisocyanatodiphenyl sulfide</p> <p>91-93-0 3,3'-Dimethoxybenzidine-4,4'-diisocyanate</p> <p>91-97-4 3,3'-Dimethyl-4,4'-diphenylene diisocyanate</p> <p>139-25-3 3,3'-Dimethyldiphenylmethane-4,4'-diisocyanate</p> <p>822-06-0 Hexamethylene-1,6-diisocyanate</p> <p>4098-71-9 Isophorone diisocyanate</p> <p>75790-84-0 4-Methyldiphenylmethane-3,4-diisocyanate</p> <p>5124-30-1 1,1-Methylene bis(4-isocyanatocyclohexane)</p> <p>101-68-8 4,4'-Methylenedi(phenyl isocyanate)</p> <p>3173-72-6 1,5-Naphthalene diisocyanate</p> <p>123-61-5 1,3-Phenylene diisocyanate</p> <p>104-49-4 1,4-Phenylene diisocyanate</p> <p>9016-87-9 Polymeric diphenylmethane diisocyanate</p> <p>16938-22-0 2,2,4-Trimethylhexamethylene diisocyanate</p> <p>15646-96-5 2,4,4-Trimethylhexamethylene diisocyanate</p>	1/1/95
<p>Dioxin and dioxin-like compounds (Manufacturing; and the processing or otherwise use of dioxin and dioxin like compounds if the dioxin and dioxin like compounds are present as contaminants in a chemical and if they were created during the manufacturing of that chemical.) (This category includes only those chemicals listed below)</p> <p>67562-39-4 1,2,3,4,6,7,8-Heptachlorodibenzofuran</p>	1/1/00

55673-89-7	1,2,3,4,7,8,9-Heptachlorodibenzofuran	
35822-46-9	1,2,3,4,6,7,8-Heptachlorodibenzo- <i>p</i> -dioxin	
39227-28-6	1,2,3,4,7,8-Hexachlorodibenzo- <i>p</i> -dioxin	
57653-85-7	1,2,3,6,7,8-Hexachlorodibenzo- <i>p</i> -dioxin	
19408-74-3	1,2,3,7,8,9-Hexachlorodibenzo- <i>p</i> -dioxin	
70648-26-9	1,2,3,4,7,8-Hexachlorodibenzofuran	
57117-44-9	1,2,3,6,7,8-Hexachlorodibenzofuran	
72918-21-9	1,2,3,7,8,9-Hexachlorodibenzofuran	
60851-34-5	2,3,4,6,7,8-Hexachlorodibenzofuran	
39001-02-0	1,2,3,4,6,7,8,9-Octachlorodibenzofuran	
3268-87-9	1,2,3,4,6,7,8,9-Octachlorodibenzo- <i>p</i> -dioxin	
57117-41-6	1,2,3,7,8-Pentachlorodibenzofuran	
57117-31-4	2,3,4,7,8-Pentachlorodibenzofuran	
40321-76-4	1,2,3,7,8-Pentachlorodibenzo- <i>p</i> -dioxin	
51207-31-9	2,3,7,8-Tetrachlorodibenzofuran	
1746-01-6	2,3,7,8-Tetrachlorodibenzo- <i>p</i> -dioxin	
Ethylenebisdithiocarbamic acid, salts and esters		1/1/94
Hexabromocyclododecane (This category includes only those chemicals covered by the CAS numbers listed here)		1/1/17
3194-55-6	1,2,5,6,9,10-Hexabromocyclododecane	
25637-99-4	Hexabromocyclododecane	
Lead compounds: Includes any unique chemical substance that contains lead as part of that chemical's infrastructure		1/1/87
Manganese compounds: Includes any unique chemical substance that contains manganese as part of that chemical's infrastructure		1/1/87
Mercury compounds: Includes any unique chemical substance that contains mercury as part of that chemical's infrastructure		1/1/87
Nickel compounds: Includes any unique chemical substance that contains nickel as part of that chemical's infrastructure		1/1/87
Nicotine and salts		1/1/95
Nitrate compounds (water dissociable; reportable only when in aqueous solution)		1/1/95
Nonylphenol (This category includes only those chemicals listed below)		1/1/15
104-40-5	4-Nonylphenol (<i>p</i> -Nonylphenol)	
11066-49-2	Isononylphenol	
25154-52-3	Nonylphenol	
26543-97-5	4-Isononylphenol	
84852-15-3	4-Nonylphenol, branched (Branched <i>p</i> -nonylphenol)	
90481-04-2	Nonylphenol, branched	
Nonylphenol Ethoxylates (This category includes only those chemicals covered by the CAS numbers listed here)		1/1/19
7311-27-5	Ethanol, 2-[2-[2-[2-(4-nonylphenoxy)ethoxy]ethoxy]ethoxy]-	
9016-45-9	Poly(oxy-1,2-ethanediyl), α -(nonylphenyl)- ω -hydroxy-;	
	(Polyethylene glycol nonylphenyl ether)	
20427-84-3	Ethanol, 2-[2-(4-nonylphenoxy)ethoxy]-; (2-[2-(4-	
	Nonylphenoxy)ethoxy]ethanol)	
26027-38-3	Poly(oxy-1,2-ethanediyl), α -(4-nonylphenyl)- ω -hydroxy-;	

26571-11-9	(<i>p</i> -Nonylphenol polyethylene glycol ether) 3,6,9,12,15,18,21,24-Octaoxahexacosan-1-ol, 26-(nonylphenoxy)-	
27176-93-8	Ethanol, 2-[2-(nonylphenoxy)ethoxy]-; (Diethylene glycol nonylphenol ether)	
27177-05-5	3,6,9,12,15,18,21-Heptaoxatricosan-1-ol, 23-(nonylphenoxy)-	
27177-08-8	3,6,9,12,15,18,21,24,27-Nonaoxanonacosan-1-ol, 29-(nonylphenoxy)-	
27986-36-3	Ethanol, 2-(nonylphenoxy)-; (2-(Nonylphenoxy)ethanol)	
37205-87-1	Poly(oxy-1,2-ethanediyl), α -(isononylphenyl)- ω -hydroxy-	
51938-25-1	Poly(oxy-1,2-ethanediyl), α (2-nonylphenyl)- ω -hydroxy-	
68412-54-4	Poly(oxy-1,2-ethanediyl), α -(nonylphenyl)- ω -hydroxy-, Branched; (Polyethylene glycol mono(branched nonylphenyl) ether)	
127087-87-0	Poly(oxy-1,2-ethanediyl), α -(4-nonylphenyl)- ω -hydroxy-, branched; (Polyethylene glycol mono(branched <i>p</i> -nonylphenyl) ether)	
Polybrominated biphenyls (PBBs)		1/1/87
 <p>Where x = 1 to 10</p>		
Polychlorinated alkanes (C ₁₀ to C ₁₃): Includes those chemicals defined by the following formula: C _x H _{2x-y} +2Cl _y where x = 10 to 13; y = 3 to 12; and where the average chlorine content ranges from 40-70% with the limiting molecular formulas C ₁₀ H ₁₉ Cl ₃ and C ₁₃ H ₁₆ Cl ₁₂		1/1/95
Polycyclic aromatic compounds (PACs): (This category includes only those chemicals listed below)		1/1/95
56-55-3	Benz[a]anthracene	
218-01-9	Benzo[a]phenanthrene	
50-32-8	Benzo[a]pyrene	
205-99-2	Benzo[b]fluoranthene	
205-82-3	Benzo[j]fluoranthene	
207-08-9	Benzo[k]fluoranthene	
206-44-0	Benzo[j,k]fluorene	
189-55-9	Benzo[r,s,t]pentaphene	
226-36-8	Dibenz[a,h]acridine	
224-42-0	Dibenz[a,j]acridine	
53-70-3	Dibenzo[a,h]anthracene	
5385-75-1	Dibenzo[a,e]fluoranthene	
192-65-4	Dibenzo[a,e]pyrene	1/1/00

189-64-0	Dibenzo[a,h]pyrene	
191-30-0	Dibenzo[a,l]pyrene	
194-59-2	7H-Dibenzo[c,g]carbazole	
57-97-6	7,12-Dimethylbenz[a]anthracene	
42397-64	1,6-Dinitropyrene	1/1/11
42397-65	1,8-Dinitropyrene	1/1/11
193-39-5	Indeno[1,2,3-cd]pyrene	
56-49-5	3-Methylcholanthrene	1/1/00
3697-24-3	5-Methylchrysene	
7496-02-8	6-Nitrochrysene	1/1/11
5522-43-0	1-Nitropyrene	
57835-92-4	4-Nitropyrene	1/1/11
Selenium compounds: Includes any unique chemical substance that contains selenium as part of that chemical's infrastructure		1/1/87
Silver compounds: Includes any unique chemical substance that contains silver as part of that chemical's infrastructure		1/1/87
Strychnine and salts		1/1/95
Thallium compounds: Includes any unique chemical substance that contains thallium as part of that chemical's infrastructure		1/1/87
Vanadium compounds		1/1/00
Warfarin and salts		1/1/94
Zinc compounds: Includes any unique chemical substance that contains zinc as part of that chemical's infrastructure		1/1/87

[FR Doc. 2019-25356 Filed 11-27-19; 8:45 am]

BILLING CODE 6560-50-C

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket No. 19-105; DA 19-1183; FRS 16274]

Assessment and Collection of Regulatory Fees for Fiscal Year 2019

AGENCY: Federal Communications Commission.

ACTION: Proposed rule, extension of comment and reply comment period.

SUMMARY: In this document, the Commission extends the comment and reply comment period of the *Further Notice of Proposed Rulemaking* portion of the proceeding that was released on August 27, 2019.

DATES: The deadline for filing comments is extended to December 6, 2019, and the deadline for filing reply comments is extended to January 6, 2020.

ADDRESSES: You may submit comments, identified by MD Docket No. 19-105, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by

accessing the ECFS: <http://apps.fcc.gov/ecfs/>.

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

- *Email:* ecfs@fcc.gov. Include MD Docket No. 19-105 in the subject line of the message.

- *Mail:* Commercial overnight mail (other than U.S. Postal Service Express Mail, and Priority Mail, must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Roland Helvajian, Office of Managing Director at (202) 418-0444.

SUPPLEMENTARY INFORMATION: For a full text of the *Further Notice of Proposed Rulemaking* (NPRM) document,¹ please see the FCC Reference Center, 445 12th Street SW, Room CY-A257, Portals II,

¹ *Assessment and Collection of Regulatory Fees for Fiscal Year 2019*, Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 8189 (2019).

Washington, DC 20554 for copying and inspection. This document is available in alternative formats (computer diskette, large print, audio record, and braille). Persons with disabilities who need documents in these formats may contact the FCC by email: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

I. Background

1. On August 27, 2019, the Commission released a *Report and Order and Further Notice of Proposed Rulemaking* in this proceeding.² In the *FNPRM*, the Commission seeks comment on a number of regulatory fee issues, including assessing regulatory fees on non-U.S. licensed space stations, allocation of International Bureau staff for purposes of calculating regulatory fees and issues arising out of the updated methodology for assessing fees on broadcast TV providers. Comments were due on November 22, 2019 and reply comments due on December 23, 2019.³

² *Assessment and Collection of Regulatory Fees for Fiscal Year 2019*, Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 8189 (2019).

³ *Publication of Regulatory Fee Further Notice of Proposed Rulemaking in the Federal Register*, Public Notice, DA 19-1067 (rel. Oct. 23, 2019).

2. SIA requests an extension of the comment period to December 13, 2019. In support of its request, SIA explains that the issues are complex and their resolution will have a significant impact on its' member companies. Many of SIA's members, however, are currently participating in the World Radiocommunication Conference (WRC-19) in Sharm El Sheikh, Egypt, which runs from October 28 through November 22. SIA requests the extension to ensure affected companies will have sufficient time to consider and respond to the Commission's proposed changes upon their return from WRC-19.

3. As set forth in section 1.46 of the Commission's rules, the Commission's policy is that extensions of time for filing comments in rulemaking proceedings shall not be routinely granted. In this case, however, we find that the scope, and importance of the issues raised in the *FNPRM* warrant an extension of the comment and reply comment deadlines. We believe that extending the deadlines will serve the public interest by providing interested parties with additional time to develop full and complete responses to inform the Commission's deliberations. Therefore, the Office of Managing Director (OMD) grants a request filed by the Satellite Industry Association ("SIA") seeking an extension of time to submit comments and reply comments in response to *Further Notice of Proposed Rulemaking (FNPRM)* in this proceeding. The deadline for filing comments is extended to December 6, 2019, and the deadline for filing reply comments is extended to January 6, 2020.

II. Ordering Clauses

4. Accordingly, *it is ordered* that, pursuant to sections 4(i), 4(j), and 303(r) of the Communications Act, as amended, 47 U.S.C. 154(i), 154(j), and 303(r), and section 1.46 of the Commission's rules, 47 CFR 1.46, the Request for Extension of Time to File Comments and Reply Comments filed by the Satellite Industry Association *is granted*. The deadline for filing comments is extended to December 6, 2019, and the deadline for filing reply comments is extended to January 6, 2020.

5. *It is further ordered* that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR 1.102(b)(1), this document *shall be effective* upon release. This action is taken pursuant to the authority delegated by Sections 0.11 and 0.231 of the Commission's rules, 47 CFR 0.11, 0.231.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2019-25860 Filed 11-27-19; 8:45 am]

BILLING CODE 6712-01-P

SURFACE TRANSPORTATION BOARD

49 CFR Part 1244

[Docket No. EP 385 (Sub-No. 8)]

Waybill Sample Reporting

AGENCY: Surface Transportation Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Surface Transportation Board (Board) proposes to amend its regulations with respect to the Waybill Sample data that railroads are required to submit to the Board. The proposed amendments to the Waybill Sample regulations would simplify the sampling rates of non-intermodal carload shipments and specify separate sampling strata and rates for intermodal shipments.

DATES: Comments are due by January 28, 2020. Replies are due by February 27, 2020.

ADDRESSES: Comments and replies may be filed with the Board either via e-filing or in writing addressed to: Surface Transportation Board, Attn: Docket No. EP 385 (Sub-No. 8), 395 E Street SW, Washington, DC 20423-0001. Comments and replies will be posted on the Board's website at www.stb.gov.

FOR FURTHER INFORMATION CONTACT:

Jonathon Binet at (202) 245-0368. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION: A waybill is a "document or instrument prepared from the bill of lading contract or shipper's instructions as to the disposition of the freight, and [is] used by the railroad(s) involved as the authority to move the shipment and as the basis for determining the freight charges and interline settlements." 49 CFR 1244.1(c). Among other things, a waybill currently contains the following data: (1) The originating and terminating freight stations; (2) the railroads participating in the movement; (3) the points of all railroad interchanges; (4) the number and type of cars; (5) the car initial and number; (6) the movement weight in hundredweight; (7) the commodity; and (8) the freight revenue. Rail carriers are required to file a sample of waybills, which includes this data. See 49 CFR 1244.2(a). The Board creates an aggregate compilation of the sampled waybills of all reporting carriers,

referred to as the Waybill Sample. The Waybill Sample is the Board's principal source of data about freight rail shipments. It has broad application in, among other things, rate cases, the development of costing systems, productivity studies, exemption decisions, and analyses of industry trends.

First collected in 1946 by the Board's predecessor,¹ the Interstate Commerce Commission (ICC), the Waybill Sample is also used by other Federal agencies, state and local government agencies, the transportation industry, shippers, research organizations, universities, and others that have a need for rail shipment data. Because some of the submitted waybill data is commercially sensitive, the Board's regulations place limitations on the release and use of confidential Waybill Sample data. See 49 CFR 1244.9; see also 49 U.S.C. 11904.²

In January 2018, the Board established its Rate Reform Task Force (RRTF), with the objectives of developing recommendations to reform and streamline the Board's rate review processes for large cases, and determining how to best provide a rate review process for smaller cases. After holding informal meetings throughout 2018, the RRTF issued a report on April 25, 2019 (RRTF Report).³ Among other recommendations, the RRTF Report included a recommendation that the Board change the sampling rates for its Waybill Sample. RRTF Report 14. The RRTF explained that data from the Waybill Sample is critical to certain rate cases, in particular the Three-Benchmark methodology, and that a more robust sample size would address issues with those cases. *Id.* at 47. Having considered the recommendations included in the RRTF Report and the overall utility of the current Waybill Sample, the Board now proposes to simplify the sampling rate for non-intermodal carload shipments and specify separate sampling strata and

¹ See Bureau of Transp. Econ. & Stat., Interstate Com. Comm'n, Statement No. 543, *Waybill Statistics their History and Uses* 15, 19, 40 (1954); *Waybill Analysis of Transp. of Prop.—R.Rs.*, 364 I.C.C. 928, 929 (1981) ("Since 1946, the Interstate Commerce Commission has collected a continuous sample of carload waybills for railroads terminating shipments.").

² Any grant of access to confidential Waybill Sample data requires the requestor to execute a confidentiality agreement before receiving the data. See 49 CFR 1244.9(a)-(e). In addition to the confidential Waybill Sample, the Board also generates a Public Use Waybill File that includes only non-confidential data. See 49 CFR 1244.9(b)(5).

³ The RRTF Report was posted on the Board's website on April 29, 2019, and can be accessed at https://www.stb.gov/stb/rail/Rate_Reform_Task_Force_Report.pdf.

rates for intermodal shipments, as explained below.

Current Waybill Sampling

Requirements. A railroad is required to file with the Board a sample of its waybill data for all line-haul revenue waybills terminated on its lines in the United States,⁴ if the railroad: (a) Terminated at least 4,500 revenue carloads in any of the three preceding years, or (b) terminated at least 5% of the revenue carloads terminating in any state in any of the three preceding years. 49 CFR 1244.2(a). Currently, the number of waybills that a railroad is required to file (*i.e.*, the sampling rate) is set forth at 49 CFR 1244.4(b) and (c), and varies based on the number of carloads on the waybill.⁵ The current sampling rates for the computerized system of reporting waybills are shown in Table 1 below.

TABLE 1—CURRENT WAYBILL SAMPLING RATES

[Computerized System of Reporting]

Number of carloads on waybill	Sample rate ⁶
1 to 2	1/40
3 to 15	1/12
16 to 60	1/4
61 to 100	1/3
101 and over	1/2

RRTF Proposal and Board Rationale. In its report, the RRTF recommended changing the current waybill sampling rates for all non-intermodal shipments to 1/10. RRTF Report 48. For intermodal shipments, the RRTF recommended two strata: (1) Intermodal shipments with one or two trailer or container units (TCUs) per waybill, recommended to be sampled at the current 1/40 rate, and (2) intermodal shipments with three or more TCUs per waybill, recommended to be sampled at the same rate proposed for non-intermodal shipments, 1/10. *Id.* at 48–49. Although these

⁴ A railroad moving traffic on the United States rail system to the Canadian or Mexican border is required to “include a representative sample of such international export traffic in the Waybill Sample.” 49 CFR 1244.3(c).

⁵ The Board’s regulations set forth different sampling rates for computerized and manual systems of reporting. See 49 CFR 1244.4(b)–(c). Under the manual system, railroads submit Waybill Sample data through authenticated copies of a sample of audited revenue waybills instead of using a computerized system. *Id.* section 1244.4(a). The manual system is not currently used by any railroads and is not the primary subject of this notice of proposed rulemaking (NPRM). However, parties may provide comments on whether the manual system should be eliminated given its current lack of use.

⁶ The column showing the sample rate indicates the fraction of the total number of waybills within each stratum that must be submitted (*e.g.*, for waybills of one to two carloads, the railroad must submit one out of every 40 waybills).

recommendations would both increase the sampling rates for most smaller shipments (with 1 to 15 carloads per waybill) from 1/40 or 1/12 to 1/10 and decrease the sampling rates for larger shipments (with 16 or more carloads per waybill) from 1/2, 1/3, or 1/4 to 1/10, the RRTF determined that the net effect of the recommended changes would be an increase in the overall number of waybills sampled. *Id.* at 48. In addition, by sampling intermodal traffic separately and (for one or two TCUs) at the current 1/40 rate, the RRTF concluded that a greater portion of the Waybill Sample data would represent regulated traffic instead of traffic that is currently exempt.⁷ *Id.* at 49.

The RRTF supported its recommendation by describing the anticipated effect the changes would have in rate cases under the Board’s Three-Benchmark methodology.⁸ The RRTF stated that, by increasing its sampling of traffic, “the Board could avoid the scarcity issue that has plagued some past Three-Benchmark cases.” *Id.* at 47. See, *e.g.*, *US Magnesium, L.L.C. v. Union Pac. R.R.*, NOR 42114, slip op. at 9 n.12 (STB served Jan. 28, 2010) (“We acknowledge that the failure of either party to submit a comparison group more similar to the traffic at issue here is likely due to limitations in the number of comparable movements in the Waybill Sample.”). The RRTF also stated that a robust sample size is a critical component of the Three-Benchmark methodology and explained that there must be enough observations in the Waybill Sample to select a group

⁷ Under 49 CFR 1090.2, rail and highway trailer-on-flatcar/container-on-flatcar (TOFC/COFC) service—which generally covers intermodal shipments—is exempt from the requirements of 49 U.S.C. subtitle IV, regardless of the type, affiliation, or ownership of the carrier performing the highway portion of the service.

⁸ The Three-Benchmark methodology is a simplified process of rate review, intended for smaller rate disputes, where the potential rate relief is capped at \$4 million. See *Simplified Standards for Rail Rate Cases (Simplified Standards)*, EP 646 (Sub-No. 1) (STB served Sept. 5, 2007), *aff’d in part sub nom. CSX Transp., Inc. v. STB*, 568 F.3d 236 (D.C. Cir. 2009), *vacated in part on reh’g*, 584 F.3d 1076 (D.C. Cir. 2009); *Rate Regulation Reforms*, EP 715 (STB served July 18, 2013), *remanded in part sub nom. CSX Transp., Inc. v. STB*, 754 F.3d 1056 (D.C. Cir. 2014). Under this methodology, the reasonableness of a challenged rate is judged by examining the challenged rate using three benchmark figures, each of which is expressed as a revenue-to-variable cost (R/V/C) ratio. One of the benchmarks, R/V_C_{COMP}, requires selection of a group of comparable traffic, the “comparison group,” that the Board concludes is most similar in aggregate to the issue movements. To “enable a prompt, expedited resolution of the comparison group selection,” the Board requires each party to submit its final offer comparison group simultaneously, and the Board chooses one of those groups without modification. See *Simplified Standards*, EP 646 (Sub-No. 1), slip op. at 18.

of traffic that reflects the nuances of the traffic in dispute. RRTF Report 47. It stated that its recommendation to modify waybill sampling rates would alleviate concerns about non-representative samples and minimize the need for “other relevant factors” arguments. *Id.*

The Board agrees with the RRTF that a modification to its waybill sampling rates is warranted. Specifically, a net increase in sample size would provide more comprehensive information to the Board and other users of Waybill Sample data in a variety of contexts, such as exemption decisions, stratification reports, traffic volume and rate studies, Board-initiated investigations, certain rate cases (discussed in more detail below), and any other waybill data-related analysis the Board currently performs or might seek to perform in the future. A more robust data sample would augment the Board’s ability to make informed, well-reasoned decisions in these areas. In addition, the Board agrees that it should change its sampling requirements so that a greater portion of the Waybill Sample data would represent regulated traffic instead of exempt traffic.

Additionally, the added number of observations in the Waybill Sample would likely allow the Board to avoid redacting, for confidentiality reasons, as many results from some of the Board’s routine analysis published on its website, such as the STCC 7 stratification report. While such analysis serves as a useful barometer for stakeholders, its publication is limited by the Board’s commitment to protect the confidentiality of identifiable railroad and shipper information when too few records exist within a given category of traffic. Moreover, because the Board currently receives monthly waybill data from Class I carriers and quarterly data from Class I, II, and III carriers, increasing the sampling rate would provide the Board with more observations in any given month or quarter from which it could draw meaningful insights throughout the year.

The Board agrees with the RRTF that increasing waybill sampling rates would also assist parties in Three-Benchmark cases by providing a greater number of potentially comparable movements from which they could create their comparison group proposals.⁹ Parties

⁹ In a recently issued NPRM, the Board proposed a new procedure for challenging the reasonableness of railroad rates in smaller cases. See *Final Offer Rate Review*, EP 755 et al. (STB served Sept. 12, 2019). In that decision, the Board stated that, under the proposed Final Offer Rate Review (FORR)

proposing comparison groups use a variety of comparability factors, such as the length of movement, commodity type, and traffic densities of the likely routes involved. In general, as more comparability factors are added to make the comparison group more specific to the case, the number of observations from the Waybill Sample that match those factors is likely to decrease. By increasing the observations in the Waybill Sample, parties generally would have more observations to choose from and increased flexibility to design comparison groups with relevant comparability factors. Accordingly, a more robust Waybill Sample could lead to more representative comparison groups, thereby increasing the reliability of the parties' presentations.

The increased comparison group flexibility would also increase the number of potentially comparable movements available to shippers of categories of traffic for which there are currently insufficient observations in the Waybill Sample to create a representative comparison group.¹⁰ The Board's proposed changes in sampling, discussed below, would result in more

procedure, a party would be able to seek access to waybill data pursuant to the Board's regulations. *Id.* at 9. The benefits of increased waybill sampling discussed in this NPRM could also apply to the proposed FORR procedure, should a party choose to use comparable traffic to support its final offer.

¹⁰ According to the Central Limit Theorem, once a sample has sufficient observations, it is considered to be normally distributed and can be used to approximate the mean and variance of the population from which it was sampled. Generally, around 25 or 30 observations is considered to be enough for those approximations. See Robert V. Hogg et al., *Probability and Statistical Inference* 202 (9th ed. 2015). In *Rail Transp. of Grain, Rate Reg. Review*, EP 665 (Sub-No. 1) et al., slip op. at 13–14 (STB served Aug. 31, 2016), the Board expressed concern about comparison groups with insufficient observations and sought comment on whether a 20-observation minimum should be established in connection with a new comparison group approach it was exploring in that proceeding. Because the Board seeks to improve significantly the utility of the Waybill Sample in this proposal, it has used a 25-observation minimum for the purposes of analyzing this proposed rule.

shipments being included in the Waybill Sample, some of which may fall into categories of traffic that previously had fewer than 25 movements in the Waybill Sample.¹¹ Moreover, for the reasons noted above, even for categories of traffic for which a comparison group with 25 or more observations can already be formed, more observations in the Waybill Sample could allow for the addition of more specific traffic characteristics and would further increase the reliability of the parties' presentations.¹²

The issue of whether to enlarge the Waybill Sample to include a larger sample of common carrier movements was briefly discussed in the Board's decision in *Simplified Standards*, EP 646 (Sub-No. 1), slip op. at 83. There, the Board declined to increase the waybill sampling size at that time due to concerns about the cost of gathering, processing, and costing a larger sample. However, it is now appropriate to revisit the issue. The Board finds that the expenses associated with increased sampling can be better managed by the agency because of technological and computing advances now available to it, and finds that the largely computerized and automated processes allow for the management of additional data at a reasonable additional cost. All reporting carriers submit waybill data in computerized form today, and the Board does not anticipate that it would be a significant burden for rail carriers, or

¹¹ Based on an analysis of the 2014 through 2017 Waybill Samples, this tends to be the case for groups of traffic that do not have as high of a volume of movements as others, meaning that fewer of those movements are captured in the Waybill Sample.

¹² For example, comparability factors such as length of movement ranges could be tightened and more granular commodity codes could be used (*e.g.*, seven-digit STCC level versus five-digit STCC level). In some cases, geographic comparability could be taken into consideration to make the comparison group more similar to the traffic at issue. Currently, depending on the commodity group at issue, the application of such specific criteria could result in a comparison group without sufficient observations.

the entity the carriers use to manage the data, to adjust their data collection and reporting mechanism(s) for the proposed sampling rates. Given that this data is critical to central regulatory functions of the Board, the additional cost is justified by the anticipated improvements in reliability of comparison group presentations and by the increased granularity of analyses performed by the Board.

For the reasons discussed above, the Board proposes to adjust the waybill sampling rate for carriers using the computerized system of reporting as discussed below. The Board's proposal is intended to provide a more comprehensive sampling of waybills that would improve the utility of the Waybill Sample for both the Board and other users of waybill data in a variety of contexts (*e.g.*, increasing the reliability of parties' evidentiary presentations in certain rate reasonableness proceedings), which would further the rail transportation policy goals of 49 U.S.C. 10101. See 49 U.S.C. 10101(2), (4), (6), (13).

Proposed Waybill Sampling Rates. The Board proposes revisions to the sampling rates for the Waybill Sample for carriers using the computerized system of reporting. Although the RRTF recommended a sampling rate for all non-intermodal shipments of 1/10, based on additional analyses, described below, the Board instead proposes to increase the sampling rates to 1/5 for non-intermodal shipments in each of the existing sampling strata, as shown in Table 2 below. Under this proposed rule, the Board would continue to use separate strata for the sampling of non-intermodal shipments, with the strata differentiated by the number of carloads on the waybill. For non-intermodal shipments, the effect of the proposed rate would be an increase in the sampling rate for waybills with 1 to 15 carloads and a decrease in the sampling rate for waybills with 16 or more carloads.

Because of the unique characteristics of intermodal shipment billing practices,¹³ the Board also proposes to separate sampling of intermodal shipments from carload shipments. Specifically, the Board would create two sampling strata specific to intermodal shipments—one for shipments with one to two TCUs per waybill and another for shipments with three or more TCUs per waybill. As shown in Table 2, intermodal shipments with one or two TCUs per waybill would be sampled at a rate of 1/40, and intermodal shipments with three or more TCUs per waybill would be sampled at the same proposed rate as non-intermodal shipments, 1/5. An increase in sampling of intermodal shipments with one or two TCUs per waybill, which comprise the vast majority of intermodal shipments, would lead to an over-sampling of those movements.¹⁴ The Board's proposed approach would not only appropriately differentiate sampling strata based on industry waybill practices, but it would also avoid instances in which blocks of TCUs comprising a single intermodal shipment are over-sampled.

The Board's proposal for intermodal shipments largely mirrors the RRTF recommendation that the Board adopt a

sampling rate of 1/40 for waybills with one to two TCUs and apply the same sampling rate recommended for non-intermodal shipments for waybills with three or more TCUs. Consistent with the approach recommended by the RRTF, the Board proposes the same sampling rate for intermodal waybills with three or more TCUs as it proposes for non-intermodal shipments.

TABLE 2—PROPOSED WAYBILL SAMPLING RATES
[Computerized System of Reporting]¹⁵

Number of non-intermodal carloads on waybill	Sample rate
1 to 2	1/5
3 to 15	1/5
16 to 60	1/5
61 to 100	1/5
101 and over	1/5
Number of intermodal trailer/ container units on waybill	Sample rate
1 to 2	1/40
3 and over	1/5

Analysis of Proposed Waybill Sampling Rates. As discussed above, these proposed changes would both provide a more robust sample generally and address the shortcomings that were acknowledged by the Board and parties in Board proceedings concerning the scarcity of data in some rate cases. See *US Magnesium, L.L.C.*, NOR 42114, slip op. at 9–12, 9 n.12 (noting the dearth of observations for certain toxic-by-inhalation commodities in the parties' comparison groups); *Simplified Standards*, EP 646 (Sub-No. 1), slip op. at 83 (acknowledging that there may be instances in Three-Benchmark cases where a particular movement is so unique that there would be insufficient

comparable movements in the Waybill Sample).

To determine the impact of increasing its sampling rates, the Board has reviewed Waybill Sample data from 2014 to 2017; grouped the movements into categories based on commodity,¹⁶ mileage ranges,¹⁷ and terminating railroad; and analyzed how the proposed sampling rates would affect the number of these movement categories having fewer than 25 observations.¹⁸ Under the current sampling rates, the Board found that, in an average year, approximately 7.6% of those movement categories have 25 or more observations. Under the Board's proposed sampling rates, an estimated 20.4% of those categories would have 25 or more observations, nearly triple the current number. Even though only one-fifth of the categories would have at least 25 observations under the Board's proposal, this segment represents most of the total revenue in the Waybill Sample. Under the current sampling rate, 84.2% of the revenue is represented in movement categories with at least 25 observations. Under the proposed sampling rate, 93.4% of the revenue would be represented in movement categories with at least 25 observations. The proposed modification would therefore capture more than half of the revenue that is currently moving in categories with fewer than 25 movements. These percentage breakdowns are shown in Table 3 below.

¹⁶ Commodity categories were split at the seven-digit STCC level.

¹⁷ Mileage ranges were split as follows: 0–499.9 miles; 500–999.9 miles; 1,000–1,499.9 miles; and 1,500 miles or more.

¹⁸ In order to estimate how counts of observations would change with the proposed sampling rate, the Board took the observations currently in the Waybill Sample, extrapolated how many observations exist in the total population of movements that occurred in a given year by multiplying counts of movements by their expansion factors, and then divided by five for non-intermodal movements and by 40 for intermodal movements. This is a slight simplification of the Board's proposed sampling rates, since it does not distinguish intermodal movement sampling rates depending on the number of TCUs, but it is reasonable for analysis purposes because the vast majority of intermodal moves are under the three TCU threshold.

¹³ In a separate proceeding that has since been discontinued, commenters noted that intermodal TCUs often move under separate waybills, even if the TCUs are placed on flatcars that move in multiple flatcar blocks. See *Review of the Gen. Purpose Costing Sys.*, EP 431 (Sub-No. 4), slip op. at 13 (STB served Aug. 4, 2016).

¹⁴ To illustrate, under the Board's current regulations, a block carrying 100 TCUs, all moving from the same origin to the same destination but with each moving under a separate waybill (*i.e.*, 100 total waybills), would be sampled at an average of 2.5 times (*i.e.*, 100 waybills sampled at a rate of 1/40). Under the Board's proposed regulations, if intermodal shipments were sampled at the same rate as non-intermodal shipments, the same large block would ultimately be sampled 20 times (*i.e.*, 100 waybills sampled at a rate of 1/5). Considering this billing practice, along with the volume of intermodal shipments and the fact that intermodal transportation is generally exempt from Board regulation, the Board finds increasing the sampling rate of intermodal shipments with one to two TCUs per waybill is not necessary. By establishing separate sampling strata for intermodal shipments as proposed, the Board can avoid over-sampling intermodal traffic with one or two TCUs per waybill by maintaining the current rate of 1/40, in which case the same large block carrying 100 TCUs would be sampled 2.5 times, as it would be under the current regulations.

¹⁵ If the Board ultimately adopts changes to 49 CFR part 1244, the Board will publish notice in the **Federal Register** of a revised edition of Statement No. 81–1, *Procedure for Sampling Waybill Records by Computer* (2009 edition). See 49 CFR 1244.4(c)(1) (requiring the Board to publish notice of any change to Statement No. 81–1 in the **Federal Register**). The current edition of Statement No. 81–1 is posted on the Board's website and can be accessed by navigating to the tab Industry Data, the tab Economic Data, and then clicking on the link for "Procedure for Sampling Waybill Records by Computer."

TABLE 3—ESTIMATED MOVEMENT CATEGORIES IN AN AVERAGE YEAR
[2014–2017]

	Total movement categories	Movement categories with 25+ observations	Percent of movement categories with 25+ observations	Percent of revenue in movement categories with 25+ observations
Current Rate	31,321	2,369	7.6	84.2
Proposed Rate	31,321	6,395	20.4	93.4

Similarly, under the current regulations, when aggregating the Waybill Sample data over the four-year 2014 to 2017 period, 19.7% of the same categories include 25 or more observations. Using the four-year

approach, under the proposed sampling rate, the number of categories with 25 or more observations would nearly double to 38.5%. Here the proposed modification would capture approximately two-thirds of the

currently missed revenue, increasing from 94.0% to 97.9% of total revenue. This breakdown is shown in Table 4 below.

TABLE 4—ESTIMATED MOVEMENT CATEGORIES OVER FOUR YEARS
[2014–2017]

	Total movement categories	Movement categories with 25+ observations	Percent of movement categories with 25+ observations	Percent of revenue in movement categories with 25+ observations
Current Rate	31,321	6,177	19.7	94.0
Proposed Rate	31,321	12,059	38.5	97.9

The Board considered the 1/10 sampling rate for non-intermodal shipments recommended by the RRTF. The Board’s analysis, however, showed that a 1/5 sampling rate had a better chance of reducing the number of movement categories with scarce observations. Although the improvement was modest—for example, 90.4% of the revenue in the Waybill Sample would be in movement categories with 25 or more observations in an average year with a 1/10 sampling rate compared to 93.4% with a 1/5 sampling rate—the potential increase in covered movement categories would lead to a more robust sample without a significantly increased burden on reporting carriers. While the waybill

sampling rates listed in Table 2 above may still, in some instances, fail to produce a representative sample for comparison, the proposed changes would significantly improve the chances of having sufficient observations for a representative sample as well as add to the robustness of any of Board analyses using the Waybill Sample.

For movement categories that already have 25 or more observations, such as traffic in categories with a higher volume of movements by rail, the Board analyzed the extent to which more observations in the Waybill Sample would allow for more granular or even additional comparability factors. As can be seen in Table 5 below, the Board estimates that the proposed sampling

rate would increase the median number of observations for categories that already have at least 25 observations in an average year from 59 to 269, which is more than four times as many observations. This illustrates how the proposed sampling rate would shift the number of observations upwards across categories, even if the categories already had 25 observations. Such an increase in observations would increase the representativeness of potential comparison groups defined using the same criteria as these categories. Furthermore, as noted above, by having more observations in a comparison group, it would be possible to define the comparison group even more narrowly and still maintain robustness.

TABLE 5—QUARTILE ANALYSIS OF MOVEMENT CATEGORIES WITH 25+ OBSERVATIONS IN AN AVERAGE YEAR
[2014–2017]

	1st Quartile observations	Median observations	3rd Quartile observations
Current Rate	37	59	126
Proposed Rate	101	269	562

Table 6 below shows similar estimated increases in observations over four years of data. The Board estimates that the proposed sampling rate would

increase the median number of observations for categories that already have at least 25 observations over the

course of a four-year period from 70 to 320.

TABLE 6—QUARTILE ANALYSIS OF MOVEMENT CATEGORIES WITH 25+ OBSERVATIONS OVER FOUR YEARS
[2014–2017]

	1st Quartile observations	Median observations	3rd Quartile observations
Current Rate	39	70	177
Proposed Rate	136	320	780

Once again, the proposed sampling rate is estimated to result in more than four times as many observations as under the current rate. For example, consider the median category with at least 25 observations over four years as shown in Table 6. Using a 500-mile range as a comparability factor, a party would have 70 observations to include in a potential comparison group. If that party wanted to define the mileage range more narrowly, they would lose some of those observations depending on the mileage range chosen and, at some point, would likely have fewer than 25 observations. If, however, a party started with 320 available observations with a 500-mile range, as we estimate would be the case in the median category under the proposed sampling rates, they could likely narrow the mileage range further without dropping below a sufficient number of observations. In other words, with more observations available, interested parties would be able to choose additional and more narrow comparability factors to identify movements that are more similar to the issue traffic but also still maintain a sufficient number of observations.

Conclusion. For the reasons described above, the changes proposed in this NPRM (as shown below) would create a more robust Waybill Sample and result in more comprehensive information that would assist both the Board in its decision-making and analyses and other users of waybill data in their analyses without creating an undue burden on railroads (as shown below and in the Appendix). The changes also appropriately differentiate sampling strata based on current industry waybill practices for intermodal shipments. The Board invites public comment on this proposal.

Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, generally requires a description and analysis of new rules that would have a significant economic impact on a substantial number of small entities. In drafting a rule, an agency is required to: (1) Assess the effect that its regulation would have on small entities; (2) analyze effective alternatives that may minimize a regulation's impact; and (3) make the

analysis available for public comment. Section 601–604. In its notice of proposed rulemaking, the agency must either include an initial regulatory flexibility analysis, section 603(a), or certify that the proposed rule would not have a “significant impact on a substantial number of small entities,” section 605(b). Because the goal of the RFA is to reduce the cost to small entities of complying with federal regulations, the RFA requires an agency to perform a regulatory flexibility analysis of small entity impacts only when a rule directly regulates those entities. In other words, the impact must be a direct impact on small entities “whose conduct is circumscribed or mandated” by the proposed rule. *White Eagle Coop. v. Conner*, 553 F.3d 467, 480 (7th Cir. 2009). An agency has no obligation to conduct a small entity impact analysis of effects on entities that it does not regulate. *United Dist. Cos. v. FERC*, 88 F.3d 1105, 1170 (DC Cir. 1996).

This proposal would not have a significant economic impact upon a substantial number of small entities, within the meaning of the RFA.¹⁹ Under the Board's existing regulations, a railroad is required to file Waybill Sample data for all line-haul revenue waybills terminated on its lines if: (a) It terminated at least 4,500 revenue carloads in any of the three preceding years; or (b) it terminated at least 5% of the revenue carloads terminating in any state in any of the three preceding years. 49 CFR 1244.2. Under this criteria, 53 railroads are currently required to report Waybill Sample data. Of these 53, the

¹⁹ For the purpose of RFA analysis for rail carriers subject to Board jurisdiction, the Board defines a “small business” as only including those rail carriers classified as Class III carriers under 49 CFR 1201.1–1. See *Small Entity Size Standards Under the Regulatory Flexibility Act*, EP 719 (STB served June 30, 2016) (with Board Member Begeman dissenting). Class III carriers have annual operating revenues of \$20 million or less in 1991 dollars, or \$39,194,876 or less when adjusted for inflation using 2018 data. Class II carriers have annual operating revenues of less than \$250 million or \$489,935,956 when adjusted for inflation using 2018 data. The Board calculates the revenue deflator factor annually and publishes the railroad revenue thresholds in decisions and on its website. 49 CFR 1201.1–1; *Indexing the Annual Operating Revenues of R.Rs.*, EP 748 (STB served June 14, 2019).

Board estimates that 36 are Class III carriers, and thus small businesses within the meaning of the RFA. Of the 53 railroads required to report Waybill Sample data, 45 railroads currently use Railinc Corporation (Railinc)—a wholly-owned information technology subsidiary of the Association of American Railroads—to sample their waybills.²⁰ Eight railroads currently sample their own waybills.

For the railroads that submit their waybills to Railinc for sampling, there would be no additional burden or costs on entities as result of the changes proposed in this NPRM. These entities would continue to submit all of their waybills to Railinc, which would then sample the data in accordance with the Board's revised sampling rates. Because the Board contracts with Railinc to sample railroads' waybills, the entities that use Railinc to sample their waybills would incur no additional costs from Railinc as a result of the Board's proposed changes. Of the approximately 36 Class III carriers, the Board estimates that 34 fall into this category and therefore would not incur any additional burden or cost.

For the railroads that choose to sample their own waybills, the proposed amendments would not result in a significant economic impact. The purpose of the changes proposed in this NPRM is to create a more robust Waybill Sample, resulting in more comprehensive information that would assist both the Board in its decision-making and analyses and other users of waybill data in their analyses. The proposal would increase the rate at which the Board samples certain railroad shipments and appropriately differentiate sampling strata based on industry waybill practices for intermodal shipments. These changes would result in additional observations for certain shipments, but the proposed amendments would not significantly alter small entities' current practices for sampling their shipments. Based on the total burden hours described in the Paperwork Reduction Act analysis below, the Board estimates that, for

²⁰ Some railroads hire a third party to collect their waybills. That third party then sends these waybills to Railinc for sampling.

railroads conducting their own sampling, the change in reporting procedures would result in an estimated one-time burden of approximately 80 hours per railroad. Moreover, this impact would not be on a substantial number of small entities, as the Board estimates that only two of the approximately 36 Class III carriers would incur this burden.

For the reasons described above, the Board certifies under 5 U.S.C. 605(b) that this proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities within the meaning of the RFA.

Paperwork Reduction Act. Pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3521, Office of Management and Budget (OMB) regulations at 5 CFR 1320.8(d)(3), and in the Appendix, the Board seeks comments about the impact of the revisions in the proposed rules to the currently approved collection of Waybill Sample data (OMB Control No. 2140–0015) regarding: (1) Whether the collection of data, as modified in the proposed rule and further described below, is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility; (2) the accuracy of the Board’s burden estimates; (3) ways to enhance the quality, utility, and clarity of the data collected; and (4) ways to minimize the burden of the collection of data on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate.

The Board estimates that the proposed requirements would add a total one-time hour burden of 640 hours (or approximately 213.3 hours per year as amortized over three years) because the railroads, in most cases, would need to edit their software programs to implement these changes. Once the burden of the one-time programming changes is incurred, the annual burden would remain the same as before this modification. The Board welcomes comment on the estimates of actual time and costs of collection of Waybill Sample data, as detailed below in the Appendix.²¹ The proposed rules will be submitted to OMB for review as required under 44 U.S.C. 3507(d) and 5 CFR 1320.11. Comments received by the Board regarding the data collection will

²¹ In the Appendix, Tables B–2, B–3, and B–4 show a total annual burden of 774.6 hours, incorporating the annualized one-time hour burden of 213.3 hours under the proposed rule, and the existing annual burden of 561.3 hours.

also be forwarded to OMB for its review when the final rule is published.

List of subjects in 49 CFR Part 1244

Freight, Railroads, Reporting and recordkeeping requirements.

It is ordered:

1. The Board proposes to amend its rules as detailed in this decision. Notice of the proposed rules will be published in the **Federal Register**.

2. Comments are due by January 28, 2020. Replies are due by February 27, 2020.

3. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration, 409 3rd Street SW, Washington, DC 20416.

4. This decision is effective on its service date.

Decided: November 22, 2019.

By the Board, Board Members Begeman, Fuchs, and Oberman.

Kenyatta Clay,
Clearance Clerk.

For the reasons set forth in the preamble, the Surface Transportation Board proposes to amend part 1244 of title 49, chapter X, of the Code of Federal Regulations as follows:

PART 1244—WAYBILL ANALYSIS OF TRANSPORTATION OF PROPERTY—RAILROADS

■ 1. The authority citation for part 1244 continues to read as follows:

Authority: 49 U.S.C. 1321, 10707, 11144, 11145.

■ 2. Amend § 1244.4 by revising the first sentence of paragraph (c)(1) and replacing the current table in paragraph (c)(2) with a new table to read as follows:

§ 1244.4 Sampling of waybills.

* * * * *

(c) *The Computerized System.* (1) The tape shall be required to conform to the standards and format specified in Statement No. 81–1, *Procedure for Sampling Waybill Records by Computer* (2019 edition), issued by the Surface Transportation Board.

* * * * *

(2) Effective January 1, 2021, and thereafter, unless otherwise ordered, the sampling rates for the computerized system are as follows:

Number of non-intermodal carloads on waybill	Sample rate
1 to 2	1/5
3 to 15	1/5
16 to 60	1/5
61 to 100	1/5

Number of non-intermodal carloads on waybill	Sample rate
101 and over	1/5

Number of intermodal trailer/container units on waybill	Sample rate
1 to 2	1/40
3 and over	1/5

* * * * *

Note: This appendix will not appear in the Code of Federal Regulations

Appendix

Information Collected Under the Paperwork Reduction Act

Title: Waybill Sample.
OMB Control Number: 2140–0015.
Form Number: None.

Type of Review: Revision of a currently approved collection.

Summary: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501–3521, the Surface Transportation Board (Board) gives notice that it is requesting from the Office of Management and Budget (OMB) approval for the revision of the currently approved data collection, Waybill Sample, OMB Control No. 2140–0015, as further described below. The requested revision to the currently approved collection is necessitated by this Notice of Proposed Rulemaking (NPRM), which would amend the Waybill Sample data railroads are required to submit to the Board pursuant to 49 CFR 1244.4. All other data collected by the Board in the currently approved collection is without change from its approval (currently expiring on September 30, 2020).

Respondents: Respondents include any railroad that is subject to the Interstate Commerce Act and that terminated at least 4,500 carloads on its line in any of the three preceding years or that terminated at least 5% of the revenue carloads terminating in any state in any of the three preceding years. For the purposes of this analysis, the Board categorizes railroads required to report Waybill Sample data as either quarterly or monthly and as either sampling their own waybills or having a third party conduct their sampling. As a result, there are four categories of respondents, as shown in Table B–1 below.

TABLE B–1—RESPONDENTS

Categories of respondents	Number of respondents
Railroads that conduct their own sampling and report monthly	5
Railroads that conduct their own sampling and report quarterly	3
Railroads that have a third party sample their waybills and report monthly	2

TABLE B-1—RESPONDENTS—
Continued

Categories of respondents	Number of respondents
Railroads that have a third party sample their waybills and report quarterly	43

Number of Respondents: 53.
Estimated Time Per Response: The estimated hour burden for waybill samples submitted to the Board is shown in Table B-2 below. (Note: respondents that are identified as reporting monthly actually report monthly, quarterly, and annually (or 17 times per year). All other respondents report quarterly and annually (five times a year)). The annualized one-time hour burden

resulting from this NPRM is shown in Table B-3 below.

TABLE B-2—ESTIMATED EXISTING ANNUAL HOUR BURDEN UNDER CURRENT REGULATIONS

Categories of respondents	Number of respondents	Total number of samples submitted	Estimated annual hours per sample submitted	Total estimated annual hours for samples submitted
Railroads that conduct their own sampling and report monthly	5	85	2.5	212.5
Railroads that conduct their own sampling and report quarterly	3	15	2.5	37.5
Railroads that have a third party sample their waybills and report monthly ...	2	34	1.25	42.5
Railroads that have a third party sample their waybills and report quarterly	43	215	1.25	268.8
Total Annual Hour Burden				561.3

TABLE B-3—ESTIMATED ADDITIONAL ONE-TIME HOUR BURDEN UNDER PROPOSED REGULATIONS

Categories of respondents	Number of respondents	Estimated annual one-time hour burden (per respondent)	Total annual one-time hour burden
Railroads that conduct their own sampling and report monthly	5	26.7	133.3
Railroads that conduct their own sampling and report quarterly	3	26.7	80.0
Railroads that have a third party sample their waybills and report monthly	2	* 0	* 0
Railroads that have a third party sample their waybills and report quarterly	43	* 0	* 0
Total Annual One-Time Hour Burden			213.3

* The Board pays for the third-party contractor to prepare samples. There is no one-time hourly or non-hourly burden to these railroads.

Frequency of Response: Seven respondents report monthly; 46 report quarterly.

Total Burden Hours (annually including all respondents): 774.6 hours. This estimated

total burden hours is shown in Table B-4 below.

TABLE B-4—TOTAL BURDEN HOURS

Categories of respondents	Estimated annual hours for samples submitted	Estimated annual one-time hour burden (amortized over 3 years)	Total annual hour burden
Railroads that conduct their own sampling and report monthly	212.5	133.3	345.8
Railroads that conduct their own sampling and report quarterly	37.5	80.0	117.5
Railroads that have a third party sample their waybills and report monthly	42.5	* 0	42.5
Railroads that have a third party sample their waybills and report quarterly	268.8	* 0	268.8
Total Annual Burden Hours	561.3	213.3	774.6

* The Board pays for the third-party contractor to prepare samples. There is no one-time hourly or non-hourly burden to these railroads.

Total Annual “Non-Hour Burden” Cost: There are no other costs identified because filings are submitted electronically to the Board.

Needs and Uses: The Board is, by statute, responsible for the economic regulation of common carrier rail transportation in the United States. The information in the Waybill Sample is used by the Board, other federal and state agencies, and industry

stakeholders to monitor traffic flows and rate trends in the industry, and to develop testimony in Board proceedings. The Board has authority to collect this data under 49 U.S.C. 11144 and 11145. As described in more detail above in the NPRM, the Board is amending the rules that apply to the collection of the Waybill Sample to simplify the sampling rates of non-intermodal carload shipments and to create more accurate

sampling strata and rates for intermodal traffic. The Board’s collection and use of this data enables the agency to meet its statutory duty to regulate the rail industry.

[FR Doc. 2019-25924 Filed 11-27-19; 8:45 am]

BILLING CODE 4915-01-P

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 25, 2019.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden 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 those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC; New Executive Office Building, 725 17th Street NW, Washington, DC, 20503. Commenters are encouraged to submit their comments to OMB via email to: OIRA_Submission@omb.eop.gov or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602.

Comments regarding these information collections are best assured of having their full effect if received by December 30, 2019. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service (NASS)

Title: Minnesota Pesticide & Fertilizer Survey—Substantive Change

OMB Control Number: 0535–0218

Summary of Collection: General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204 which specifies that “The Secretary of Agriculture shall procure and preserve all information concerning agriculture which he can obtain . . . by the collection of statistics . . .”. The primary objective of the National Agricultural Statistics Service (NASS) is to provide data users with timely and reliable agricultural production and economic statistics, as well as environmental and specialty agricultural related statistics. To accomplish this objective, NASS relies on the use of diverse surveys that show changes within the farming industry over time.

The Minnesota Pesticide and Fertilizer Survey is a data collection entirely funded by the Minnesota Department of Agriculture (MDA). The annual project is requested by the Minnesota Department of Agriculture to fulfill its mission under MN Statute 103H.151 where the MDA is required to monitor the effectiveness of Best Management Practices (BMPs) developed by the Department. It states, “The commissioner of agriculture, in consultation with local water planning authorities, shall develop best management practices for agricultural chemicals and practices” and “shall, through field audits and other appropriate means, monitor the use and effectiveness of best management practices developed and promoted under this section.” This survey series is the monitoring method.

Target commodities rotate each year depending on the cooperator's data needs and to avoid targeting the same

commodities on the Federally-funded Agricultural Resource Management Survey Phase II. The target commodities for crop year 2019 will be corn and soybeans.

Additional questions will be added for insecticide, fertilizer, and manure management practices for the crop year 2019 corn and soybean crops. Management data will be collected for the largest corn and largest soybean fields, without manure use. New soil sampling questions are asked for all respondents.

The objective is to understand the decision making process when farmers decide to spray insecticides, apply fertilizer and manure to corn and soybean crops.

This substantive change resulted in an average of about five additional minutes to each questionnaire with no change in sample size. With the same sample size of approximately 8,400 respondents for the survey, the net increase in respondent burden is 560 hours above the currently approved total.

Need and Use of the Information: The additional information is requested by the Minnesota Department of Agriculture to fulfill its mission under MN Statute 103H.151 where the MDA is required to monitor the effectiveness of Best Management Practices (BMPs) developed by the Department. It states, “The commissioner of agriculture, in consultation with local water planning authorities, shall develop best management practices for agricultural chemicals and practices” and “shall, through field audits and other appropriate means, monitor the use and effectiveness of best management practices developed and promoted under this section.”

Description of Respondents: Farms.

Number of Respondents: 8,400.

Frequency of Responses: Reporting: Once.

Total Burden Hours: 3,416.

Ruth Brown,

*Departmental Information Collection
Clearance Officer.*

[FR Doc. 2019–25863 Filed 11–27–19; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE**Food and Nutrition Service****Agency Information Collection Activities: Assessment of the Collection, Analysis, Validation, and Reporting of Supplemental Nutrition Assistance Program (SNAP) Employment and Training (E&T) Data**

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a new collection for the assessment of the collection, analysis, validation, and reporting of SNAP E&T data collected by States.

DATES: Written comments must be received on or before January 28, 2020.

ADDRESSES: Comments may be sent to: Leigh Gantner, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room, Alexandria, VA 22302. Comments may also be submitted via email to leigh.gantner@usda.gov. Comments will also be accepted through the Federal eRulemaking Portal. Go to <http://www.regulations.gov>, and follow the online instructions for submitting comments electronically. All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of this information collection should be directed to Leigh Gantner by email at leigh.gantner@usda.gov or by phone at (703) 305-2822.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were 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 those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection

techniques or other forms of information technology.

Title: Assessment of the Collection, Analysis, Validation, and Reporting of SNAP Employment and Training Data project.

Form Number: None.

OMB Number: 0584-NEW.

Expiration Date: Not yet determined.

Type of Request: New collection.

Abstract: Abstract: Section 17 [7 U.S.C. 2026] (a)(1) of the Food and Nutrition Act of 2008, as amended, provides general legislative authority for the planned data collection. It authorizes the Secretary of Agriculture to enter into contracts with private institutions to undertake research that will help to improve the administration and effectiveness of SNAP in delivering nutrition-related benefits.

Under the Supplemental Nutrition Assistance Program (SNAP), States are required to operate an Employment and Training (E&T) program to help participants gain skills, education, training, and experience that lead to employment and greater economic self-sufficiency. The U.S. Department of Agriculture, Food and Nutrition Service (FNS) uses several methods to collect information on State SNAP E&T programs: annual State SNAP E&T plans, quarterly FNS-583 SNAP E&T Program Activity Report data forms (OMB 0584-0594, currently undergoing review), and annual outcome reporting measures. FNS has found that reported data are often inconsistent, incomplete, and inaccurate. This makes it challenging for FNS to analyze these data to determine the outcomes of SNAP E&T participants and to assist States in improving their programs.

FNS will: (1) Identify and describe the current State and Federal systems that collect, validate, and analyze E&T data; (2) assess the current and future E&T data needs of Federal, Regional, and State staff; and (3) recommend a plan to improve how Federal, Regional, and State staff collect and use data for E&T program improvement and reporting. The assessment will include two main data collection activities: (1) 10 in-person meetings with a range of staff from Federal agencies¹ to better understand the systems for collecting and analyzing SNAP E&T data, assess the current and future data needs of SNAP E&T stakeholders, and identify options to improve the collection and analysis of data; and (2) site visits in seven States to observe their SNAP E&T business, data collection, and analysis

¹Discussions with Federal agencies do not require OMB clearance and are therefore not included in the burden estimates in this notice.

processes, and to assess the current and future data needs from the perspective of a range of State and local staff, including local organizations that provide E&T activities.

The data collection effort will culminate in a comprehensive final report of recommendations for FNS to meet its current and future data needs for the SNAP E&T program. The report will describe the current Federal, Regional, and State data systems and processes; the current and future data needs and goals of SNAP E&T; and the gaps between the current systems and data needs. In addition, the report will recommend methods to address these gaps through changes to data systems and information technology (IT) solutions, improved business processes, and expanded technical assistance.

Affected Public: FNS will reach out to eight State agencies, and anticipates that seven of these State agencies will agree to participate in the study.

Approximately, 284 respondents within these seven States will be contacted to participate in the data collection. Of these 284 respondents, FNS anticipates 251 will agree to participate. Members of the public affected by the data collection include State, Local and Tribal governments and the private sector (Business-for-profit and not-for-profit). Respondent groups identified include the following:

- Directors and managers from State, Local, and Tribal government agencies supporting the SNAP E&T programs (35; 32 respondents and 3 non-respondents).
- Policy staff from State, Local, and Tribal government agencies supporting the SNAP E&T programs (28; 26 respondents and 2 non-respondents).
- Frontline staff from State, Local, and Tribal government agencies providing direct services to SNAP E&T participants (56; 50 respondents and 6 non-respondents).
- Data and IT staff from State, Local, and Tribal government agencies supporting the E&T programs (28; 26 respondents and 2 non-respondents).
- Directors and managers from private sector for-profit businesses providing SNAP E&T services (21; 18 respondents and 3 non-respondents).
- Frontline staff from private sector for-profit businesses providing SNAP E&T services (21; 18 respondents and 3 non-respondents).
- Data and IT staff from private sector for-profit businesses providing SNAP E&T services (11; 9 respondents and 2 non-respondents).
- Directors and managers from private sector not-for-profit agencies providing SNAP E&T services (35; 30 respondents and 5 non-respondents).

- Frontline staff from private sector not-for-profit businesses providing SNAP E&T services (35; 30 respondents and 5 non-respondents).

- Data and IT staff from private sector not-for-profit businesses providing SNAP E&T services (14; 12 respondents and 2 non-respondents).

Estimated Number of Respondents:
The total estimated number of respondents is 284. This includes the following:

- 35 State, Local, or Tribal agency directors and managers will be asked to participate in an interview (21 of which will also be asked to participate in a mapping discussion)
- 28 State, Local, or Tribal agency policy staff will be asked to participate in an interview (21 of which will also be asked to participate in a mapping discussion)
- 56 State, Local, or Tribal agency direct services staff will be asked to participate in an interview (56 of which will also be asked to participate in a mapping discussion)
- 28 State, Local, or Tribal agency data and IT staff will be asked to participate in an interview (21 of which will also be asked to

participate in a mapping discussion, and 7 will also provide extant data)

- 21 private sector for-profit business directors and managers will be asked to participate in a mapping discussion (7 of which will also be asked to participate in an interview)
- 21 private sector for-profit business direct services staff will be asked to participate in a mapping discussion (7 of which will also be asked to participate in an interview)
- 11 private sector for-profit business data and IT staff will be asked to participate in a mapping discussion (11 of which will also be asked to participate in an interview)
- 35 private sector not-for-profit agency directors and managers will be asked to participate in a mapping discussion (14 of which will also be asked to participate in an interview)
- 35 private sector not-for-profit agency direct services staff will be asked to participate in a mapping discussion (14 of which will also be asked to participate in an interview)
- 14 private sector not-for-profit agency data and IT staff will be asked to participate in a mapping discussion

(14 of which will also be asked to participate in an interview)

Estimated Number of Responses per Respondent Some respondents will be asked to participate in one in-person interview only (28 respondents), others will be asked to participate in a group mapping discussion only (70 respondents), and the remainder will be asked to participate in an interview and group mapping discussion (186 respondents).

Estimated Total Annual Responses: 1074.

Estimated Time per Response: The estimated time of response varies from 1 to 1.5 hours (60 to 90 minutes) depending on respondent group, as shown in the table that follows, with an average estimated time of 1.17 hours (70.2 minutes) for all respondents. Those declining participation are anticipated to spend 0.167 hours (10 minutes) reading the email invitation to participate and declining participation.

Estimated Total Annual Burden on Respondents: 915.88 hours (54,953minutes). See the following table for estimated total annual burden for each type of respondent.

Respondent type	Instrument	Sample size	Responsive					Non-responsive				
			Estimated number of respondents	Estimated frequency of response	Total annual responses	Number of burden hours per response	Estimated total burden hours	Estimated number of respondents	Estimated frequency of response	Total annual responses	Number of burden hours per response	Estimated total burden hours
State agency staff ... State, local, or Tribal agency directors and managers.	Recruitment email .. Interview discussion guide.	8	7	1	7	0.167	1.17	1	1	1	0.167	0.167
		35	32	1	32	1.5	48.00	3	1	3	0.167	0.501
	Mapping group discussion.	21	20	1	20	1.5	30.00	1	1	1	0.167	0.167
State, local, or Tribal agency policy staff.	Interview discussion guide.	28	26	1	26	1.5	39.00	2	1	2	0.167	0.334
		Mapping group discussion.	21	20	1	20	1.5	30.00	1	1	1	0.167	0.000
State, local or Tribal agency direct services staff.	Interview discussion guide.	56	50	1	50	1.5	75.00	6	1	6	0.167	1.002
		Mapping group discussion.	56	50	1	50	1.5	75.00	6	1	6	0.167	1.002
State, local, or Tribal agency data and IT staff.	Interview discussion guide.	28	26	1	26	1	26.00	2	1	2	0.167	0.334
		Mapping group discussion.	21	20	1	20	1.5	30.00	1	1	1	0.167
	Extant data collection.	7	7	1	7	1	7.00	0	0	0	0	0.000
Sub-Totals for SLT.	.....	.....	134	.....	258	.....	361.17	13	.....	23	.....	3.674
Recruitment email for private sector for-profit business.	Recruitment email ..	21	18	1	18	0.167	3.01	3	1	3	0.167	0.501
Private sector for-profit business directors and managers.	Interview discussion guide.	7	6	1	6	1	6.00	1	1	1	0.167	0.167
		Mapping group discussion.	21	18	1	18	1	18.00	3	1	3	0.167	0.501
Private sector for-profit business direct services staff.	Interview discussion guide.	7	5	1	5	1	5.00	2	1	2	0.167	0.334
		Mapping group discussion.	21	18	1	18	1	18.00	3	1	3	0.167	0.501
Private sector for-profit business data and IT staff.	Interview discussion guide.	11	9	1	9	1	9.00	2	1	2	0.167	0.334
		Mapping group discussion.	11	9	1	9	1	9.00	2	1	2	0.167	0.334

Respondent type	Instrument	Sample size	Responsive					Non-responsive				
			Estimated number of respondents	Estimated frequency of response	Total annual responses	Number of burden hours per response	Estimated total burden hours	Estimated number of respondents	Estimated frequency of response	Total annual responses	Number of burden hours per response	Estimated total burden hours
Recruitment email for not-for-profit business.	Recruitment email ..	35	30	1	30	0.167	5.01	5	1	5	0.167	0.835
Private sector not-for-profit agency directors and managers.	Interview discussion guide.	14	12	1	12	1	12.00	2	1	2	0.167	0.334
	Mapping group discussion.	35	30	1	30	1	30.00	5	1	5	0.167	0.835
Private sector not-for-profit agency direct services staff.	Interview discussion guide.	14	12	1	12	1	12.00	2	1	2	0.167	0.334
	Mapping group discussion.	35	30	1	30	1	30.00	5	1	5	0.167	0.835
Private sector not-for-profit agency data and IT staff.	Interview discussion guide.	14	12	1	12	1	12.00	2	1	2	0.167	0.334
	Mapping group discussion.	14	12	1	12	1	12.00	2	1	2	0.167	0.334
Sub-Totals for Business-for-not-for-Profit.	.....	.....	117	.....	221	.....	181.02	20	.....	39	.....	6.513
Grand Total Burden for both SLT and Business.	.....	284	251	.....	951	.....	902.19	33	.....	123	.....	13.694

Dated: November 4, 2019.

Pamilyn Miller,
 Administrator, Food and Nutrition Service.
 [FR Doc. 2019-25639 Filed 11-27-19; 8:45 am]

BILLING CODE 3410-30-P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the Aquaculture Surveys. Revision to burden hours will be needed due to changes in NASS estimates programs, target population sizes, sampling designs, and/or content of questionnaires.

DATES: Comments on this notice must be received by January 28, 2020 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535-0150, by any of the following methods:

- Email: ombofficer@nass.usda.gov.

Include the docket number above in the subject line of the message.

- **Fax:** (855) 838-6382.
- **Mail:** Mail any paper, disk, or CD-ROM submissions to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250-2024.
- **Hand Delivery/Courier:** Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250-2024.

FOR FURTHER INFORMATION CONTACT: Kevin L. Barnes, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720-2707. Copies of this information collection and related instructions can be obtained without charge from David Hancock, NASS—OMB Clearance Officer, at (202) 690-2388 or at ombofficer@nass.usda.gov.

SUPPLEMENTARY INFORMATION:
Title: Aquaculture Surveys.
OMB Control Number: 0535-0150.
Expiration Date: April 30, 2020.
Type of Request: Intent to seek approval to revise and extend a currently approved information collection for a period of three years.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue state and national estimates of crop and livestock production, prices, and disposition. The Aquaculture Surveys program produces estimates at the national level on both trout and catfish. Survey results are

used by government agencies and others in planning farm programs.

The trout survey includes inventory counts, sales (dollars, pounds, and quantities), percent of product sold by outlet at the point of first sale, number of fish raised for release into open waters, and losses. The catfish surveys include inventory counts, water surface acreage used for production, sales (dollars, pounds, and quantities), and losses.

- Twenty-five states (Arkansas, California, Colorado, Connecticut, Georgia, Idaho, Massachusetts, Michigan, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Tennessee, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming) are in the Trout Production Survey. In January, data are collected in the selected states that produce and either sell or distribute trout. State, federal, tribal, and other facilities where trout are raised for conservation, restoration, or recreational purposes are included in the survey.

- Nine states (Alabama, Arkansas, California, Georgia, Louisiana, Mississippi, Missouri, North Carolina, and Texas) are in the Catfish Production Survey. Data are collected from farmers in January for inventory, water surface acreage, and previous year sales. In addition, farmers in the three major catfish producing states are surveyed in July for mid-year inventory and water surface acreage.

- The survey conducted in Hawaii is conducted under a cooperative agreement with the state.
- Under the previous approval NASS also conducted surveys in Florida and Pennsylvania under cooperative agreements. Both of these surveys have been discontinued.
- All of the surveys conducted under this approval will have a voluntary reporting statement on each questionnaire.

Authority: These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995 Public Law 104–13 (44 U.S.C. 3501, *et seq.*) and Office of Management and Budget regulations at 5 CFR part 1320. NASS also complies with OMB Implementation Guidance, “Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA),” **Federal Register**, Vol. 72, No. 115, June 15, 2007, p. 33362.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes per response. Pre-survey publicity or cover letters will also be included to encourage respondents to complete and return the surveys and to provide the respondents with information on how to complete the surveys using the internet.

Respondents: Farms and aquaculture facilities.

Estimated Number of Respondents: Approximately 2,500 per year.

Estimated Total Annual Burden on Respondents: 750 hours.

Comments: Comments are invited on:

- 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;
- 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;
- 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, technological or other forms of information technology collection methods. All responses to this notice

will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, November 13, 2019.

Kevin L. Barnes,

Associate Administrator.

[FR Doc. 2019–25864 Filed 11–27–19; 8:45 am]

BILLING CODE 3410–20–P

CIVIL RIGHTS COMMISSION

Sunshine Act Meeting

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of Commission public business meeting.

DATES: Thursday, December 5, 2019, 10:00 a.m. ET.

ADDRESSES: Place: National Place Building, 1331 Pennsylvania Ave. NW, 11th Floor, Suite 1150, Washington, DC 20425. (Entrance on F Street NW.)

FOR FURTHER INFORMATION CONTACT: Brian Walch: (202) 376–8371; TTY: (202) 376–8116; publicaffairs@usccr.gov.

SUPPLEMENTARY INFORMATION: This business meeting is open to the public.

There will also be a call-in line for individuals who desire to listen to the meeting and presentations: 877–211–3430, Conference ID 1287319. The meeting will live-stream at: <https://www.youtube.com/user/USCCR/videos>. (Subject to change.) Persons with disabilities who need accommodation should contact Pamela Dunston at (202) 376–8105 or at access@usccr.gov at least seven (7) business days before the scheduled date of the meeting.

Meeting Agenda

I. Approval of Agenda

II. Business Meeting

A. Discussion and vote on the Commission’s report, *Federal #MeToo: Examining Sexual Harassment in Government Workplaces*.

B. Discussion and vote on Commission 2020 briefing dates.

C. Management and Operations.

- Staff Director’s Report.

III. Adjourn Meeting.

Dated: November 26, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–26064 Filed 11–26–19; 4:15 pm]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–932]

Certain Steel Threaded Rod From the People’s Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) finds that revocation of the antidumping duty order on certain steel threaded rod (steel threaded rod) from the People’s Republic of China (China) would be likely to lead to continuation or recurrence of dumping at the levels indicated in the “Final Results of Sunset Reviews” section of this notice.

DATES: Applicable November 29, 2019.

FOR FURTHER INFORMATION CONTACT: Benito Ballesteros, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–7425.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2019, Commerce published the *Notice of Initiation* of the five-year review of the antidumping duty order on steel threaded rod from China, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).¹ On July 9, 2019, Commerce received a Notice of Intent to Participate in this review from Vulcan Threaded Products, Inc. (the petitioner), within the deadline specified in 19 CFR 351.218(d)(1)(i). The petitioner claimed interested party status under section 771(9)(C) of the Act, as a manufacturer of a domestic like product in the United States. On July 31, 2019, the petitioner provided a complete substantive response for this review within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We received no substantive responses from any other interested parties, nor was a hearing requested. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited (120-day) sunset review of the order.

Scope of the Order

The merchandise covered by the order is steel threaded rod. For a full

¹ See *Initiation of Five-Year (Sunset) Reviews*, 84 FR 31304 (July 1, 2019) (*Notice of Initiation*).

description of the scope, *see* the Issues and Decision Memorandum.²

Analysis of Comments Received

All issues raised in this review, including the likelihood of continuation or recurrence of dumping in the event of revocation and the magnitude of the margins likely to prevail if the orders were revoked, are addressed in the accompanying Issues and Decision Memorandum. 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 to all parties in the Central Records Unit, room B8024 of the main Commerce building. 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 of the Issues and Decision Memorandum are identical in content.

Final Results of Sunset Review

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the antidumping duty order on steel threaded rod from China would likely lead to continuation or recurrence of dumping and that the magnitude of the margins is up to 206 percent.

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to interested parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely 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.

Notification to Interested Parties

We are issuing and publishing these results and notice in accordance with

² See Memorandum, "Issues and Decision Memorandum for the Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order on Certain Steel Threaded Rod from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: October 28, 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. History of the Order
- IV. Scope of the Order
- V. Discussion of the Issues
 1. Likelihood of Continuation or Recurrence of Dumping
 2. Magnitude of the Margins Likely To Prevail
- VI. Final Results of Sunset Review
- VII. Recommendation

[FR Doc. 2019-25888 Filed 11-27-19; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-508-812]

Magnesium From Israel: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that magnesium from Israel is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is October 1, 2017 through September 30, 2018. The final estimated dumping margins of sales at LTFV are shown in the Final Determination section of this notice.

DATES: Applicable November 29, 2019.

FOR FURTHER INFORMATION CONTACT: Bryan Hansen or Minoo Hatten, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3683 or (202) 482-1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 4, 2019, Commerce published the *Preliminary Determination* of this LTFV investigation, in which Commerce found that magnesium from Israel was sold at LTFV.¹ A complete summary of

¹ See *Magnesium from Israel: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination,*

the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.² The Issues and Decision Memorandum is a public document and is available electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov> and to all parties in the Central Records Unit, Room B-8024 of Commerce's main building. In addition, a complete version of the Issues and Decision Memorandum can be accessed at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Issues and Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is magnesium from Israel. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,³ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope of the investigation),⁴ No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice*. Therefore, Commerce is not modifying the scope language as it appeared in the *Initiation Notice*. *See* the scope in Appendix I to this notice.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), Commerce verified the sales and cost data reported by Dead Sea Magnesium, Ltd. (DSM) for use in our final determination. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by the respondent.

and Extension of Provisional Measures, 84 FR 32712 (July 9, 2019) (*Preliminary Determination*).

² See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Less-Than-Fair-Value Investigation of Magnesium from Israel," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁴ See *Magnesium from Israel: Initiation of Less-Than-Fair-Value Investigation*, 83 FR 58533 (November 20, 2018) (*Initiation Notice*).

Analysis of Comments Received

All issues raised in the case briefs and rebuttal briefs submitted by interested parties in this proceeding are discussed in the Issues and Decision Memorandum. A list of the issues raised by parties and responded to by Commerce in the Issues and Decision Memorandum is attached at Appendix II.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations for DSM since the *Preliminary Determination*. For a discussion of these changes, see the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for individually investigated exporters and producers, excluding any margins that are zero or *de minimis* or any margins determined entirely under section 776 of the Act. DSM is the sole mandatory respondent in this investigation. Commerce calculated an estimated weighted-average dumping margin for DSM that is not zero, *de minimis*, or based entirely on facts otherwise available. Therefore, for purposes of determining the all-others rate, and pursuant to section 735(c)(5)(A) of the Act, we are using the estimated weighted-average dumping margin calculated for DSM, as referenced in the “Final Determination” section below.

Final Determination

Commerce determines that the following estimated weighted-average dumping margins exist for the period October 1, 2017 through September 30, 2018:

Producer/exporter	Weighted-average dumping margin (percent)
Dead Sea Magnesium, Ltd ...	218.98
All Others	218.98

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection

(CBP) to continue the suspension of liquidation of all appropriate entries of magnesium from Israel, as described in Appendix I to this notice, which were entered, or withdrawn from warehouse, for consumption on or after July 9, 2019, the date of publication of the *Preliminary Determination* of this investigation in the **Federal Register**.

Pursuant to section 735(c)(l) of the Act and 19 CFR 351.210(d), Commerce will instruct CBP to require cash deposits equal to the weighted-average dumping margins indicated in the table above as follows: (1) The cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this final determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be 218.98 percent, the all-others estimated weighted-average dumping margin.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. Accordingly, where Commerce preliminarily made an affirmative determination for countervailable export subsidies, Commerce has offset the estimated weighted-average dumping margin by the appropriate CVD rate. In the final determination of the concurrent CVD investigation of magnesium from Israel, Commerce did not find any export subsidies.⁵ Accordingly, we are not making an adjustment to the cash deposit rate. These suspension of liquidation and cash deposit instructions will remain in effect until further notice.

Disclosure

We will disclose the calculations performed within five days of public announcement of this notice, in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 735(d) of the Act, Commerce will notify the International Trade Commission (ITC) of its final determination. Because the final determination is affirmative, in

⁵ See Memorandum, “Magnesium from Israel: Final Affirmative Countervailing Duty Determination,” dated concurrently with this notice.

accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of magnesium from Israel no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). 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 the terms of an APO is a violation subject to sanction.

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act and 19 CFR 352.210(c).

Dated: November 21, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The products covered by this investigation are primary and secondary pure and alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size (including, without limitation, magnesium cast into ingots, slabs, t-bars, rounds, sows, billets, and other shapes, and magnesium ground, chipped, crushed, or machined into raspings, granules, turnings, chips, powder, briquettes, and any other shapes). Magnesium is a metal or alloy containing at least 50 percent by actual weight the element magnesium. Primary magnesium is produced by decomposing raw materials into magnesium metal. Secondary magnesium is produced by recycling magnesium-based scrap into magnesium metal. The magnesium covered by this investigation also includes blends of primary magnesium, scrap, and secondary magnesium.

The subject merchandise includes the following pure and alloy magnesium metal products made from primary and/or secondary magnesium: (1) Products that contain at least 99.95 percent magnesium, by

actual weight (generally referred to as “ultra-pure” or “high purity” magnesium); (2) products that contain less than 99.95 percent but not less than 99.8 percent magnesium, by actual weight (generally referred to as “pure” magnesium); and (3) chemical combinations of magnesium and other material(s) in which the magnesium content is 50 percent or greater, but less than 99.8 percent, by actual weight, whether or not conforming to an “ASTM Specification for Magnesium Alloy.”

The scope of this investigation excludes mixtures containing 90 percent or less magnesium in granular or powder form by actual weight and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nepheline syenite, feldspar, alumina (A1203), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.

The merchandise subject to this investigation is classifiable under items 8104.11.0000, 8104.19.0000, and 8104.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS items are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Changes Since the Preliminary Determination
- V. Discussion of the Issues
 - Comment 1: Whether To Treat Chlorine and Sylvanite as By-products or Co-products
 - Comment 2: Transfer Price of Wet Carnallite
 - Comment 3: General and Administrative Expenses Ratio
 - Comment 4: Constructed Value Selling Expenses and Profit
 - Comment 5: U.S. Warehousing Expenses
 - Comment 6: Short-term Interest Rate, Credit Expenses and Inventory Carrying Costs
- VI. Recommendation

[FR Doc. 2019–25887 Filed 11–27–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–051, C–570–052]

Certain Hardwood Plywood Products From the People’s Republic of China: Affirmative Final Determination of Circumvention of the Antidumping and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that certain plywood products with face and back veneers of radiata and/or agathis pine that: (1) Have a Toxic Substances Control Act (TSCA) or California Air Resources Board (CARB) label certifying that it is compliant with TSCA/CARB requirements; and (2) are made with a resin, the majority of which is comprised of one or more of three product types (urea formaldehyde, polyvinyl acetate, and/or soy), exported from the People’s Republic of China (China), are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on certain hardwood plywood products from China.

DATES: *Effective Date:* Applicable November 29, 2019.

FOR FURTHER INFORMATION CONTACT: Rachel Greenberg or Nicolas Mayora, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0652 or (202) 482–3053, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Determination* on June 11, 2019.¹ A summary of the events that occurred since Commerce published the *Preliminary Determination* may be found in the Issues and Decision Memorandum.²

¹ See *Certain Hardwood Plywood Products from the People’s Republic of China: Preliminary Affirmative Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders*, 84 FR 27081 (June 11, 2019) (*Preliminary Determination*).

² See Memorandum, “Issues and Decision Memorandum for the Final Determination of the Anti-Circumvention Inquiry: Certain Hardwood Plywood Products from the People’s Republic of China,” dated concurrently with, and hereby adopted by this notice (Issues and Decision Memorandum).

Scope of the Anti-Circumvention Inquiry

This anti-circumvention inquiry covers certain plywood products with face and back veneers of radiata and/or agathis pine that: (1) Have a TSCA or CARB label certifying that it is compliant with TSCA/CARB requirements; and (2) are made with a resin, the majority of which is comprised of one or more of the following three product types: Urea formaldehyde, polyvinyl acetate, and/or soy exported from China. Such merchandise is referred to as “inquiry merchandise.” This ruling applies to all shipments of inquiry merchandise on or after the date of the initiation of this inquiry. Importers and exporters of plywood from China with both outer veneers made of a softwood species of wood (softwood plywood products), must certify that the softwood plywood products do not meet all three of the following criteria: (1) Have both outer veneers of radiata and/or agathis pine; (2) are made with a resin, the majority of which is comprised of urea formaldehyde, polyvinyl acetate, and/or soy; and (3) have a TSCA or CARB label certifying that they are compliant with TSCA/CARB requirements, as provided in the certifications in the appendices to this **Federal Register** notice.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues raised, and to which we respond in the Issues and Decision Memorandum, is attached in Appendix I to this notice. 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 is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Final Affirmative Determination of Circumvention

As detailed in the Issues and Decision Memorandum, we determine that the inquiry merchandise exported from

China is circumventing the *Orders*.³ As such, we determine that it is appropriate to include this merchandise within the *Orders* and to continue to instruct U.S. Customs and Border Protection (CBP) to suspend any entries of inquiry merchandise from China that entered the United States on or after the date of the initiation of this inquiry.

Suspension of Liquidation

In accordance with 19 CFR 351.225(1)(3), Commerce will direct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of inquiry merchandise (regardless of producer, exporter, or importer) entered or withdrawn from warehouse for consumption on or after September 18, 2018, the date of publication of the initiation of this inquiry, until appropriate liquidation instructions are issued.⁴ Commerce will also instruct CBP to continue to require a cash deposit of estimated duties at the rate applicable to the exporter on all unliquidated entries of inquiry merchandise entered, or withdrawn from warehouse, for consumption on or after September 18, 2018.

Notification to Interested Parties

This affirmative anti-circumvention determination is published in accordance with section 781(d) of the Act and 19 CFR 351.225.

Dated: November 22, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Anti-Circumvention Inquiry
- IV. Discussion of the Issues
- V. Recommendation

Appendix II

If an importer imports plywood from China with outer veneers both made of softwood plywood, and claims that its softwood plywood products produced in China do not meet all three of the following criteria: (1) Have both outer veneers of radiata and/or agathis pine; (2) are made with a resin, the

majority of which is comprised of urea formaldehyde, polyvinyl acetate, and/or soy; and (3) have a Toxic Substances Control Act (TSCA) or California Air Resources Board (CARB) label certifying that they are compliant with TSCA/CARB requirements, then the importer is required to complete and maintain the importer certification attached hereto as Appendix III.

The importer and exporter are required to maintain the exporter certification attached hereto as Appendix IV. The importer certification must be completed, signed, and dated at the time of the entry of the plywood product. The exporter certification must be completed, signed, and dated at the time of shipment of the relevant entries. The importer and Chinese exporter are also required to maintain sufficient documentation supporting their certifications. The importer will not be required to submit the certifications or supporting documentation to CBP as part of the entry process. However, the importer and the exporter will be required to present the certifications and supporting documentation to the Department of Commerce (Commerce) and/or U.S. Customs and Border Protection (CBP), as applicable, upon request by the respective agency. Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. The importer and exporter are required to maintain the certifications and supporting documentation for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries. If it is determined that the certification and/or documentation requirements in a certification have not been met, Commerce intends to instruct CBP to suspend, under the China Plywood orders (A-570-051, C-570-052), all unliquidated entries for which these requirements were not met and require the importer to post applicable antidumping duty (AD) and countervailing duty (CVD) cash deposits equal to the rates as determined by Commerce. Entries suspended under A-570-051 and C-570-052 will be liquidated pursuant to applicable administrative reviews of the China orders or through the automatic liquidation process.

Appendix III

IMPORTER CERTIFICATION

I hereby certify that:

- My name is {INSERT COMPANY OFFICIAL'S NAME} and I am an official of {IMPORTING COMPANY};
- This certification pertains to {INSERT ENTRY NUMBER(S), ENTRY LINE NUMBER(S), AND PRODUCT CODE(S) REFERENCED ON ENTRY SUMMARY};
- I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the plywood with both outer veneers made of a softwood species of wood (softwood plywood products) produced in the People's Republic of China (China) that entered under entry number(s) {INSERT ENTRY NUMBER(S)} and are covered by this certification. "Direct personal knowledge" for purposes of this certification refers to facts in records

maintained by the importing company in the normal course of its business. The importer should have "direct personal knowledge" of the importation of the product (e.g., the name of the exporter) in its records;

- I have personal knowledge of the facts regarding the production of the imported softwood plywood products covered by this certification. "Personal knowledge" for purposes of this certification includes facts obtained from another party (e.g., correspondence received by the importer (or exporter) from the producer regarding the materials used to produce the imported softwood plywood products);

- The softwood plywood products produced in China that are covered by this certification are not subject to the orders on certain hardwood plywood products from China because they do not meet all three of the following criteria: (1) Have both outer veneers of radiata and/or agathis pine; (2) are made with a resin, the majority of which is comprised of urea formaldehyde, polyvinyl acetate, and/or soy;¹ and (3) have a Toxic Substances Control Act (TSCA) or California Air Resources Board (CARB) label certifying that they are compliant with TSCA/CARB requirements;

- I understand that {INSERT IMPORTING COMPANY NAME} is required to maintain a copy of this certification and sufficient documentation supporting this certification (i.e., documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, production records, invoices, etc.) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;

- I understand that {INSERT IMPORTING COMPANY NAME} is required to provide this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce);

- I understand that {INSERT IMPORTING COMPANY NAME} is required to maintain a copy of the Exporter's Certification for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries;

- I understand that {INSERT IMPORTING COMPANY NAME} is required to maintain and provide a copy of the Exporter's Certification and supporting records, upon request, to CBP and/or Commerce;

- I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;

- I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:

- Suspension of liquidation of all unliquidated entries (and entries for which

¹ Documentation should demonstrate that your resin is not majority urea formaldehyde, polyvinyl acetate, and/or soy, for example, by establishing the chemical composition and relative percentage of the resin's ingredients.

³ See *Certain Hardwood Plywood from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Order*, 83 FR 504 (January 4, 2018) and *Certain Hardwood Plywood from the People's Republic of China: Countervailing Duty Order*, 83 FR 513 (January 4, 2018) (collectively, *Orders*).

⁴ See *Certain Hardwood Plywood Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiry on the Antidumping Duty and Countervailing Orders*, 83 FR 47883 (September 21, 2018).

liquidation has not become final) for which these requirements were not met, and

- the requirement that the importer post applicable antidumping duty (AD) and/or countervailing duty (CVD) cash deposits (as appropriate) equal to the rates determined by Commerce;

- I understand that agents of the importer, such as brokers, are not permitted to make this certification;

- This certification was completed at the time of filing the entry summary for the relevant importation; and

- I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Name of Company Official

Signature

Title

Date

Appendix IV

EXPORTER CERTIFICATION

I hereby certify that:

- My name is {INSERT COMPANY OFFICIAL'S NAME HERE} and I am an official of {INSERT NAME OF EXPORTING COMPANY};

- I have direct personal knowledge of the facts regarding the production and exportation of the plywood with both outer veneers made of a softwood species of wood (softwood plywood products) identified below;

- The softwood plywood products produced in China that are covered by this certification are not subject to the orders on certain hardwood plywood products from China because they do not meet all three of the following criteria: (1) have both outer veneers of radiata and/or agathis pine; (2) are made with a resin, the majority of which is comprised of urea formaldehyde, polyvinyl acetate, and/or soy;¹ and (3) have a Toxic Substances Control Act (TSCA) or California Air Resources Board (CARB) label certifying that they are compliant with TSCA/CARB requirements;

- I understand that {INSERT NAME OF EXPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;

- I understand that {INSERT NAME OF EXPORTING COMPANY} must provide this Exporter Certification to the U.S. importer at the time of shipment;

- I understand that {INSERT NAME OF EXPORTING COMPANY} is required to

¹ Documentation should demonstrate that your resin is not majority urea formaldehyde, polyvinyl acetate, and/or soy, for example, by establishing the chemical composition and relative percentage of the resin's ingredients.

provide a copy of this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce);

- I understand that the claims made herein, and the substantiating documentation are subject to verification by CBP and/or Commerce;

- I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:

- Suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met and

- the requirement that the importer post applicable antidumping duty (AD) and countervailing duty (CVD) cash deposits equal to the rates as determined by Commerce;

- This certification was completed at or prior to the time of shipment; and

- I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Name of Company Official

Signature

Title

Date

[FR Doc. 2019-25889 Filed 11-27-19; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-508-813]

Magnesium From Israel: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of magnesium from Israel. For information on the estimated subsidy rates, see the "Final Determination" section of this notice.

DATES: Applicable November 29, 2019.

FOR FURTHER INFORMATION CONTACT: Ethan Talbott or Dana Mermelstein, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482-1030 or (202) 482-1391, respectively.

Background

Commerce published the *Preliminary Determination* on May 8, 2019.¹ A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.² 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 is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Issues and Decision Memorandum are identical in content.

Period of Investigation

The period of investigation is January 1, 2017 through December 31, 2017.

Scope of the Investigation

In accordance with the *Preamble* to Commerce's regulations,³ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope of the investigation). No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice*.⁴ Therefore, Commerce is not modifying the scope language as it appeared in the *Initiation Notice*. See the scope in Appendix I to this notice.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the

¹ See *Magnesium from Israel: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination* 84 FR 20092 (May 8, 2019) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Magnesium from Israel," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁴ See *Magnesium from Israel: Initiation of Countervailing Duty Investigation* 83 FR 58529 (November 20, 2018) (*Initiation Notice*).

Issues and Decision Memorandum. A list of the issues raised by parties, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix II.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in August 2019, Commerce verified the subsidy information reported by the Government of Israel and by Dead Sea Magnesium, Ltd. (DSM). We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by the GOI and by DSM.

Changes Since the Preliminary Determination

Based on our analysis of our findings at verification and the comments received, we have made certain changes to the respondent’s subsidy rate calculations. For discussion of these changes, see the Issues and Decision Memorandum.

All-Others Rate

In accordance with section 705(c)(5)(A)(i) of the Act, for companies not individually examined, we apply an all-others rate, which is normally calculated by weighting the subsidy rates of the mandatory respondents by those companies’ exports of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the all-others rate should exclude zero and *de minimis* rates or any rates based entirely on facts otherwise available pursuant to section 776 of the Act.

Commerce calculated an individual estimated countervailable subsidy rate for Dead Sea Magnesium, Ltd. (DSM) and its cross-owned affiliates ICL Chemicals Ltd., ICL Israel Ltd., Dead Sea Works Ltd., Dead Sea Bromine Company Ltd., Rotem Amfert Negev Ltd., Bromine Compounds Ltd., and Fertilizers & Chemicals Ltd. Because the only individually calculated rate is not zero, *de minimis*, or based entirely on facts otherwise available, we are assigning the rate calculated for DSM to all other producers and exporters.

Final Determination

We determine the countervailable subsidy rates to be:

Company	Net subsidy rate (percent)
Dead Sea Magnesium, Ltd ⁵	13.77
All Others	13.77

Disclosure

We intend to disclose the calculations performed to parties in this proceeding within five days after public announcement of the final determination or, if there is no public announcement, within five days of the date of publication of the notice of final determination in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all magnesium from Israel that was entered, or withdrawn from warehouse, for consumption on or after May 8, 2019, the date of the publication of the *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after September 5, 2019. If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order and will reinstate the suspension of liquidation under section 706(a) of the Act and will require a cash deposit of estimated CVDs for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our final affirmative CVD determination. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of subject merchandise from Israel no later than 45 days after our final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all securities posted

⁵ This rate applies to DSM and its cross-owned affiliates: ICL Chemicals Ltd., ICL Israel Ltd., Dead Sea Works Ltd., Dead Sea Bromine Company Ltd., Rotem Amfert Negev Ltd., Bromine Compounds Ltd., and Fertilizers & Chemicals Ltd.

will be refunded or canceled. If the ITC determines that such injury does exist, Commerce will issue a countervailing duty order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order

This notice will serve as a reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of 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 sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: November 21, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation¹

The products covered by this investigation are primary and secondary pure and alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size (including, without limitation, magnesium cast into ingots, slabs, t-bars, rounds, sows, billets, and other shapes, and magnesium ground, chipped, crushed, or machined into raspings, granules, turnings, chips, powder, briquettes, and any other shapes). Magnesium is a metal or alloy containing at least 50 percent by actual weight the element magnesium. Primary magnesium is produced by decomposing raw materials into magnesium metal. Secondary magnesium is produced by recycling magnesium-based scrap into magnesium metal. The magnesium covered by this investigation also includes blends of primary magnesium, scrap, and secondary magnesium.

The subject merchandise includes the following pure and alloy magnesium metal products made from primary and/or secondary magnesium: (1) Products that contain at least 99.95 percent magnesium, by actual weight (generally referred to as “ultra-pure” or “high purity” magnesium); (2) products that contain less than 99.95 percent but not less than 99.8 percent magnesium, by actual weight (generally referred to as “pure” magnesium); and (3) chemical combinations

¹ In the *Preliminary Determination*, we inadvertently included incorrect scope language. This appendix contains the correct scope language.

of magnesium and other material(s) in which the magnesium content is 50 percent or greater, but less than 99.8 percent, by actual weight, whether or not conforming to an "ASTM Specification for Magnesium Alloy."

The scope of this investigation excludes mixtures containing 90 percent or less magnesium in granular or powder form by actual weight and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nepheline syenite, feldspar, alumina (A1203), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.

The merchandise subject to this investigation is classifiable under items 8104.11.0000, 8104.19.0000, and 8104.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS items are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Appendix II—List of Topics Discussed in the Final Decision Memorandum

- I. Summary
- II. Background
- III. Scope Comments
- IV. Scope of the Investigation
- V. Subsidies Valuation
- VI. Discount Rates
- VII. Analysis of Programs
- VIII. Discussion of the Issues
 - Comment 1: Whether the GOI's Contributions to the Remediation Projects at the Dead Sea Constitute GOI Purchases of Services from Dead Sea Works, Ltd.
 - Comment 2: Whether Commerce Should Find Specific Accelerated Depreciation, Tax Consolidation, or Tax Deductions Related to Listing Shares on a Stock Market Under the Encouragement of Industry Law (EIL) 1969
 - Comment 3: Whether Commerce Should Calculate the Benefit from EIL's Accelerated Depreciation Program as a Deferral of Taxes
 - Comment 4: Whether Commerce Should Attribute to Dead Sea Magnesium Ltd. Subsidies Received by Rotem Amfert Negev Ltd.
 - Comment 5: Whether Income Tax Reduction Provided Under the Encouragement of Capital Investment Law is Countervailable
 - Comment 6: Whether Dead Sea Works, Ltd. Received a Benefit from the Provision of Groundwater for Less than Adequate Remuneration
 - Comment 7: Whether Commerce Correctly Applied a Tier 3 Benchmark Analysis and Whether Commerce Should Account for Profit
- IX. Recommendation

[FR Doc. 2019-25891 Filed 11-27-19; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: The Ocean Enterprise: A study of US business activity in ocean measurement, observation, and forecasting.

OMB Control Number: 0648-0712.

Form Number(s): None.

Type of Request: Regular (Reinstatement with change of a previously approved collection).

Number of Respondents: 200.

Average Hours per Response: 0.5 hours.

Burden Hours: 100 hours.

Needs and Uses: NOAA's National Ocean Service is requesting approval to repeat a web-based survey of employers who provide either services or infrastructure to the Integrated Ocean Observing System (IOOS) or organizations that add value to the IOOS data and other outputs by tailoring them for specific end uses. The purpose of the survey and overall project is to gather data to articulate the collective and derived value of the IOOS enterprise, and to create a profile of businesses and organizations who are involved with providing services or utilizing the data for other specific end uses. This will be the second survey of its kind on a national scale following the first survey conducted in FY2015.

The web survey will be the final data collection piece of this repeat study and is necessary in order to collect demographic, financial, and functional information for each organization with regard to their involvement with IOOS. The final deliverable of this project is an analytic report detailing the findings of the web survey and the analysis of the employer database. The marine technology industry is an important partner and stakeholder within IOOS: This follow up study will build upon the previous baseline study conducted in FY2015 and will identify trends in this important industry cluster. This information can be used to understand the changing value of export sales and the identification of potential growth and/or new international markets which

would further the Department of Commerce (DOC) strategic goal for better environment intelligence (https://www.commerce.gov/sites/commerce.gov/files/us_commerce_plan.pdf) and translate into better programs by the DOC International Trade Administration in ocean observing industries in international trade.

Affected Public: Business or other for profit; not-for-profit institutions.

Frequency: Once.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to OIRA_Submission@omb.eop.gov or fax to (202) 395-5806.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019-25880 Filed 11-27-19; 8:45 am]

BILLING CODE 3510-JE-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XV136]

Atlantic Coastal Fisheries Cooperative Management Act Provisions; Atlantic Menhaden Fishery

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

ACTION: Notice of non-compliance referral.

SUMMARY: NMFS announces that on November 15, 2019, the Secretary of Commerce (Secretary) received a letter from the Atlantic States Marine Fisheries Commission finding the Commonwealth of Virginia out of compliance with Amendment 3 to the Atlantic Menhaden Interstate Fishery Management Plan and requesting Federal non-compliance review under the provisions of the Atlantic Coastal Fisheries Cooperative Management Act. This notice is necessary to alert the public that the Secretary has received and is reviewing the referral of non-compliance from the Commission. The intended effect of this notice is to inform the public of the Commission's

recommendation to the Secretary and to outline both the decision-making process that will be used and potential outcomes of the non-compliance review. If the Secretary determines that Virginia failed to carry out its responsibilities under the Coastal Atlantic Menhaden Interstate Fishery Management Plan, and if the measures it failed to implement are necessary for conservation of the fishery, then, according to the Atlantic Coastal Fisheries Cooperative Management Act, the Secretary must declare a moratorium on fishing for Atlantic menhaden in Virginia waters.

DATES: The Secretary intends to make a determination on this matter on or about December 17, 2019, and will publish its finding in the **Federal Register** immediately thereafter.

FOR FURTHER INFORMATION CONTACT: Derek Orner, Fishery Management Specialist, (301) 427-8567, derek.orn@noaa.gov.

SUPPLEMENTARY INFORMATION: The Atlantic States Marine Fisheries Commission (Commission) developed Amendment 3 to the Atlantic Menhaden Interstate Fishery Management Plan (ISFMP) to pursue the development of ecological reference points (which consider the ecological role of menhaden in regards to management of the species) and to establish an allocation method which provides fair and equitable access to all participants in the fishery. Amendment 3 contained a management program designed to account for the multiple roles menhaden play, both in supporting fisheries and the marine ecosystem. Issues included in Amendment 3 included: Reference points; Allocation methods and timeframes; Quota transfers and rollovers; Incidental catch; Episodic events programs; and Chesapeake Bay total removals. Specifically, the Commission required Virginia to implement a total allowable harvest from the Chesapeake Bay that would not exceed 51,000 mt. Amendment 3 was approved in the fall 2017, and was to be fully implemented by the Commonwealth of Virginia for the 2018 fishing season. Virginia, however, did not implement the Commission's recommended 51,000 mt cap and instead maintained its pre-existing 87,216 mt cap. Atlantic menhaden in Virginia are managed by the legislature and not the Virginia Marine Resources Commission, which manages all other Virginia fishery species. The Virginia delegation to the Commission agreed it was out of compliance and voted for a non-compliance finding at the Commission's

Atlantic Menhaden and Policy Boards as well as the Commission's Business Section. On October 31, 2019, the Commission found the Commonwealth of Virginia out of compliance for not fully and effectively implementing and enforcing the Amendment 3 measures. The Commission notified the Secretary of its non-compliance finding by letter on November 15, 2019.

Federal response to a Commission non-compliance referral is governed by the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act). Under the Atlantic Coastal Act, the Secretary must make two findings within 30 days after receiving the non-compliance referral. First, the Secretary must determine whether the state in question (in this case, the Commonwealth of Virginia) has failed to carry out its responsibilities under the ISFMP. Second, the Secretary must determine whether the measures that the State has failed to implement or enforce are necessary for the conservation of the fishery in question. If the Secretary determines that Virginia has failed to carry out its responsibilities under the ISFMP, and if the measures it failed to implement are necessary for conservation, then, according to the Atlantic Coastal Act, the Secretary must declare a moratorium on Atlantic menhaden fishing in Virginia waters. Further, the moratorium must become effective within six months of the date of the Secretary's non-compliance determination. If Virginia is found out of compliance by the Secretary and later implements Amendment 3 measures, the Atlantic Coastal Act allows the state to petition the Commission that it has come back into compliance. If the Commission concurs that Virginia has come into compliance, the Commission will notify the Secretary. If the Secretary concurs, the moratorium will be withdrawn.

NMFS has notified Virginia, the Commission, and the applicable Fishery Management Councils in separate letters, of its receipt of the Commission's non-compliance referral. NMFS solicits comments from the Commission and Councils to the extent either is interested in providing comments on the non-compliance referral. NMFS also indicated to Virginia that it is entitled to meet with and present its comments directly to NMFS, if so desired.

The Secretary intends to make its non-compliance determination, including supporting rationale, on or about December 17, 2019, which is 30 days after receipt of the Commission's non-compliance referral. NMFS will

announce its determination by **Federal Register** notice immediately thereafter. To the extent that the Secretary makes an affirmative non-compliance finding, NMFS will announce the effective date of the moratorium in that **Federal Register** notice.

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

Dated: November 25, 2019.

Jennifer M. Wallace,

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

[FR Doc. 2019-25927 Filed 11-27-19; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XV086]

Determination of Overfishing or an Overfished Condition

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

ACTION: Notice.

SUMMARY: This action serves as a notice that NMFS, on behalf of the Secretary of Commerce (Secretary), has found that Oregon cabezon is now subject to overfishing and Atlantic bluefish is now overfished. NMFS, on behalf of the Secretary, notifies the appropriate regional fishery management council (Council) whenever it determines that overfishing is occurring, a stock is in an overfished condition, or a stock is approaching an overfished condition.

FOR FURTHER INFORMATION CONTACT: Regina Spallone, (301) 427-8568.

SUPPLEMENTARY INFORMATION: Pursuant to section 304(e)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1854(e)(2), NMFS, on behalf of the Secretary, must notify Councils, and publish in the **Federal Register**, whenever it determines that a stock or stock complex is subject to overfishing, overfished, or approaching an overfished condition.

NMFS has determined that the Oregon stock of cabezon is now subject to overfishing. Catch data from 2017 for Oregon cabezon, finalized in 2019, supports a determination that the stock is subject to overfishing because total catch in 2017 slightly exceeded the overfishing level. NMFS has informed the Pacific Fishery Management Council that it must set appropriate annual catch limits to end and prevent overfishing for this stock.

NMFS has also determined that Atlantic bluefish is now overfished. The most recent assessment for bluefish, finalized in 2019 and using data through 2018, indicates that the stock is overfished because the spawning stock biomass is less than the minimum stock size threshold. This assessment incorporated new data from the Marine Recreational Information Program which revised our understanding of the level of recreational catch, spawning stock biomass, fishing mortality, and recruitment. The new data indicate that bluefish spawning stock biomass has been below the overfished threshold since 2014. NMFS has informed the Mid-Atlantic Fishery Management Council that it must develop a rebuilding plan for this stock.

Dated: November 22, 2019.

Jennifer M. Wallace,

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

[FR Doc. 2019-25829 Filed 11-27-19; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: West Coast Region Groundfish Electronic Fish Ticket Program.

OMB Control Number: 0648-0738.

Form Number(s): None.

Type of Request: Regular submission (extension of a currently approved collection).

Number of Respondents: 145.

Average Time per Response: Electronic fish tickets/IFQ First Receiver submissions: 10 minutes; Electronic fish tickets/IFQ First Receiver Pacific whiting disposition recordkeeping: 1 minute; Electronic fish ticket submission: 2 minutes.

Burden Hours: 566 hours.

Needs and Uses: As part of its fishery management responsibilities, the National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS) collects information to determine the amount and type of groundfish caught by fishing vessels. Electronic fish tickets

are submissions of landings data from the first receiver to the Pacific States Marine Fisheries Commission (PSMFC) and NMFS. This collection supports requirements for participants of the Pacific Coast shorebased commercial groundfish fisheries, including the shorebased Individual Fishing Quota (IFQ) program, the limited entry fixed gear fishery, and the open access fixed gear fishery, to account for all landed catch and to transmit electronic catch data used to manage the catch allocations and limits. NMFS may use this data for general purpose statistics and program evaluation.

Affected Public: Primary respondents are businesses or other for-profit organizations (e.g., groundfish fishermen, fishing companies, partnerships, and shorebased first receivers), individuals or households, and state fisheries agencies.

Frequency: Reporting occurs concurrently with fishing landings, which could range from occasionally to daily depending on the frequency of fishing throughout the season.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395-5806.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019-25878 Filed 11-27-19; 8:45 am]

BILLING CODE 3510-22-P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC-2019-0033]

CPSC Forum on Crib Bumpers

AGENCY: Consumer Product Safety Commission.

ACTION: Announcement of meeting.

SUMMARY: The Consumer Product Safety Commission (CPSC) is announcing a public forum on crib bumpers. We invite interested parties to attend the forum and make presentations.

DATES: The forum will begin at 10:00 a.m. on January 22, 2020. The Commission forum also will be available through webcast. However, viewers will not be able to interact with

the panels and presenters through the webcast. Individuals interested in presenting information at the forum should submit a summary of their presentation, as well as a brief biography, by January 6, 2020. Written comments will be received until February 25, 2020.

ADDRESSES: The forum will be held in the Hearing Room at CPSC's headquarters at 4330 East West Highway, Bethesda, MD 20814. There is no charge to attend the forum.

Requests to make oral presentations, and the texts of oral presentations should be captioned: "CPSC Forum on Crib Bumpers," and sent by email to *cpsc-os@cpsc.gov*, or mailed or delivered to the Division of the Secretariat, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814, no later than 5 p.m. on January 6, 2020.

You may submit written comments, identified by Docket No. [CPSC-2019-0033], by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *www.regulations.gov*. Follow the instructions for submitting comments. The Commission does not accept comments submitted by email, except through *www.regulations.gov*. The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Paper Submissions: Send paper submissions by mail/hand delivery/courier to: Division of the Secretariat, Consumer Product Safety Commission, Room 820, 4330 East-West Highway, Bethesda, MD 20814; telephone (301)-504-7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *www.regulations.gov*. Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in accordance with the directions for paper submissions above.

Docket: For access to the docket to read comments received, go to: *www.regulations.gov*, and insert the docket number CPSC-2019-0033 into the "Search" box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT:

Alberta E. Mills, Division of the Secretariat, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone 301-504-7479; email: amills@cpsc.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

For several years, CPSC has been studying the potential risks associated with crib bumpers. In May 2012, the Juvenile Products Manufacturers Association (JPMA) submitted a petition asking the Commission to initiate rulemaking under sections 7 and 9 of the Consumer Product Safety Act (CPSA) to distinguish “hazardous pillow-like” crib bumpers from “non-hazardous traditional” crib bumpers. In 2013, the Commission voted to grant the petition and provided specific direction to staff. In the FY 2017 Operating Plan, the Commission directed staff to develop a proposed standard under section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA). On September 4, 2019, in response to this direction, CPSC staff submitted a briefing package, including a draft proposed rule, for crib bumpers/liners. [<https://www.cpsc.gov/s3fs-public/Proposed%20Rule%20-%20Safety%20Standard%20for%20Crib%20Bumpers-Liners%20Under%20the%20Danny%20...0.pdf>].

II. The Forum**A. Topics for Discussion**

The Commission would like to hear comments and information from interested parties concerning the potential hazards associated with crib bumpers. The goal of the forum is to hear from the public about their views of the potential hazards associated with crib bumpers and their suggestions for ways to address those hazards. In addition to these general issues, the Commission invites comments on the following, more specific topics:

1. The utility/benefit of crib bumpers, including, but not limited to:

(a) Whether babies suffer head injuries from crib slats without crib bumpers; and

(b) whether babies suffer limb injuries from entrapment in crib slats without crib bumpers.

2. Consumers’ understanding of the “Bare is Best” safety messaging related to infant sleep safety, including, but not limited to, whether consumers consider the presence of crib bumpers to be consistent with that messaging.

3. Any current or proposed state laws relating to crib bumpers, and whether

and how those laws reflect or conflict with staff’s recommendation.

4. Any performance requirements and test methods for crib bumpers (or similar crib accessories) relevant to the identification and elimination of suffocation hazards, including, but not limited to:

(a) Air permeability;

(b) Firmness or the conforming of bumper materials to the facial features of infants, and

(c) Any other aspects of crib bumpers (or similar crib accessories).

5. The potential effects of the preemption of state and local laws addressing crib bumpers.

B. How To Make a Presentation, Attend, or Provide Written Comments

The forum will be held at 10 a.m. on January 22, 2020, at the CPSC’s office in Bethesda, MD (see the **ADDRESSES** section of this notice for more information). The Commission forum will also be available through a webcast, but viewers will not be able to interact with the panels and presenters through the webcast.

- If you would like to make an oral presentation at the forum, please send an email to cpsc-os@cpsc.gov by January 6, 2020, with a summary of your presentation, as well as a brief biography. Presentations should be limited to approximately 10 minutes. The Commission reserves the right to impose further time limitations or other restrictions, if needed, to avoid duplication of presentations.

- If you would like to provide written comments, please follow the instructions in the **ADDRESSES** section of this notice.

Abioye E. Mosheim,

Acting Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2019-25890 Filed 11-27-19; 8:45 am]

BILLING CODE 6355-01-P

DEPARTMENT OF DEFENSE**Department of the Air Force****Notice of Intent To Prepare an Environmental Impact Statement for the Moody Air Force Base Comprehensive Airspace Initiative, Georgia**

AGENCY: Department of the Air Force, DOD.

ACTION: Notice of intent.

SUMMARY: In accordance with 40 Code of Federal Regulations Section 1508.22, the United States Air Force (Air Force) is issuing this notice of intent to prepare

an Environmental Impact Statement (EIS) to assess the potential environmental consequences associated with modifying existing and creating new special use airspace (SUA) in the Moody Airspace Complex to support the training missions at Moody Air Force Base (AFB).

DATES: A public scoping meeting will be held at the University of Georgia, Tifton Campus Conference Center, 15 R D C Road, Tifton, Georgia 31794, on Thursday, December 5, 2019, 5:00 p.m. to 8:00 p.m. (local time). Although comments can be submitted to the Air Force any time during the EIS process, scoping comments are requested by December 20, 2019, to ensure full consideration in the Draft EIS.

ADDRESSES: For questions regarding the Proposed Action, scoping, and EIS development, please contact the Moody AFB Public Affairs Office at (229) 257-4146 or at 23wg.pa@us.af.mil. The public and interested parties can submit their comments through the project website at

www.moodyafbairspaceeis.com; mail comments to AFCEC/CZN, Attn: Moody AFB Comprehensive Airspace Initiative, 2261 Hughes Avenue, Suite 155, JBSA Lackland, TX 78236-9853; FedEx and UPS deliveries to AFCEC/CZN, Attn: Moody AFB Comprehensive Airspace Initiative; 3515 S General McMullen, San Antonio, TX 78226-9853; and/or attend the public scoping meeting.

SUPPLEMENTARY INFORMATION: The Moody Airspace Complex, located above 28 counties in south Georgia and north Florida, consists primarily of mid-to higher-altitude (8,000 feet above mean sea level [MSL] to FL180 [18,000 feet]) SUA with limited low-altitude SUA (less than 8,000 feet MSL). A-10C, A-29, HH-60G, and HC-130J aircrews assigned to Moody Air Force Base (AFB), Georgia, have severely constrained access to few existing, overly congested low-altitude SUAs wherein they can conduct required training operations at low-altitude to gain operational proficiency and meet their low-altitude close air support (CAS), personnel recovery (PR), and combat search and rescue (CSAR) mission objectives for combat readiness. Providing additional low-altitude Moody AFB-controlled SUA would support the low-altitude training missions (CSAR, PR, CAS) for aircrews stationed at Moody AFB to ensure aircrew protection, readiness, and increase aircrew lethality in addition to survivability in real-world combat situations.

The Air Force has preliminarily identified three action alternatives to

expand low-altitude training airspace at Moody AFB as meeting the purpose of and need for this Proposed Action, and a No Action Alternative. The three action alternatives would create new low-altitude Military Operations Areas (MOAs) beneath and within the lateral confines of existing MOAs and Restricted Areas of the Moody Airspace Complex. While the three alternatives are independent of each other, the decision maker may choose to implement one, a combination of low-altitude MOAs from among the three, or none of the alternatives based on the analysis provided in the EIS. Alternative 1 would create the Corsair North Low, Corsair South Low, Mustang Low, and Warhawk Low MOAs with a floor of 1,000 feet AGL and a ceiling of 7,999 feet MSL; create a Thud Low MOA with a floor of 4,000 feet AGL and a ceiling of 7,999 feet MSL; a Grand Bay MOA with a floor of 100 feet AGL and a ceiling of 499 feet AGL; and lower the floor of the existing Moody 2 North MOA from 500 feet AGL to 100 feet AGL. Alternative 2 would create and modify MOAs as described under Alternative 1, except that the new Corsair North Low, Corsair South Low, Mustang Low, and Warhawk Low MOAs would be created with a floor of 2,000 feet AGL instead of 1,000 feet AGL. Alternative 3 would create and modify MOAs as described under Alternative 1, except that the new Corsair North Low, Corsair South Low, Mustang Low, and Warhawk Low MOAs would be created with a floor of 4,000 feet AGL instead of 1,000 feet AGL.

Training within the new low MOAs would include the use of chaff and flares, with flare use limited to altitudes above 2,000 feet AGL and no use of chaff allowed in the Corsair North Low MOA. Urban Close Air Support, helicopter landing zones, drop zones, and the use of training ordnance at the Grand Bay Range would continue unchanged under all three alternatives. The Proposed Action would not change the number of sorties at Moody AFB airfield or the number of aircraft operations in the Moody Airspace Complex.

Under the No Action Alternative, there would be no addition of low-altitude SUA at Moody Airspace Complex. As such, aircrews at Moody AFB would either continue to conduct limited training operations within existing low-altitude MOAs or continue the time- and cost-intensive practice of scheduling and traveling to distant low-altitude airspace complexes within the region where their ability to actually train within scheduled airspaces could be denied. Under the No Action

Alternative, the current airspace constraints would continue and would not provide for realistic training within SUAs associated with Moody AFB. The analysis of the No Action Alternative will provide a benchmark to enable Air Force decision makers to compare the magnitude of the environmental effects of the Proposed Action.

Scoping and Agency Coordination: To effectively define the full range of issues and alternatives to be evaluated in the EIS, the Air Force will determine the scope of the analysis by soliciting comments from interested local, state, and federal elected officials and agencies, as well as interested members of the public and others. The Air Force will also pursue government-to-government consultations with interested Native American tribes.

Adriane Paris,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2019-25885 Filed 11-27-19; 8:45 am]

BILLING CODE 5001-10-P

DEPARTMENT OF EDUCATION

Applications for New Awards; High School Equivalency Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2020 for the High School Equivalency Program (HEP), Catalog of Federal Domestic Assistance (CFDA) number 84.141A. This notice relates to the approved information collection under OMB control number 1894-0006.

DATES:

Applications Available: December 2, 2019.

Deadline for Transmittal of Applications: January 28, 2020.

Deadline for Intergovernmental Review: March 30, 2020.

Pre-Application Webinar Information: The Department will hold a pre-application workshop via webinar for prospective applicants on December 11, 2019, 1:30 p.m. Eastern Time.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.

FOR FURTHER INFORMATION CONTACT:

Steven Carr, U.S. Department of Education, 400 Maryland Avenue SW, Room 3E321, Washington, DC 20202. Telephone: (202) 260-2067. Email: steven.carr@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The HEP is designed to assist migratory or seasonal farmworkers (or immediate family members of such workers) to obtain the equivalent of a secondary school diploma and subsequently to gain improved employment, enter into military service, or be placed in an institution of higher education (IHE) or other postsecondary education or training.

Priorities: This competition includes two competitive preference priorities and one invitational priority. Competitive Preference Priority 1 is from the Secretary's Final Supplemental Priorities and Definitions for Discretionary Grant Programs (Supplemental Priorities) published in the **Federal Register** on March 2, 2018 (83 FR 9096). In accordance with 34 CFR 75.105(b)(2)(iv), Competitive Preference Priority 2 is from section 418A(e) of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1070d-2(e)). The purpose of the program aligns with priority 9(c) of the Supplemental Priorities, which promotes projects aimed at creating or supporting alternative paths to a regular high school diploma (as defined in section 8101(43) of the Elementary and Secondary Education Act of 1965, as amended) or recognized postsecondary credentials (as defined in section 3(52) of the Workforce Innovation and Opportunity Act) for students whose environments outside of school, disengagement with a traditional curriculum, homelessness, or other challenges make it more difficult for them to complete an educational program.

Competitive Preference Priorities: For FY 2020 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i) we award up to an additional 5 points to an application for Competitive Preference Priority 1 and up to an additional 15 points to an

application for Competitive Preference Priority 2, depending on how well the application meets these priorities.

These priorities are:

Competitive Preference Priority 1—Fostering Flexible and Affordable Paths to Obtaining Knowledge and Skills. (Up to 5 points)

Projects that are designed to address improving collaboration between education providers and employers to ensure student learning objectives are aligned with the skills or knowledge required for employment in in-demand industry sectors or occupations (as defined in section 3(23) of the Workforce Innovation and Opportunity Act of 2014).¹

Note: Competitive Preference Priority 1 must be addressed under selection criterion (b) “Quality of the project design.”

Competitive Preference Priority 2—Consideration of Prior Experience. (Up to 15 points)

Projects that are expiring (current HEP grantees in their final budget period) will be considered for additional points under Competitive Preference Priority 2. In accordance with section 418A(e) of the HEA, the Department will award up to 15 points for this priority. The Secretary will consider the applicant’s prior experience in implementing its expiring HEP project, based on performance information to include, but not limited to, the percentage of HEP participants exiting the program having received a High School Equivalency (HSE) diploma and the percentage of HSE diploma recipients who enter postsecondary education or training programs, upgraded employment, or the military.

Note: Competitive Preference Priority 2 applies to expiring projects (current HEP grantees in their final budget period) that received their current HEP award in FY 2015.

Invitational Priority: For FY 2020 and any subsequent year in which we make

awards from the list of unfunded applications from this competition, this priority is an invitational priority.

Under 34 CFR 75.105(c)(1) we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

Projects proposed by “novice applicants.” For the purposes of this priority, a novice applicant is any applicant that has never received a grant or subgrant under HEP.

Program Authority: 20 U.S.C. 1070d–2.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget (OMB) Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 206. (e) The Migrant Education Program (MEP) definitions in 34 CFR 200.81. (f) The National Farmworker Jobs Program (NFJP) definitions in 20 CFR 685.110 and eligibility regulations in 20 CFR 685.320. (g) The Supplemental Priorities.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

Note: The MEP definitions and NFJP definitions and eligibility regulations apply to individuals seeking to qualify for HEP based on past participation in the MEP or NFJP.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: \$5,700,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards: \$180,000–\$475,000.

Estimated Average Size of Awards: \$475,000.

Maximum Award: We will not make an award exceeding \$475,000 for a single budget period of 12 months. Under 34 CFR 75.104(b) the Secretary may reject without consideration or evaluation any application that

proposes a project funding level that exceeds the stated maximum award amount.

Minimum Award: The Department will not make an award for less than the amount of \$180,000 for a single budget period of 12 months. Under section 418A of the HEA, the Secretary is prohibited from making an award for less than the stated award amount. Therefore, we will reject any application that proposes a HEP award that is less than the stated minimum award amount.

Estimated Number of Awards: 12.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months (five 12-month budget periods). Except under extraordinary circumstances, the Secretary shall award grants for a five-year period. Applicants under this competition are required to provide detailed budget information for each year of the proposed project and for the total grant, and we may reject any application that does not do so as reflected on the applicant’s ED 524 form, Section A, submitted as a part of the application.

III. Eligibility Information

1. **Eligible Applicants:** An IHE or a private nonprofit organization may apply for a grant to operate a HEP project. If a private nonprofit organization other than an IHE applies for a HEP grant, that agency must plan the project in cooperation with an IHE and must propose to operate some aspects of the project with the facilities of that IHE.

2. **Cost Sharing or Matching:** This competition does not require cost sharing or matching. However, consistent with 34 CFR 75.700, which requires an applicant to comply with its approved application, an applicant that proposes non-Federal matching funds and is awarded a grant must provide those funds for each year that the funds are proposed.

3. **Subgrantees:** Under 34 CFR 75.708(b) and (c) a grantee under this competition may award subgrants—to directly carry out project activities described in its application—to the following types of entities: IHEs and nonprofit organizations. The grantee may award subgrants to entities it has identified in an approved application or that it selects through a competition under procedures established by the grantee.

4. **Other:** Projects funded under this competition must budget for a three-day Office of Migrant Education annual meeting for HEP Directors in the Washington, DC area during each year

¹ Section 3(23) of the Workforce Innovation and Opportunity Act of 2014 (WIOA) defines the term “in-demand industry sector or occupation” as (i) an industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the State, regional, or local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors; or (ii) an occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the State, regional, or local economy, as appropriate. Under section 3(23) of WIOA, the State board, or local board, as appropriate, determine whether an industry sector or occupation is in-demand using State and regional business and labor market projects, including the use of labor market information.

of the project period. Such expenses are allowable uses of grant funds and may be included in the proposed project budget.

IV. Application and Submission Information

1. Application Submission

Instructions: Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf, which contain requirements and information on how to submit an application.

2. Submission of Proprietary Information

Information: Given the types of projects that may be proposed in applications for HEP, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define "business information" and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under "Other Attachments Form," please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. Intergovernmental Review: This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

4. Funding Restrictions: We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. Recommended Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 25 pages and (2) use the following standards:

- A "page" is 8.5" x 11", on one side only, with 1" margins at the top, bottom, and both sides.

- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative.

V. Application Review Information

1. Selection Criteria: The selection criteria for this competition are from 34 CFR 75.210 and are as follows:

(a) Need for project (Up to 10 points).
(1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers the following factors:

(i) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project. (Up to 5 points)

(ii) The extent to which the proposed project will focus on serving or otherwise addressing the needs of disadvantaged individuals. (Up to 5 points)

(b) Quality of the project design (Up to 28 points).

(1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers one or more of the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (Up to 7 points)

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs. (Up to 7 points)

(iii) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population. (Up to 7 points)

(iv) The extent to which the proposed project demonstrates a rationale (as defined in 34 CFR 77.1(c)). (Up to 7 points)

(c) Quality of project services (Up to 20 points).

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (Up to 3 points)

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services. (Up to 6 points)

(ii) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services. (Up to 5 points)

(iii) The likely impact of the services to be provided by the proposed project on the intended recipients of those services. (Up to 6 points)

(d) Quality of project personnel (Up to 10 points).

(1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (Up to 2 points)

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator. (Up to 5 points)

(ii) The qualifications, including relevant training and experience, of key project personnel. (Up to 3 points)

(e) Adequacy of resources (Up to 12 points).

(1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization. (Up to 4 points)

(ii) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project. (Up to 4 points)

(iii) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project. (Up to 4 points)

(f) Quality of the project evaluation (Up to 20 points).

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project. (Up to 10 points)

(ii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes. (Up to 5 points)

(iii) The extent to which the methods of evaluation will, if well implemented, produce promising evidence (as defined in 34 CFR 77.1(c)) about the project's effectiveness. (Up to 5 points)

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3)(ii), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

Additional factors we consider in selecting an application for an award are in section 418A of the HEA. In accordance with section 418A, the Secretary makes HEP awards based on the number, quality, and promise of the applications. Additionally, the Secretary will consider the need to provide an

equitable geographic distribution of HEP awards.

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently \$250,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds \$10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed \$10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy

requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to www.ed.gov/fund/grant/apply/appforms/appforms.html.

5. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department developed the following performance measures to evaluate the overall effectiveness of HEP: (1) The percentage of HEP participants exiting the program

having received a HSE diploma (GPRA 1), and (2) the percentage of HSE diploma recipients who enter postsecondary education or training programs, upgraded employment, or the military (GPRA 2).

Applicants must propose annual targets for these measures in their applications. The national target for GPRA 1 for FY 2020 is that 69 percent of HEP participants exit the program having received an HSE credential. The national target for GPRA 2 for FY 2020 is that 80 percent of HEP HSE diploma recipients will enter postsecondary education or training programs, upgraded employment, or the military. The national targets for subsequent years may be adjusted based on additional baseline data. The peer reviewers will score related selection criteria on the basis of how well an applicant addresses these GPRA measures. Therefore, applicants will want to consider how to demonstrate a sound capacity to provide reliable data on the GPRA measures, including the project's annual performance targets for addressing the GPRA performance measures, as is required by the OMB-approved annual performance report that is included in the application package. All grantees will be required to submit, as part of their annual performance report, information with respect to these GPRA performance measures.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotope, or compact disc) on request to the program contact person

listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: November 25, 2019.

Frank T. Brogan,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2019-25893 Filed 11-27-19; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Applications for New Awards; College Assistance Migrant Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2020 for the College Assistance Migrant Program (CAMP), Catalog of Federal Domestic Assistance (CFDA) number 84.149A. This notice relates to the approved information collection under OMB control number 1894-0006.

DATES:

Applications Available: December 2, 2019.

Deadline for Transmittal of Applications: January 28, 2020.

Deadline for Intergovernmental Review: March 30, 2020.

Pre-Application Webinar Information: The Department will hold a pre-application workshop via webinar for prospective applicants on December 11, 2019, 1:30 p.m. Eastern Time.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the

Federal Register on February 13, 2019 (84 FR 3768) and available at www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.

FOR FURTHER INFORMATION CONTACT:

Steven Carr, U.S. Department of Education, 400 Maryland Avenue SW, Room 3E321, Washington, DC 20202. Telephone: (202) 260-2067. Email: steven.carr@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: CAMP is designed to assist migratory or seasonal farmworkers (or immediate family members of such workers) who are enrolled or are admitted for enrollment on a full-time basis at an institution of higher education (IHE) complete their first academic year.

Priorities: This competition includes two competitive preference priorities and one invitational priority. Competitive Preference Priority 1 is from the Secretary's Final Supplemental Priorities and Definitions for Discretionary Grant Programs (Supplemental Priorities) published in the **Federal Register** on March 2, 2018 (83 FR 9096). In accordance with 34 CFR 75.105(b)(2)(iv), Competitive Preference Priority 2 is from section 418A(e) of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1070d-2(e)).

Competitive Preference Priorities: For FY 2020 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i) we award up to an additional 5 points to an application for Competitive Preference Priority 1 and up to an additional 15 points to an application for Competitive Preference Priority 2, depending on how well the application meets these priorities.

Competitive Preference Priority 1 is aligned with the aims of the Federal Government's five-year strategic plan for STEM education entitled *Charting A Course for Success: America's Strategy for Stem Education* (Plan)¹ published in

¹ The White House, National Science and Technology Council, "Charting A Course For Success: America's Strategy For Stem Education", www.whitehouse.gov/wp-content/uploads/2018/12/STEM-Education-Strategic-Plan-2018.pdf (December 2018).

December 2018. The Plan is responsive to the requirements of Section 101 of the America COMPETES Reauthorization Act of 2010 and strengthens the Federal commitment to equity and diversity, to evidence-based practices, and to engagement with the national STEM community through a nationwide collaboration with learners, families, educators, community leaders, and employers. Beyond guiding Federal agency actions over the next five years, it is intended to serve as a “North Star” for the STEM community as it charts a course for collective success. The Federal Government encourages STEM education stakeholders from across the Nation to support the goals of this plan through their own actions.

This strategic plan is based on a vision for a future where all Americans have lifelong access to high-quality STEM education and the United States is the global leader in STEM literacy, innovation, and employment. To achieve this vision, the plan provides for the following three goals:

- Build strong foundations for STEM literacy
- Increase diversity, equity, and inclusion in STEM
- Prepare the STEM workforce for the future

The priorities are:

Competitive Preference Priority 1—Promoting Science, Technology, Engineering, or Math (STEM) Education, With a Particular Focus on Computer Science. (Up to 5 points)

Projects designed to improve student achievement or other educational outcomes in one or more of the following areas: Science, technology, engineering, math, or computer science (as defined in the Supplemental Priorities). These projects must address the following priority area: Creating or expanding partnerships between schools, local educational agencies, State educational agencies, businesses, not-for-profit organizations, or IHEs to give students access to internships, apprenticeships, or other work-based learning experiences in STEM fields, including computer science.

Note: Competitive Preference Priority 1 must be addressed under selection criterion (b) “Quality of the project design.”

Competitive Preference Priority 2—Consideration of Prior Experience. (Up to 15 points)

Projects that are expiring (current CAMP grantees in their final budget period) will be considered for additional points under Competitive Preference Priority 2. In accordance with section 418A(e) of the HEA, the Department

will award up to 15 points for this priority. The Secretary will consider the applicant’s prior experience in implementing its expiring CAMP project, based on performance information to include, but not limited to, the percentage of CAMP participants completing the first academic year of their postsecondary program and the percentage of CAMP participants who, after completing the first academic year of college, continue their postsecondary education.

Note: Competitive Preference Priority 2 applies to expiring projects (current CAMP grantees in their final budget period) that received their current CAMP award in FY 2015.

Invitational Priority: For FY 2020 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an invitational priority. Under 34 CFR 75.105(c)(1) we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

Projects proposed by “novice applicants.” For the purposes of this priority, a novice applicant is any applicant that has never received a grant or subgrant under CAMP.

Program Authority: 20 U.S.C. 1070d–2.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget (OMB) Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 206. (e) The Migrant Education Program (MEP) definitions in 34 CFR 200.81. (f) The National Farmworker Jobs Program (NFJP) definitions in 20 CFR 685.110 and eligibility regulations in 20 CFR 685.320. (g) The Supplemental Priorities.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

Note: The MEP definitions and NFJP definitions and eligibility regulations apply to individuals seeking to qualify for CAMP based on past participation in the MEP or NFJP.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: \$5,430,383.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards: \$180,000–\$425,000.

Estimated Average Size of Awards: \$417,722.

Maximum Award: We will not make an award exceeding \$425,000 for a single budget period of 12 months. Under 34 CFR 75.104(b) the Secretary may reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount.

Minimum Award: The Department will not make an award for less than the amount of \$180,000 for a single budget period of 12 months. Under section 418A of the HEA, the Secretary is prohibited from making an award for less than the stated award amount. Therefore, we will reject any application that proposes a CAMP award that is less than the stated minimum award amount.

Estimated Number of Awards: 13.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months (five 12-month budget periods). Except under extraordinary circumstances, the Secretary shall award grants for a five-year period. Applicants under this competition are required to provide detailed budget information for each year of the proposed project and for the total grant, and we may reject any application that does not do so as reflected on the applicant’s ED 524 form, Section A, submitted as a part of the application.

III. Eligibility Information

1. *Eligible Applicants:* An IHE or a private nonprofit organization may apply for a grant to operate a CAMP project. If a private nonprofit organization other than an IHE applies for a CAMP grant, that agency must plan the project in cooperation with an IHE and must propose to operate the project with the facilities of that IHE.

2. *Cost Sharing or Matching:* This competition does not require cost sharing or matching. However, consistent with 34 CFR 75.700, which requires an applicant to comply with its approved application, an applicant that proposes non-Federal matching funds

and is awarded a grant must provide those funds for each year that the funds are proposed.

3. *Subgrantees*: Under 34 CFR 75.708(b) and (c) a grantee under this competition may award subgrants—to directly carry out project activities described in its application—to the following types of entities: IHEs and nonprofit organizations. The grantee may award subgrants to entities it has identified in an approved application or that it selects through a competition under procedures established by the grantee.

4. *Other*: Projects funded under this competition must budget for a three-day Office of Migrant Education annual meeting for CAMP Directors in the Washington, DC area during each year of the project period. Such expenses are allowable uses of grant funds and may be included in the proposed project budget.

IV. Application and Submission Information

1. Application Submission

Instructions: Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf, which contain requirements and information on how to submit an application.

2. Submission of Proprietary Information

Given the types of projects that may be proposed in applications for CAMP, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define “business information” and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under “Other Attachments Form,” please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review*: This competition is subject to Executive

Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

4. *Funding Restrictions*: We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit*: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 25 pages and (2) use the following standards:

- A “page” is 8.5” x 11”, on one side only, with 1” margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative.

V. Application Review Information

1. *Selection Criteria*: The selection criteria for this competition are from 34 CFR 75.210 and are as follows:

(a) Need for project (Up to 10 points).

(1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers the following factors:

(i) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project. (Up to 5 points)

(ii) The extent to which the proposed project will focus on serving or otherwise addressing the needs of disadvantaged individuals. (Up to 5 points)

(b) Quality of the project design (Up to 28 points).

(1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the

Secretary considers one or more of the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (Up to 7 points)

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs. (Up to 7 points)

(iii) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population. (Up to 7 points)

(iv) The extent to which the proposed project demonstrates a rationale (as defined in 34 CFR 77.1(c)). (Up to 7 points)

(c) Quality of project services (Up to 20 points).

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (Up to 3 points)

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services. (Up to 6 points)

(ii) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services. (Up to 5 points)

(iii) The likely impact of the services to be provided by the proposed project on the intended recipients of those services. (Up to 6 points)

(d) Quality of project personnel (Up to 10 points).

(1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (Up to 2 points)

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator. (Up to 5 points)

(ii) The qualifications, including relevant training and experience, of key project personnel. (Up to 3 points)

(e) Adequacy of resources (Up to 12 points).

(1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization. (Up to 4 points)

(ii) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project. (Up to 4 points)

(iii) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project. (Up to 4 points)

(f) Quality of the project evaluation (Up to 20 points).

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project. (Up to 10 points)

(ii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes. (Up to 5 points)

(iii) The extent to which the methods of evaluation will, if well implemented, produce promising evidence (as defined in 34 CFR 77.1(c)) about the project's effectiveness. (Up to 5 points)

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3)(ii), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or

submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

Additional factors we consider in selecting an application for an award are in section 418A of the HEA. In accordance with section 418A, the Secretary makes CAMP awards based on the number, quality, and promise of the applications. Additionally, the Secretary will consider the need to provide an equitable geographic distribution of CAMP awards.

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently \$250,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds \$10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR

part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed \$10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must

submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to www.ed.gov/fund/grant/apply/appforms/appforms.html.

5. Performance Measures: Under the Government Performance and Results Act of 1993 (GPRA), the Department developed the following performance measures to evaluate the overall effectiveness of CAMP: (1) The percentage of CAMP participants completing the first academic year of their postsecondary program, and (2) the percentage of CAMP participants who, after completing the first academic year of college, continue their postsecondary education.

Applicants must propose annual targets for these measures in their applications. The national target for GPRA measure 1 for FY 2020 is that 86 percent of CAMP participants will complete the first academic year of their postsecondary program. The national target for GPRA measure 2 for FY 2020 is that 92 percent of CAMP participants continue their postsecondary education after completing the first academic year of college. The national targets for subsequent years may be adjusted based on additional baseline data. The peer reviewers will score related selection criteria on the basis of how well an applicant addresses these GPRA measures. Therefore, applicants will want to consider how to demonstrate a sound capacity to provide reliable data on the GPRA measures, including the project's annual performance targets for addressing the GPRA performance measures, as is required by OMB-approved annual performance report that is included in the application package. All grantees will be required to submit, as part of their annual performance report, information with respect to these GPRA performance measures.

6. Continuation Awards: In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., Braille, large print, audiotope, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: November 25, 2019.

Frank T. Brogan,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2019-25892 Filed 11-27-19; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2019-ICCD-0148]

Agency Information Collection Activities; Comment Request; National Teacher and Principal Survey of 2020-2021 (NTPS 2020-21)

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 28, 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-0148. 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](http://www.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 Teacher and Principal Survey of 2020–2021 (NTPS 2020–21).

OMB Control Number: 1850–0598.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 103,326.

Total Estimated Number of Annual Burden Hours: 52,585.

Abstract: The National Teacher and Principal Survey (NTPS), conducted every two or three years by the National Center for Education Statistics (NCES), is a system of related questionnaires that provides descriptive data on the context of elementary and secondary education. Redesigned from the Schools and Staffing Survey (SASS) with a focus on flexibility, timeliness, and integration with other ED data, the NTPS system allows for school, principal, and teacher characteristics to be analyzed in relation to one another. NTPS is an in-depth, nationally representative survey of first through twelfth grade public and private school teachers, principals, and schools. Kindergarten teachers in schools with at least a first grade are also surveyed. NTPS utilizes core content and a series of rotating modules to allow timely collection of important education trends as well as trend analysis. Topics covered include characteristics of teachers, principals, schools, teacher training opportunities, retention, retirement, hiring, and shortages. The NTPS 2019–20 preliminary activities were approved in July 2019 (OMB# 1850–0598 v.26), with a change request to update the sampling plan approved in November 2019 (OMB# 1850–0598 v.27). This request is to conduct NTPS 2020–21, including all of its recruitment and data collection activities.

Dated: November 25, 2019.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer.

[FR Doc. 2019–25896 Filed 11–27–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–442–000]

Wildcat I Energy Storage, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced Rosewater Wildcat I Energy Storage, 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 12, 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 22, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–25912 Filed 11–27–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF19–8–000]

Northern Natural Gas Company; Notice of Intent To Prepare an Environmental Assessment for the Planned South Sioux City to Sioux Falls A-Line Replacement Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Sessions

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the South Sioux City to Sioux Falls A-Line Replacement Project involving the abandonment, construction, and operation of pipeline facilities in Dakota and Dixon Counties, Nebraska and Lincoln and Union Counties, South Dakota by Northern Natural Gas Company (Northern). The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies about issues regarding the project. The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires the Commission to discover concerns the public may have about proposals. This process is referred to as "scoping." The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of issues to address in the EA. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m.

Eastern Standard Time on December 23, 2019.

You can make a difference by submitting your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help Commission staff determine what issues they need to evaluate in the EA. Commission staff will consider all filed comments during the preparation of the EA.

If you sent comments on this project to the Commission before the opening of this docket on July 16, 2019, you will need to file those comments under Docket No. PF19–8–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission’s current environmental mailing list for this project. State and local government representatives should notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the planned facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain.

Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law.

A fact sheet prepared by the FERC entitled “An Interstate Natural Gas Facility On My Land? What Do I Need To Know?” is available for viewing on the FERC website (www.ferc.gov) at <https://www.ferc.gov/resources/guides/gas/gas.pdf>. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission’s proceedings.

Public Participation

The Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. To sign up go to www.ferc.gov/docs-filing/esubscription.asp.

For your convenience, there are four methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or FercOnlineSupport@ferc.gov. Please carefully follow these instructions so

that your comments are properly recorded:

(1) You can file your comments electronically using the *eComment* feature, which is located on the Commission’s website (www.ferc.gov) under the link to *Documents and Filings*. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature, which is also on the Commission’s website (www.ferc.gov) under the link to *Documents and Filings*. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on “eRegister.” You will be asked to select the type of filing you are making; a comment on a project is considered a “Comment on a Filing”;

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number PF19–8000 with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426; or

(4) In lieu of sending written comments, the Commission invites you to attend one of the public scoping sessions its staff will conduct in the project area, scheduled as follows:

Date and time	Location
Wednesday, December 11, 2019, 5:00–7:30 p.m.	The Pointe Event Center, 100 Truman Lane, Elk Point, SD 57025, (605) 356–2874.
Thursday, December 12, 2019, 5:00–7:30 p.m.	Beresford Bridges Event Center, 601 S 7th St., Beresford, SD 57004, (605) 201–4240.

The primary goal of these scoping sessions is to have you identify the specific environmental issues and concerns that should be considered in the EA. Individual verbal comments will be taken on a one-on-one basis with a court reporter. This format is designed to receive the maximum amount of verbal comments, in a convenient way during the timeframe allotted. Each scoping session is scheduled from 5:00 p.m. to 7:30 p.m. Central Standard Time. You may arrive at any time after 5:00 p.m. There will not be a formal presentation by Commission staff when the session opens. If you wish to speak, the Commission staff will hand out numbers in the order of your arrival. Comments will be taken until 7:30 p.m. However, if no additional numbers have been handed out and all individuals

who wish to provide comments have had an opportunity to do so, staff may conclude the session at 7:00 p.m. Please see appendix 1 for additional information on the session format and conduct.¹

Your scoping comments will be recorded by a court reporter (with FERC staff or representative present) and become part of the public record for this proceeding. Transcripts will be publicly available on FERC’s eLibrary system (see the last page of this notice for

¹ The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at www.ferc.gov using the link called “eLibrary” or from the Commission’s Public Reference Room, 888 First Street NE, Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

instructions on using eLibrary). If a significant number of people are interested in providing verbal comments in the one-on-one settings, a time limit of 5 minutes may be implemented for each commenter.

It is important to note that the Commission provides equal consideration to all comments received, whether filed in written form or provided verbally at a scoping session. Although there will not be a formal presentation, Commission staff will be available throughout the scoping session to answer your questions about the environmental review process. Representatives from Northern will also be present to answer project-specific questions.

Please note this is not your only public input opportunity; please refer to

the review process flow chart in appendix 2.

Summary of the Planned Project

Northern plans to abandon in-place 79.2 miles of its 14-inch-diameter A-Line from South Sioux City, Nebraska to Sioux Falls, South Dakota, and replace the line with 84.2 miles of 12-inch-diameter pipeline. In addition to the A-Line replacement, Northern plans to abandon in-place its 0.2-mile-long 2-inch-diameter Ponca Branch Line, which currently ties into the A-Line to be abandoned and replace it with a 2.0-mile-long 3-inch-diameter pipeline. Northern also plans to install appurtenant facilities, including pig launchers and receivers,² regulators, tieovers, an odorizer, and associated piping and valves. The Project will not change the current flow rate of 36 million cubic feet of gas per day.

The general location of the project facilities is shown in appendix 3.

Land Requirements for Construction

Construction of the planned project would disturb about 1,048 acres of land for the aboveground facilities and the pipeline. Following construction, Northern would maintain about 510 acres for permanent operation of the project's facilities and allow the remaining acreage to revert to former uses. About 73 percent of the planned pipeline route parallels existing pipeline, utility, or road rights-of-way.

The EA Process

The EA will discuss impacts that could occur as a result of the construction and operation of the planned project under these general headings:

- Geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use;
- air quality and noise;
- public safety; and
- cumulative impacts.

Commission staff will also evaluate possible alternatives to the planned project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Although no formal application has been filed, Commission staff have already initiated a NEPA review under the Commission's pre-filing process. The purpose of the pre-filing process is

² A "pig" is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, and other purposes.

to encourage early involvement of interested stakeholders and to identify and resolve issues before the Commission receives an application. As part of the pre-filing review, Commission staff will contact federal and state agencies to discuss their involvement in the scoping process and the preparation of the EA.

The EA will present Commission staffs' independent analysis of the issues. The EA will be available in electronic format in the public record through eLibrary³ and the Commission's website (<https://www.ferc.gov/industries/gas/enviro/eis.asp>). If eSubscribed, you will receive instant email notification when the EA is issued. The EA may be issued for an allotted public comment period. Commission staff will consider all comments on the EA before making recommendations to the Commission. To ensure Commission staff have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues related to this project to formally cooperate in the preparation of the EA.⁴ Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office(s), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.⁵ The EA for this project will document our findings on the impacts on historic

³ For instructions on connecting to eLibrary, refer to the last page of this notice.

⁴ The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, part 1501.6.

⁵ The Advisory Council on Historic Preservation regulations are at Title 36, Code of Federal Regulations, part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the planned project.

If the Commission issues the EA for an allotted public comment period, a *Notice of Availability* of the EA will be sent to the environmental mailing list and will provide instructions to access the electronic document on the FERC's website (www.ferc.gov). If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please return the attached "Mailing List Update Form" (appendix 4).

Becoming an Intervenor

Once Northern files its application with the Commission, you may want to become an "intervenor" which is an official party to the Commission's proceeding. Only intervenors have the right to seek rehearing of the Commission's decision and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214). Motions to intervene are more fully described at <http://www.ferc.gov/resources/guides/how-to/intervene.asp>. Please note that the Commission will not accept requests for intervenor status at this time. You must wait until the Commission receives a formal application for the project, after which the Commission will issue a public notice that establishes an intervention deadline.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208-FERC, or on the FERC website (www.ferc.gov) using the eLibrary link. Click on the eLibrary link, click on "General Search" and enter the docket number in the "Docket Number" field, excluding the last three digits (*i.e.*, PF19-8). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at FercOnlineSupport@ferc.gov or toll free at (866) 208-3676, or for TTY, contact (202) 502-8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at www.ferc.gov/EventCalendar/EventsList.aspx along with other related information.

Dated: November 22, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019-25908 Filed 11-27-19; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Project No. 3251-010]

Cornell University; Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 3251-010.

c. *Date Filed:* June 28, 2019.

d. *Applicant:* Cornell University.

e. *Name of Project:* Cornell University Hydroelectric Project (Cornell Project).

f. *Location:* On Fall Creek within the Cornell University campus in the City of Ithaca, Tompkins County, New York. The project does not occupy federal land.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Frank Perry, Manager of Projects, Energy and Sustainability, Humphreys Service Building, Room 131, Cornell University, Ithaca, NY 14853-3701; (607) 255-6634; email—fdp1@cornell.edu.

i. *FERC Contact:* Christopher Millard at (202) 502-8256; or email at christopher.millard@ferc.gov.

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P-3251-010.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted, but is not ready for environmental analysis at this time.

l. *The Cornell Project consists of:* (1) An existing 28-foot-high, 260-foot-long reinforced-concrete gravity overflow-type dam, known as Beebe Lake Dam, with a crest elevation of 780.7 feet mean sea level (msl); (2) an impoundment (Beebe Lake) with a surface area of 16 acres and a storage capacity of 50 acre-feet at the normal pool elevation of 780.7 feet msl; (3) a concrete forebay wall and reinforced-concrete intake with a 6-foot-high, 6-foot-wide steel vertical-slide gate along the right (north) bank; (4) a 5-foot-diameter, 1,507-foot-long reinforced-concrete underground pipeline and a 5-foot-diameter, 200-foot-long riveted-steel underground penstock; (5) a 79-foot-long, 29-foot-wide, 24-foot-high powerhouse containing two Ossberger turbines and induction generators with a combined authorized capacity of 1,718 kilowatts; (6) a tailrace located on the river right-side of Fall Creek directly below the powerhouse; (7) a 385-foot-long, 2.4-kilovolt transmission line connecting to Cornell's distribution system; and (8) appurtenant facilities.

The Cornell Project is operated in a run-of-river mode and bypasses an 1,800-foot-long reach of Fall Creek that extends from the toe of the dam to the powerhouse tailrace. From 2013 through

2018, the average annual generation was 4,599 megawatt-hours.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must: (1) Bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

o. *Procedural schedule and final amendments:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Scoping Document 1 for comments—December 2019.

Request Additional Information (if necessary)—February 2020.

Issue Scoping Document 2—March 2020.

Issue notice of ready for environmental analysis—March 2020.

Commission issues EA—September 2020.

Comments on EA—October 2020.

p. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: November 22, 2019.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2019–25910 Filed 11–27–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–517–000]

Gulf South Pipeline Company, LP; Notice of Schedule for Environmental Review of the Lamar County Expansion Project

On September 30, 2019, Gulf South Pipeline Company, LP (Gulf South) filed an application in Docket No. CP19–517–000 requesting a Certificate of Public Convenience and Necessity pursuant to Section 7(c) of the Natural Gas Act to construct and operate certain natural gas pipeline facilities. The proposed project is known as the Lamar County Expansion Project (Project) and would provide about 200,000 dekatherms of natural gas per day to Cooperative Energy's generation facility in Lamar County, Mississippi.

On October 15, 2019, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA—February 18, 2020.
90-day Federal Authorization Decision
Deadline—May 18, 2020.

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

Gulf South proposes to construct and operate 3.4 miles of 20-inch-diameter pipeline, a new delivery meter station, and a new 5,000 horsepower

compressor station in Lamar and Forrest Counties, Mississippi. The Project would allow Gulf South to provide up to 200,000 dekatherms per day of new natural gas firm transportation service from Gulf South's existing Index 299 pipeline to Cooperative Energy. This service would be primarily utilized for Cooperative Energy's new 550-megawatt combined cycle gas turbine generation facility. According to Gulf South, the Project would allow Cooperative Energy's power plant to switch from coal to natural gas as a power source.

Background

On November 4, 2019, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Lamar County Expansion Project and Request for Comments on Environmental Issues* (NOI). The NOI was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. All substantive comments will be addressed in the EA. No comments have been received at this time.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to www.ferc.gov/docs-filing/esubscription.asp.

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (www.ferc.gov). Using the "eLibrary" link, select "General Search" from the eLibrary menu, enter the selected date range and "Docket Number" excluding the last three digits (*i.e.*, CP19–517), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at FERCOnlineSupport@ferc.gov. The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: November 22, 2019.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2019–25914 Filed 11–27–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14973–000]

Lock +™ Hydro Friends Fund XX, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On March 1, 2019, Lock +™ Hydro Friends Fund XX, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Blue Marsh Dam Hydropower Project to be located at the U.S. Army Corps of Engineers' (Corps) Blue Marsh Dam on the Tulpehocken Creek in Berks County, Pennsylvania. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A new 30-foot-long, 30-foot-wide, 160-foot-high Large Frame Module; (2) two turbine-generator units with a total rated capacity of 1.75 megawatts; (3) a new 4-foot-long, 4-foot-wide, 3-foot-high pad-mounted transformer; (4) a new 1,650-foot-long, 13-kilovolt transmission line connecting the new transformer to an existing distribution line; and (5) appurtenant facilities. The proposed project would have an annual generation of 7,750 megawatt-hours.

Applicant Contact: Wayne Krouse, Lock +™ Hydro Friends Fund XX, LLC, P.O. Box 43796, Birmingham, AL 35243; phone: 877–556–6566 ext. 709.

FERC Contact: Woohee Choi; phone: (202) 502–6336.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice.¹

¹ The Commission is issuing a second notice for this project because some municipalities may not have been notified by the first notice issued on August 22, 2019. Any comments filed in response to either notice will be considered in evaluating the permit application.

Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P-14973-000.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of the Commission's website at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-14973) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: November 22, 2019.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2019-25909 Filed 11-27-19; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20-443-000]

Acorn I Energy Storage, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced Rosewater Acorn I Energy Storage, 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 12, 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 22, 2019.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2019-25911 Filed 11-27-19; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19-512-000]

Texas Eastern Transmission, L.P.; Notice of Schedule for Environmental Review of the Cameron Extension Project

On September 26, 2019, Texas Eastern Transmission, L.P. (Texas Eastern) filed an application in Docket No. CP19-512-000 requesting a Certificate of Public

Convenience and Necessity pursuant to Section 7(c) of the Natural Gas Act to construct and operate certain natural gas pipeline facilities in Louisiana. The proposed project is known as the Cameron Extension Project (Project), and would provide 750 million cubic feet per day of firm transportation service.

On October 9, 2019, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA—March 9, 2020.
90-day Federal Authorization Decision
Deadline—June 7, 2020.

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

Texas Eastern proposes to construct and operate a new compressor station (East Calcasieu Compressor Station) in Calcasieu Parish, Louisiana. The new compressor station is comprised of one 30,000 ISO-rated horsepower, natural gas-driven turbine compressor unit and related appurtenances. The Project would also consist of three new delivery meter and regulatory stations in Cameron, Beauregard, and Jefferson Davis Parishes, Louisiana; installation of 0.2 mile of 30-inch-diameter piping to interconnect with TransCameron Pipeline, LLC's pipeline system in Cameron Parish, Louisiana; installation of miscellaneous equipment at the Gillis Compressor Station in Beauregard Parish, Louisiana; modifications to existing internal pipeline inspection launcher and receiver facilities and two new bypass facilities at existing sites along Texas Eastern's Line 41; and other related auxiliary facilities and appurtenances.

Background

On November 8, 2019, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Cameron Extension Project and Request for Comments on Environmental Issues* (NOI). The NOI

was sent to affected landowners; federal, state, and local government representatives and agencies; elected officials; Native American tribes; other interested parties; and local libraries and newspapers. All substantive comments in response to the NOI will be addressed in the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to www.ferc.gov/docs-filing/esubscription.asp.

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208-FERC or on the FERC website (www.ferc.gov). Using the "eLibrary" link, select "General Search" from the eLibrary menu, enter the selected date range and "Docket Number" excluding the last three digits (i.e., CP19-512), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208-3676, TTY (202) 502-8659, or at FERCOnlineSupport@ferc.gov. The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: November 22, 2019.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2019-25915 Filed 11-27-19; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19-14-000]

Mountain Valley Pipeline, LLC; Notice of Revised Schedule for Environmental Review of the Southgate Project

This notice identifies the Federal Energy Regulatory Commission staff's revised schedule for the completion of the final Environmental Impact Statement (EIS) for Mountain Valley Pipeline, LLC's Southgate Project. The first notice of schedule, issued on March 15, 2019, identified December 19, 2019 as the final EIS issuance date. However, Mountain Valley filed additional

information on October 23, 2019 that included changes to the route and revised data for resource impacts. Because the supplemental information needs further review and required an additional notice to the landowners affected by the route changes, issued on November 15, 2019, Commission staff has revised the schedule for issuance of the final EIS.

Schedule for Environmental Review

Issuance of Notice of Availability of the final EIS February 14, 2020

90-day Federal Authorization Decision Deadline May 14, 2020

If a schedule change becomes necessary, an additional notice will be provided so that the relevant agencies are kept informed of the project's progress.

Additional Information

In order to receive notification of the issuance of the final EIS and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to www.ferc.gov/docs-filing/esubscription.asp.

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208-FERC or on the FERC website (www.ferc.gov). Using the "eLibrary" link, select "General Search" from the eLibrary menu, enter the selected date range and "Docket Number" excluding the last three digits (i.e., CP19-14), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208-3676, TTY (202) 502-8659, or at FERCOnlineSupport@ferc.gov. The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: November 22, 2019.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2019-25917 Filed 11-27-19; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC20-4-000.

Applicants: Tenaska Alabama II Partners, L.P., Alabama Power Company.

Description: Response of Southern Company Services, Inc. on behalf of Alabama Power Company, et al. to October 23, 2019 letter requesting additional information.

Filed Date: 11/21/19.

Accession Number: 20191121-5178.

Comments Due: 5 p.m. ET 12/5/19.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG20-46-000.

Applicants: Acorn I Energy Storage, LLC.

Description: Self-Certification of EWG status of Acorn I Energy Storage, LLC.

Filed Date: 11/22/19.

Accession Number: 20191122-5057.

Comments Due: 5 p.m. ET 12/13/19.

Docket Numbers: EG20-47-000.

Applicants: Wildcat I Energy Storage, LLC.

Description: Self-Certification of EWG status of Wildcat I Energy Storage, LLC.

Filed Date: 11/22/19.

Accession Number: 20191122-5058.

Comments Due: 5 p.m. ET 12/13/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18-552-002.

Applicants: Clean Energy Future—Lordstown, LLC.

Description: Supplement to April 1, 2019 Notice of Non-Material Change in Status of Clean Energy Future—Lordstown, LLC.

Filed Date: 11/21/19.

Accession Number: 20191121-5181.

Comments Due: 5 p.m. ET 12/12/19.

Docket Numbers: ER20-28-002.

Applicants: MidAmerican Energy Company.

Description: Tariff Amendment: Second Amendment of Pending Tariff Filing in ER20-28 to be effective 11/1/2019.

Filed Date: 11/22/19.

Accession Number: 20191122-5001.

Comments Due: 5 p.m. ET 12/13/19.

Docket Numbers: ER20-270-001.

Applicants: Dynegy Oakland, LLC.

Description: Tariff Amendment: Errata to Annual Reliability Must Run

Agreement and Schedule F Info Filings to be effective 1/1/2020.

Filed Date: 11/21/19.

Accession Number: 20191121–5170.

Comments Due: 5 p.m. ET 12/12/19.

Docket Numbers: ER20–441–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 2841R1 Smoky Hills/Evergy Kansas Central Meter Agent Agr to be effective 11/1/2019.

Filed Date: 11/21/19.

Accession Number: 20191121–5166.

Comments Due: 5 p.m. ET 12/12/19.

Docket Numbers: ER20–442–000.

Applicants: Wildcat I Energy Storage, LLC.

Description: Baseline eTariff Filing: Market-based Rate Tariff and Application to be effective 11/23/2019.

Filed Date: 11/22/19.

Accession Number: 20191122–5053.

Comments Due: 5 p.m. ET 12/13/19.

Docket Numbers: ER20–443–000.

Applicants: Acorn I Energy Storage, LLC.

Description: Baseline eTariff Filing: Market-based Rate Tariff and Application to be effective 11/23/2019.

Filed Date: 11/22/19.

Accession Number: 20191122–5054.

Comments Due: 5 p.m. ET 12/13/19.

Docket Numbers: ER20–444–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2019–11–22_SA 3374 Entergy Louisiana-Amite Solar GIA (J909) to be effective 11/7/2019.

Filed Date: 11/22/19.

Accession Number: 20191122–5073.

Comments Due: 5 p.m. ET 12/13/19.

Docket Numbers: ER20–445–000.

Applicants: Mountain Wind Power, LLC.

Description: § 205(d) Rate Filing: Revisions to Market-Based Rate Tariff and Requests for Waivers to be effective 11/23/2019.

Filed Date: 11/22/19.

Accession Number: 20191122–5074.

Comments Due: 5 p.m. ET 12/13/19.

Docket Numbers: ER20–446–000.

Applicants: Mountain Wind Power II LLC.

Description: § 205(d) Rate Filing: Revisions to Market-Based Rate Tariff and Requests for Waivers to be effective 11/23/2019.

Filed Date: 11/22/19.

Accession Number: 20191122–5075.

Comments Due: 5 p.m. ET 12/13/19.

Docket Numbers: ER20–447–000.

Applicants: Spring Canyon Energy III LLC.

Description: § 205(d) Rate Filing: Revisions to Market-Based Rate Tariff

and Requests for Waivers to be effective 11/23/2019.

Filed Date: 11/22/19.

Accession Number: 20191122–5078.

Comments Due: 5 p.m. ET 12/13/19.

Docket Numbers: ER20–448–000.

Applicants: Spring Canyon Energy II LLC.

Description: § 205(d) Rate Filing: Revisions to Market-Based Rate Tariff and Requests for Waivers to be effective 11/23/2019.

Filed Date: 11/22/19.

Accession Number: 20191122–5085.

Comments Due: 5 p.m. ET 12/13/19.

Docket Numbers: ER20–449–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2019–11–22 Amendment to Facilitate Data Sharing in Response to a Cyber Emergency to be effective 2/5/2020.

Filed Date: 11/22/19.

Accession Number: 20191122–5126.

Comments Due: 5 p.m. ET 12/13/19.

Docket Numbers: ER20–450–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee, Eversource Energy Service Company (as agent), Vermont Electric Power Company, Inc.

Description: § 205(d) Rate Filing: ISO–NE and NEPOOL; Interconnection Service Capability Changes to be effective 1/22/2020.

Filed Date: 11/22/19.

Accession Number: 20191122–5129.

Comments Due: 5 p.m. ET 12/13/19.

Docket Numbers: ER20–451–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Cancellation: Notice of Cancellation of ISA SA No. 4327; Queue No. AA1–057 to be effective 11/29/2019.

Filed Date: 11/22/19.

Accession Number: 20191122–5166.

Comments Due: 5 p.m. ET 12/13/19.

Docket Numbers: ER20–452–000.

Applicants: Inland Empire Energy Center, LLC.

Description: Tariff Cancellation: Notice of Cancellation of MBR Tariff to be effective 12/31/2019.

Filed Date: 11/22/19.

Accession Number: 20191122–5168.

Comments Due: 5 p.m. ET 12/13/19.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES20–10–000.

Applicants: AEP Appalachian Transmission Company, Inc., AEP Indiana Michigan Transmission Company, Inc., AEP Kentucky Transmission Company, Inc., AEP Oklahoma Transmission Company, Inc.,

AEP Southwestern Transmission Company, Inc., AEP West Virginia Transmission Company, Inc.

Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of AEP Appalachian Transmission Company, Inc., et al.

Filed Date: 11/22/19.

Accession Number: 20191122–5103.

Comments Due: 5 p.m. ET 12/13/19.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM19–4–000.

Applicants: Southwestern Public Service Company.

Description: Supplement to September 5, 2019 Application to Terminate the Requirement to Enter Into New Contracts or Obligations with Qualifying Facilities of Southwestern Public Service Company.

Filed Date: 11/4/19.

Accession Number: 20191104–5115.

Comments Due: 5 p.m. ET 12/2/19.

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 22, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–25918 Filed 11–27–19; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9048–2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or <https://www.epa.gov/nepa/>.

Weekly receipt of Environmental Impact Statements

Filed 11/18/2019 10 a.m. ET Through
11/25/2019 10 a.m. ET
Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: <https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search>.

EIS No. 20190281, Draft, USACE, LA, Upper Barataria Basin, Louisiana Draft Feasibility Study, Comment Period Ends: 01/13/2020, Contact: Patricia Naquin 504-862-1544

EIS No. 20190282, Draft, USA, LA, Amite River and Tributaries East of Mississippi River, Louisiana, Comment Period Ends: 01/13/2020, Contact: US Army Corps of Engineers 504-862-1014

EIS No. 20190283, Final, USFS, UT, High Uintas Wilderness Colorado River Cutthroat Trout Habitat Enhancement, Review Period Ends: 12/31/2019, Contact: Ronald Brunson 435-781-5202

EIS No. 20190284, Draft, USACE, CA, Draft Integrated Feasibility Report and Environmental Impact Statement/ Environmental Impact Report (IFR/EIS/EIR) for the East San Pedro Bay Ecosystem Restoration Feasibility Study, Comment Period Ends: 01/27/2020, Contact: Naeem Siddiqui 213-452-3852

Amended Notice

EIS No. 20190260, Draft, USACE, CA, Port of Long Beach Deep Draft Navigation Feasibility Study, Comment Period Ends: 12/09/2019, Contact: Larry Smith 213-452-3846 Revision to FR Notice Published 10/25/2019; Correcting Lead Agency from BR, USACE to USACE.

Dated: November 25, 2019.

Robert Tomiak,

Director, Office of Federal Activities.

[FR Doc. 2019-25877 Filed 11-27-19; 8:45 am]

BILLING CODE 6560-50-P

EXPORT-IMPORT BANK OF THE UNITED STATES

Sunshine Act Meeting; Notice of a Partially Open Meeting of the Board of Directors of the Export-Import Bank of the United States.

TIME AND DATE: Monday, December 16, 2019 at 2:00 p.m.

PLACE: The meeting will be held at Ex-Im Bank in Room 1125, 811 Vermont Avenue NW, Washington, DC 20571.

STATUS: The meeting will be open to public observation for Item No. 1 only.

MATTERS TO BE CONSIDERED: Item No. 1 Small Business Update

CONTACT PERSON FOR MORE INFORMATION: Members of the public who wish to attend the meeting should call Joyce Stone, Office of the General Counsel, 811 Vermont Avenue NW, Washington, DC 20571, (202) 565-3336 by close of business Thursday, December 12, 2019.

Joyce Brotemarkle Stone,
Assistant Corporate Secretary.

[FR Doc. 2019-25964 Filed 11-26-19; 11:15 am]

BILLING CODE 6690-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION

RIN 3064-ZA13

Request for Information on a Framework for Analyzing the Effects of FDIC Regulatory Actions

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice and request for information (RFI).

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is seeking comment on approaches it is considering to analyze the effects of its regulatory actions. The FDIC views analysis of the effects of regulatory actions and alternatives as an important part of a credible and transparent rulemaking process. The comments received will help the FDIC to strengthen its analysis of regulatory actions.

DATES: Comments must be received by January 28, 2020.

ADDRESSES: You may submit comments, identified by RIN 3064-ZA13, by any of the following methods:

- *Agency Website:* <http://www.fdic.gov/regulations/laws/federal/>. Follow the instructions for submitting comments on the Agency website.

- *Email:* Comments@fdic.gov. Include the RIN 3064-ZA13 in the subject line of the message.

- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

- *Public Inspection:* All comments received must include the agency name and RIN for this rulemaking. All comments received will be posted

without change to <http://www.fdic.gov/regulations/laws/federal/>—including any personal information provided—for public inspection. Paper copies of public comments may be ordered from the FDIC Public Information Center, 3501 North Fairfax Drive, Room E-1002, Arlington, VA 22226 by telephone at (877) 275-3342 or (703) 562-2200.

FOR FURTHER INFORMATION CONTACT: For further information about this request for comments, contact George French (202-898-3929), or Ryan Singer (202-898-7352), Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: The FDIC has had a longstanding commitment to improving the quality of its regulations and policies, to minimizing regulatory burdens on the public and the banking industry, and generally to ensuring that its regulations and policies achieve legislative goals efficiently and effectively.¹ An objective and transparent analysis of the effects of regulatory actions and alternatives supports both good policy decisions and the meaningful involvement and trust of the public in the rulemaking process.

The FDIC is considering ways to improve the quality of its analysis of regulatory actions. The approaches being considered are consistent with, and supportive of, efforts to apply the FDIC's "Statement of Policy on the Development and Review of Regulations." In broad terms, the FDIC is considering a more structured approach to regulatory analysis and one that incorporates a number of analytical practices identified in standard references. Comments received on this RFI will be of assistance to the FDIC in strengthening its analysis of the effects of regulatory actions.

As background, the FDIC is subject to a number of statutory mandates relevant to the effects of regulations. The Administrative Procedures Act (APA) governs the procedural requirements for all federal government rulemakings. The Regulatory Flexibility Act (RFA) requires the FDIC and other agencies to review the effects of regulatory actions on small entities, identify whether the actions would have a significant economic effect on a substantial number of small entities, and if so, consider whether the purpose of the rule could be achieved in a way that mitigates adverse impacts on small entities. The Paperwork Reduction Act requires the FDIC and other agencies to identify the

¹ See the FDIC's revised "Statement of Policy on the Development and Review of Regulations" at 63 FR 25157 May 7, 1998, and further revised at 77 FR 22771 April 17, 2013.

paperwork burdens of regulatory actions. The Congressional Review Act (CRA) requires the FDIC, or any agency promulgating a rule covered by that Act, to submit a report to each House of Congress and to the Comptroller General, that contains a copy of the rule, a concise general statement describing the rule (including whether it is a major rule), and the proposed effective date of the rule. Congress has the ability to review the rule, and potentially disapprove it. The Office of Management and Budget (OMB) determines whether regulatory actions are “major rules” for purposes of the CRA. The FDIC assists the OMB by providing, for each final rule, analysis and recommendations regarding whether that rule should be deemed major.

The FDIC performs all statutorily required analyses in connection with its rulemakings. The FDIC’s intention to improve the quality of its analysis of regulatory actions is not in response to any specific statutory mandate, but in the belief that robust analysis can enhance decision making and regulatory transparency. While this RFI is primarily directed toward issues of analytical content, the FDIC also is considering improvements to its internal approaches to developing the analysis. Issues under consideration include procedures for inclusion of regulatory analysis staff on rule teams at a sufficiently early stage of the rulemaking process, procedures for reviewing the analysis, processes for seeking information from stakeholders, as appropriate, prior to the proposed rule stage, and processes for retrospective analysis of the effects of regulations.

While the FDIC is an independent regulatory agency and is not required to follow OMB’s guidance with regard to regulatory analysis, the FDIC nonetheless views OMB Circular A–4 (henceforth, A–4 or Circular A–4) as a useful set of general principles regarding regulatory analysis.² The approaches the FDIC is considering draw in part on principles set forth in A–4, as well as other published discussions of regulatory analysis.³ It is

noted, however, that A–4 draws its examples generally from health, safety and environmental regulation, and does not explicitly address banking or financial regulation. Professional judgment is needed to apply A–4’s principles to the analysis of bank regulation.

A unique feature of the notices of rulemaking for banking regulations is that some are published by individual agencies and others are published jointly by multiple agencies. For joint rules, the statutorily required analyses contained in the “administrative law matters” (or similarly titled) section of the preamble are conducted by each participating agency in satisfaction of its legal mandates and labeled as such, while the common preamble represents the participating agencies’ agreed joint statement about the rule. The analysis presented in the common preambles of interagency rules accordingly reflects interagency agreement.

The remainder of this RFI describes a conceptual template for organizing the issues typically arising in bank regulation, and analyzing effects in a manner consistent with general principles for regulatory analysis. The conceptual template is a guide to analysis only in the sense of discussing the types of issues that ought to be considered in any regulatory analysis: It is difficult to be more specific in advance given the diversity of regulatory actions the FDIC undertakes. Moreover, the ability to quantify the costs, benefits and effects of regulations can be limited both by a lack of data, and by a lack of knowledge or agreement among economists about relevant channels of cause and effect or future behavioral responses. The remainder of the document should thus be understood as outlining a view of the type of regulatory analysis that should be conducted to the extent feasible. Comments are solicited on the conceptual framework in general and its individual elements.

Economic Analysis of FDIC Rulemakings

The FDIC is considering including the following in its rulemaking actions: A statement of the need for the proposed action; the identification of a baseline against which the effects of the action are compared; the identification of alternative regulatory approaches; and an evaluation of the benefits and costs from all major stakeholder perspectives,

to the Dodd Frank Act, June 13, 2011 at 34–45, available at http://www.cftc.gov/ucm/groups/public/aboutcftc/documents/file/oig_investigation_061311.pdf.

that includes qualitative discussion, and quantitative analysis where relevant and practicable, of the proposed action and the main alternatives identified by the analysis. Moreover, the analysis should be transparent about its assumptions and significant uncertainties.⁴

The Need for an Action

The need for regulatory actions can arise from the need to implement or interpret statutory mandates, improve government processes, address market failures,⁵ or otherwise address specific problems that have become evident and suggest the need to change, add or remove specific regulations. For discretionary actions, an agency’s determination that it needs to take that action is a judgment it has arrived at based on the totality of the available information. A rulemaking action should include a concise summary of why the agency believes that the action is needed.

Defining a Baseline

The analysis of a regulatory action should be explicit about the baseline against which the effects of the rule are compared. Broadly speaking, the appropriate question for the analysis is how the “world with the rule” would compare to the “world without the rule.” For the analysis or evaluation of an alternative, comparisons should generally be between that alternative and the proposed or adopted regulatory action. The body of extant banking and financial regulation—but as discussed below, generally not including proposed rules—should be part of the baseline. Also, since any comparisons between the rule and the baseline will be relevant only for entities that are affected by the action, the analysis of every regulatory action should identify the set of regulated entities and other affected parties.

Questions can arise when selecting a baseline for rules that implement statutory requirements. It is sometimes noted that the “world without the rule” would still include the statute that the rule is implementing. By this reasoning, the rule itself could be viewed as having minimal effects even when the statute

² Office of Management and Budget, Circular A–4, “Regulatory Analysis,” September 17, 2003.

³ See also “Current Guidance on Economic Analysis in SEC Rulemaking” available at https://www.sec.gov/page/dera_economicanalysis; and U.S. Commodity Futures Trading Commission, Staff Guidance on Cost-Benefit Considerations for Final Rulemakings under the Dodd Frank Act, (May 13, 2011) in U.S. Commodity Futures Trading Commission Office of the Inspector General, *A Review of Cost-Benefit Analyses Performed by the Commodity Futures Trading Commission in Connection with Rulemakings Undertaken Pursuant*

⁴ This broad organizational outline is consistent with approaches described in OMB Circular A–4.

⁵ “Market failure” is an economics term that refers to situations where the operation of a free market leads to an inefficient allocation of goods and services, or put another way, where individually rational decisions lead to irrational outcomes for a group. For example, deposit insurance can be viewed as a response to the market failure of bank runs, in which individually rational decisions to withdraw funds can cascade and lead to the collectively suboptimal outcome of large numbers of liquidity failures.

has large effects. Circular A–4 states that to facilitate a more comprehensive understanding of the effects of rules, analysis should include a pre-statute baseline.⁶ While potentially more comprehensive, analyzing pre-statute baselines may also involve implicitly evaluating the merits of statutes. Moreover, since the agency does not have the option of not implementing statutes, pre-statute baselines may not always produce results that inform the decisions actually available to the agency. The FDIC is interested in commenters' views on the appropriate baseline for rules that implement statutory requirements.

Other issues can arise when analyzing rules that finalize or propose rules that have been previously proposed. For some such rulemakings, it might be argued that affected entities have already adjusted their activities as a result of the previously proposed rule. Using this reasoning, if the analyst selects as a baseline the situation that includes regulated entities' adjustments made as a result of the earlier proposal, the action that is the subject of analysis might be viewed as having little effect in itself.

To provide for meaningful consideration of alternatives other than simply finalizing the original proposal, analysis should include a baseline that compares the current action to a situation without the original proposal. When much time has passed between the proposal and the action being analyzed, there may be uncertainties about whether actions regulated entities took in the intervening time were in response to the proposal, or would have been taken without the proposal. Such uncertainties should be acknowledged as part of the analysis.

Identification and Discussion of Alternatives

Rulemaking actions should include discussion of reasonable and possible alternatives considered by the FDIC or proposed by commenters. All reasonable alternatives raised by commenters should be discussed, or reasons offered for why such alternatives were not considered. Otherwise, the extent of discussion of alternatives is a matter for judgment. Some rules may have dozens or

hundreds of individual provisions and discussing alternatives to all of them may not be practicable. Nonetheless, important rule provisions for which there was serious discussion of alternatives during the rulemaking process should be identified, along with the reasons for the course of action chosen. Finally, the FDIC believes that while it is useful to state and evaluate the main alternatives considered in a separate and identifiable section of the preamble, issues raised by commenters that are identified and discussed in other sections of the preamble do not necessarily need to be restated in an "alternatives" section.

Benefits and Costs of the Action and Alternatives

In reaching decisions about rules, agencies consider the effects on the public, on regulated entities, and on the achievement of statutory objectives. Decision-makers consider all these perspectives in order to arrive at a regulatory action that is in the public interest. This description of decision making corresponds to two principles that the FDIC believes are important to incorporate in its regulatory analysis: First, to consider costs and benefits from all major stakeholder and policy perspectives; and second, to attempt to identify costs and benefits relative to the concept of broad economic welfare.⁷

Systematic consideration of the stakeholders and policy interests that can benefit from, or be burdened by, a rule is a prerequisite to analyzing its effects. Bank regulations can be complex and have a broad range of effects on the achievement of statutory objectives, the manner in which banks interact with customers and the type and level of credit and other financial

intermediation services, which in turn can affect the broader economy and the safety and soundness of the banking system.

Identifying costs and benefits accruing to specific stakeholder groups is not the same as identifying broad economic costs and benefits. For example, whether a reduction in banks' compliance expense provides broad economic benefits is a nuanced question. As one extreme, if banks' reduced compliance spending is matched by reduced revenue or wages to compliance professionals with no change in the cost or availability of banking services, it could reasonably be said that broad economic effects are zero. If banks' reduced cost structure results in lower costs to bank customers or greater availability of financial services, the result could be increased economic output, which could reasonably be said to reflect broad economic benefits. If reduced compliance expense results in statutory goals not being achieved, a material increase in future bank failures or other adverse effects, one could reasonably classify the results as broad economic costs.

While there is no universally agreed-upon measure of broad economic welfare to use in tallying the effects of bank regulations as economic costs or benefits, the approach described in this document generally is that a goal of maximizing long-term, sustainable U.S. economic output supported by the banking industry, subject to the achievement of statutory goals and avoidance of significant adverse unintended consequences, is an appropriate concept by which to evaluate the broad economic effects of regulation.

To ensure adequate consideration of the broad range of interests that may be affected by FDIC rules, the FDIC believes it would be useful for analysts to consider the relevance of a rule from each of the perspectives listed in Table 1. These are stakeholder and policy perspectives potentially relevant to any FDIC rulemaking. For the first five topics listed in Table 1, the stakeholder or policy perspective may be viewed in an abstract sense as the public interest in the satisfaction of the FDIC's statutory mandates. The remaining topics reflect broader effects FDIC rules can have on banks and the public.

⁶ Since the "world without the rule" includes existing law, Circular A–4 can also be viewed as supporting a post-statute baseline, and in fact it suggests that multiple baselines may be useful.

⁷ A–4 does not state these principles directly, but they fairly capture important aspects of A–4. For example, in stating that non-quantified effects may be important (page 2), that analysis should focus on benefits and costs accruing to citizens and residents of the United States (page 15), that distributional effects and transfers should be clearly identified (pages 13 and 38) and that analysis should look beyond direct effects to ancillary costs and benefits (page 26), A–4 recognizes the importance of considering all perspectives on rules. In stating that analysis should focus on benefits and costs accruing to citizens and residents of the United States (again, page 15), in measuring costs and benefits by reference to the sum of consumer and producer surplus (pages 19 and 38), and in specifically excluding transfers from costs and benefits (page 38), A–4 articulates a vision of regulatory analysis as an attempt to measure net economic effects to society and not just to individual stakeholder groups.

TABLE 1—MAJOR STAKEHOLDER AND POLICY PERSPECTIVES TO BE CONSIDERED IN THE ANALYSIS OF FDIC RULES

Issue	Relevance of rule
Effects on bank safety and soundness and public confidence Effects on the treatment of bank customers or financially underserved communities. Effects on the potential for illicit use of the financial system. Effects on the FDIC’s statutory resolution functions. Effects on the FDIC’s Deposit Insurance Fund (DIF). Effects on the availability of bank credit and other financial services. Compliance costs or profitability effects on banks or the public. Effects on U.S. economic performance. Distributional effects. Other significant issues, if identified.	Direct effects/indirect effects/no identified effects.

Much of the regulatory analysis of any rule will consist of describing the expected or potential effects of the rule, including potential costs and benefits, from each of the relevant perspectives listed in Table 1. The first five rows of the table relate to broad categories of statutory goals. Most regulatory actions would be expected to have effects related to one or more of these categories. For any regulatory action, the analysis should consider whether and how the proposed action might affect the achievement of the relevant statutory goals. Topics of interest for such an analysis could include the effectiveness and efficiency of different ways to meet statutory goals, and anticipating potential unintended consequences.

Note that no single stakeholder perspective or policy consideration listed in Table 1 is the most important in all cases. All of the issues identified in Table 1 could be relevant to reaching a decision that is in the public interest. A general discussion of each of these issues and the goals of the analysis follows.

(a) Effects on Bank Safety and Soundness and Public Confidence

The FDIC has statutory responsibilities to promote the safety and soundness of FDIC-insured institutions, and to ensure that problems at troubled institutions are resolved promptly and at minimum long-term cost to the DIF. For any regulatory action, the analysis should consider explicitly whether the action has the potential to affect bank safety and soundness, describe the nature of the potential effects if any, and bring to bear evidence, to the extent available, on the potential likelihood and magnitude of the safety and soundness effects. If applicable, the analysis should discuss, and quantify to the extent practicable, potential effects on the frequency or severity of bank failures or other FDIC resolution activities. The universe of banks considered may be FDIC-

supervised banks, or all insured banks, depending on the context. Historical experience with troubled or failed banks may, depending on the specific issue at hand, provide evidence on potential effects of regulatory actions. For other issues, historical experience may be of limited usefulness and the analysis would be more qualitative in nature.

(b) Effects on the Treatment of Bank Customers or Financially Underserved Communities

Evaluating the effects of rules on bank customers or underserved communities is an important part of the rulemaking process. Many types of rules affect bank customers. Just as potential safety and soundness effects should be evaluated for any rule, so should the potential effects on bank customers.

For example, consumer protection rules generally reflect statutory goals regarding how banks should interact with customers, counterparties and the general public. Many of these rules are under the exclusive jurisdiction of other agencies, with the FDIC having enforcement authority for the banks it supervises. Some, such as the rules implementing the Community Reinvestment Act, flood insurance requirements, management interlocks rules (designed to limit potential anti-competitive practices) and rules regarding securities issued by banks that are not required to register their securities with the SEC (designed to ensure adequate information is provided to investors), are promulgated by the FDIC and other banking agencies for institutions under their respective supervision. Consumer protection rules that are unique to the FDIC include regulations designed to ensure that depositors have accurate information about the insured status of their deposits.

There are two broad types of effects on consumers that are of interest for the analysis. One is how the rule may affect the potential for consumer harm, and the other is how the rule may affect the

availability and cost of financial services. Just as with the evaluation of safety and soundness issues, historical or other evidence may sometimes help shed light on the potential effects of rules on consumers, although often the analysis will be qualitative.

It also is worth emphasizing that bank customers can be affected by any rules that affect the availability and cost of financial services. In the absence of consumer harm issues, a lower cost and higher quantity of financial services would generally be viewed as a benefit to bank customers, while a higher cost and lower quantity of financial services would generally be viewed as a cost to them. The analysis should consider these types of costs and benefits. For purposes of clearly delineating distinct issues in the analysis, under the approach described in this document these types of benefits and costs would be considered under other headings in Table 1, specifically, “Effects on availability of bank credit and financial services,” and “Effects on economic performance.”

(c) Effects on the Potential for Illicit Use of the Financial System

In its examination program, the FDIC enforces compliance with the Bank Secrecy Act and other mandates designed to guard against illicit use of the financial system, and some FDIC regulations (part 326, part 353) directly support the achievement of these mandates. It also is possible that some regulatory actions in the area of cybersecurity, or other regulations designed to limit operational risks, could have indirect effects on the potential for illicit use of the financial system. The analysis should consider such issues to the extent they are applicable.

(d) Effects on the FDIC’s Statutory Resolution Functions

Some FDIC rules relate to the resolution process for failing banks. Examples include rules governing the

insurance coverage of various types of deposits, recordkeeping requirements, resolution plan requirements, rules for the treatment of qualified financial contracts, rules governing the use of the FDIC's orderly liquidation authority, customer notifications in the event a bank assumes another bank's deposits or voluntarily relinquishes its deposit insurance coverage, and other matters.

Changes to these rules could bring various types of costs and benefits. Generally speaking, changes that would increase insurance coverage would tend to reduce the likelihood of panic deposit withdrawals. This would reduce the risk of bank runs but could also be associated with greater moral hazard, and the transfer of risk to the FDIC. Changes to record keeping requirements or resolution plan requirements could increase (or decrease) information available to the FDIC to effect non-disruptive, cost-effective resolutions, while increasing (or decreasing) costs to institutions required to comply with such requirements. Rule changes that affected the type of resolution selected could affect the gross cash flows associated with resolutions as well as their net cost. The importance and relative magnitudes of all such effects would depend on the specifics of the rule change under consideration. The analysis should consider such issues to the extent they are applicable.

(e) Effects on the FDIC's DIF

Maintaining an adequate DIF and a system of assessments to ensure that the cost of bank failures is not borne by taxpayers is a core mission of the FDIC. Rules directly related to assessments and the DIF can have important effects that should be analyzed, as noted below. Other rules, particularly in the safety and soundness area, could indirectly affect insurance fund losses and hence the size and adequacy of the DIF. Consequently, the analysis of any rule should consider whether there are potential effects on the DIF.

Part 327 of the FDIC's regulations governs the calculation and collection of deposit insurance assessments and the FDIC's management of the DIF. In principle, changes to these rules could have a variety of effects. For example, changes in the target size of the DIF might affect the volatility of assessment expenses over time, with lower fund sizes expected to increase the need for large premium increases, FDIC borrowings from Treasury, or both, during periods of economic stress. Changes in the method of assessing premiums could affect the distribution of assessments paid by different types of banks, and potentially could affect

incentives for banks to hold certain types of assets or incur certain types of liabilities, depending upon the specific risk gradations reflected in the assessment system. Changes in regulatory definitions of Consolidated Reports of Condition and Income (Call Report) entries used to calculate assessments could have indirect effects on assessments collected, absent offsetting changes to the assessment system. Analysis of the effects of rules should identify such assessments-related effects and evaluate their significance.

(f) Effects on the Availability of Bank Credit and Other Financial Services

The ability to provide credit and other financial services to the U.S. economy is one of the hallmarks of a healthy banking system. In turn, many regulations can directly or indirectly affect the cost and availability of credit and other financial services. Thus, consideration of the potential effects of changes in regulations on the supply of credit and other financial services should be part of any analysis of the costs and benefits of regulations (henceforth, "credit" will be used as a shorthand for "credit and other financial services" unless otherwise clear from the context).

An illustrative but incomplete list of regulations that could potentially affect the cost, availability and characteristics of credit include requirements regarding capital, liquidity, proprietary trading and stress testing; real estate, appraisal and mortgage underwriting regulations; loan-to-one-borrower and other concentration limits; data collection and disclosure requirements; flood insurance; the Community Reinvestment Act; and many others.

The analysis should consider the potential links between changes in the regulation and changes in the amount or nature of credit that might reasonably be expected to result. Rules that reduce the cost of providing credit would generally be expected to increase its availability, and conversely. As noted in the section titled "Effects on U.S. economic performance," the analysis also should consider whether such rules give rise to countervailing safety and soundness or consumer harm effects. For some types of rules, historical experience or other analysis may provide insight into potential effects. Sometimes, however, there may be little in the way of historical experience or other evidence to guide the analysis, and the discussion will primarily be qualitative.

(g) Compliance Costs or Profitability Effects on Banks or the Public

The analysis of rules should consider effects on banks' regulatory compliance costs and their profitability. This will facilitate identifying the effects of rules on an important class of stakeholders, and is necessary to satisfy specific statutory mandates to identify the effects of rules on small banks. The identification of costs and profitability effects on banks, along with lending effects as discussed earlier, are closely connected to evaluating the effects of rules on broader economic performance.

The analysis of compliance costs should include the identification, and quantification if possible, of: (i) Direct costs of compliance; (ii) opportunity costs of resources used to comply with the action; and (iii) effects that may arise from behavioral changes induced or incentivized by the action. Bank profitability may be affected by these changes in compliance costs, and also by changes in the volume of lending or other activities, or changes in the composition of assets or liabilities.

It may be difficult to estimate potential changes in bank compliance costs or profitability resulting from regulatory actions. Call Report-based analysis of cost and revenue trends may sometimes shed light on the potential range of effects of some rules, and the insights of subject matter experts and commenters may also be informative. For some regulatory actions, it may be beneficial to gather information from banks or other stakeholders prior to the proposal stage.

The analysis should consider the potential for changes in compliance costs or bank profitability to interact with other policy considerations in ways that affect the public interest. For example, rule changes that reduce banks' compliance expense or increase their profitability should also be analyzed from the perspective of whether there are accompanying issues of consumer harm or adverse changes in bank safety and soundness. To ensure clear delineation of distinct issues in the analysis, these issues should be addressed under separate headings regarding safety and soundness effects and effects on consumers.

(h) Effects on U.S. Economic Performance

The analysis should consider how the various individual effects discussed in other headings might interact to affect economic performance over time. This roughly corresponds to Circular A-4's guidance that costs and benefits should be considered from a broad economic

perspective.⁸ This is not to suggest that short-term maximization of economic activity is the goal of bank regulation. Nonetheless, some concept of how rules might affect economic output through time, if this were estimable, would be a relevant consideration in evaluating the effects of rules.

If a rule results in some expansion or contraction in bank lending or other financial services, it is reasonable to expect some corresponding effect on measured U.S. economic output. For most rules such effects are likely negligible, but some rules could have effects that are important enough to warrant notice, and the analysis should consider whether this might be the case.

Next, if a rule has potentially material safety and soundness effects such that the likely frequency or severity of troubled or failed banks is affected, effects on economic output would also be expected. An increase in the volume of troubled and failed banks would be expected to have negative effects on economic output. In the extreme, banking crises may have substantially adverse spillover effects on economic output. Conversely, avoiding the adverse effects on economic output of bank failures might, all else equal, result in a steadier level of output through time. Some rules may present a tradeoff in which some potentially stimulative effects need to be evaluated relative to the possibility of longer-term adverse effects on safety and soundness, or in which some potential long-term safety and soundness benefit needs to be evaluated relative to some possible dampening of bank activity.

Similar considerations apply to rules that strengthen or weaken consumer protections. Removal of restrictions, or reductions in compliance expenses, for example, could be expected to reduce the cost of affected financial products and increase their dollar volume, with a resulting increase in economic activity. If the result could include an eventual increase in the frequency or severity of consumer harm, however, there could be ramifications to the affected consumers and thus the broader economy.

Effects on economic output of rules are inherently difficult to quantify, and even more so when there are tradeoffs

involving potential future safety and soundness or consumer harm effects. Quantified estimates would generally be obtainable only by making a number of assumptions, each of which is subject to uncertainty. Transparency requires that decision makers and commenters should be informed about the assumptions, and the nature of the uncertainty surrounding such assumptions and the analysis in general.

(i) Distributional Effects

Changes in rules can cause a variety of distributional effects. Some rules can increase, or decrease, incomes of entities that provide services to banks. Capital requirements, by affecting the mix of debt and equity at banks, can affect the portion of bank funding costs that is tax-deductible interest. This can change banks' tax obligations, resulting in a transfer between banks and the Treasury. Changes in deposit insurance premiums can affect the distribution across banks of the cost of funding the deposit insurance system. Consumer protection rules can potentially have distributional effects as between banks and their customers. Safety and soundness rules can increase or decrease the assessments cost to well-run banks of paying for future bank failures, and can affect the cash needed to resolve financial system stress.

Distributional effects by their nature may not be associated with any change in economic output, and it might be said of such effects that one person's benefit is another person's cost. Distributional effects nonetheless are often of great interest and concern to the parties affected by rules, decision makers need to be aware of them, and accordingly they should be identified as part of the analysis.

(j) Other Significant Issues, if Identified

Some rules may give rise to issues not covered by the list in Table 1. Examples could include rules that could have effects on wages or on state, local and tribal governments—effects that are required to be identified as part of major rule recommendations. The analysis should address these issues as applicable.

Request for Comment

The FDIC seeks comment on all aspects of this RFI. With regard to the substance of regulatory analysis, the FDIC is interested both in commenters' broad views, and in examples of analytical approaches, or sources of data or other information, that may assist in the analysis of specific rules or classes of rules. Topics of interest include but are not limited to the following.

- Appropriate concepts for identifying the broad economic benefits and costs of changes in bank regulation;
- Effects of changes in regulations on the safety and soundness of banks;
- Effects of changes in regulations on the incidence of consumer harm;
- Effects of changes in regulations on the achievement of the FDIC's statutory objectives regarding failure resolution or the deposit insurance system;
- Ways to achieve statutory mandates in the most efficient and effective manner;
- Approaches to anticipating potential unintended consequences of regulatory changes;
- Effects of changes in regulations on the cost and availability of bank credit or other financial services;
- Effects of changes in regulations on the direct and indirect costs banks incur to comply with these regulations;
- How to evaluate the effects of changes in banks' compliance responsibilities on the achievement of statutory objectives regarding safety and soundness, consumer protection or other matters;
- Effects of changes in the cost and availability of bank financial services on U.S. economic output;
- Effects of changes in bank regulation on the frequency or severity of bank failures or banking crises, and consequent effects on U.S. economic output; and
- Distributional effects of changes in bank regulation.

The FDIC is also seeking comment on an issue regarding the format and presentation of regulatory analysis. Specifically, Circular A-4 recommends the use of accounting tables to summarize the analysis.⁹ Such tables are intended to identify key costs and benefits of rules, including costs and benefits that are monetized, quantified but not monetized, and not quantified.

The FDIC believes there are arguments for and against the use of such tables to summarize the analysis of bank regulations. On the one hand, there often may be an insufficient basis for quantifying key costs and benefits associated with banking rules. The result may be that such tables could tend to be sparse, in the sense of containing few or no numbers. Comparisons between quantified and non-quantified benefits and costs in such tables could be misleading, and quantified estimates could only be understood relative to a clear discussion of underlying assumptions and uncertainties. There also may be costs or benefits that do not easily fit into a

⁸ See, for example, the A-4 discussions on pages 15, 19 and 38, to the general effect that the goal of analysis is to identify effects on all U.S. citizens and residents, that the proper measure of net benefits is the sum of producer surplus and consumer surplus, and that costs or benefits to individual groups in the form of transfers are to be viewed as distinct from, for example, "costs to society" (page 38, emphasis added) and therefore not to be included in costs and benefits identified as such by the analysis.

⁹ See Circular A-4, pages 44-47.

standardized tabular format, so that the rigidity of the table might make it more difficult to present the analysis than in a textual narrative.

On the other hand, including such tables in a regulatory analysis could potentially provide a high-level snapshot of how the FDIC viewed key costs and benefits of the rule in one place. Completing such tables may also serve to encourage a more systematic consideration of the effects of rules, including drawing distinctions between effects on specific stakeholder groups, distributional effects and transfers, and broad economic benefits and costs.

The FDIC is interested in commenters' views on the usefulness of accounting tables such as those found in OMB Circular A-4 for presenting the results of the analysis of changes in bank regulations.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on November 19, 2019.

Annamarie H. Boyd,

Assistant Executive Secretary.

[FR Doc. 2019-25928 Filed 11-27-19; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, with revision, the Report of Selected Balance Sheet Items for Discount Window Borrowers (FR 2046; OMB No. 7100-0289). The revisions are applicable immediately.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452-3829.

Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into

OMB's public docket files. These documents also are available on the Federal Reserve Board's public website at <https://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears above.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are placed into OMB's public docket files.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, With Revision, of the Following Information Collection

Report title: Report of Selected Balance Sheet Items for Discount Window Borrowers.

Agency form number: FR 2046.

OMB control number: 7100-0289.

Effective Date: Immediately.

Frequency: On occasion.

Respondents: Depository institutions.

Estimated number of respondents:

Primary and Secondary Credit, 1; Seasonal Credit, 83; Seasonal Credit, borrower in questionable financial condition, 1.

Estimated average hours per response: Primary and Secondary Credit, 0.75 hours; Seasonal Credit, 0.25 hours; Seasonal Credit, borrower in questionable financial condition, 0.75 hours.

Estimated annual burden hours: Primary and Secondary Credit, 1 hour; Seasonal Credit, 376 hours; Seasonal Credit, borrower in questionable financial condition, 1 hour.

General description of report: The balance sheet data collected on the FR 2046 report from certain institutions that borrow from the discount window are used to monitor discount window borrowing. The Board's Regulation A, Extensions of Credit by Federal Reserve Banks (12 CFR 201), requires that Reserve Banks review balance sheet data in determining whether to extend credit and to help ascertain whether undue use is made of such credit. The FR 2046 report is primarily used to assess appropriate use of seasonal credit. Certain depository institutions that borrow from the discount window report on the FR 2046 certain balance sheet data for a period that encompasses the dates of borrowing.

Legal authorization and confidentiality: The FR 2046 report is authorized pursuant to sections 4(8), 10B, and 19(b)(7) of the Federal Reserve Act ("FRA"), 12 U.S.C. 301, 347b, and 461(b)(7), respectively, which authorize Federal Reserve Banks to provide discounts or advances to a member bank or other depository institution and to demand notes secured to the satisfaction of each Reserve Bank, and authorize the Board to establish rules and regulations under which a Reserve Bank may extend such credit. Specifically, section 4(8) of the FRA, 12 U.S.C. 301, requires each Reserve Bank to keep itself informed of the general character and amount of the loans and investments of a depository institution "with a view to ascertaining whether undue use is being made of bank credit," and instructs that, "in determining whether to grant or refuse advances, rediscounts, or other credit accommodations, the Federal Reserve Bank shall give consideration to such information." Section 4(8) of the FRA also authorizes the Board to "prescribe regulations further defining . . . the conditions under which discounts, advancements, and the accommodations may be extended to member banks." Section 10B of the FRA, 12 U.S.C. 347b, permits Federal Reserve Banks to make advances to member banks "under rules and regulations prescribed by the Board." Section 19(b)(7) of the FRA, 12 U.S.C. 461(b)(7), provides that any depository institutions that hold reservable deposits are entitled to the same discount and borrowing privileges as member banks.

In addition, section 9(6) of the FRA, 12 U.S.C. 324, which requires state member banks to file reports of condition and of the payment of dividends with the Federal Reserve, provides authority to collect balance sheet information from state member banks. Sections 2A and 11 of the FRA, 12 U.S.C. 225a and 248(a)(2) and (i), respectively, as well as section 7(c)(2) of the International Banking Act, 12 U.S.C. 3105(c)(2), authorize the Board to collect balance sheet data from domestically chartered commercial banks and U.S. branches and agencies of foreign banks.

The Federal Reserve publishes aggregate data on discount window lending, which does not identify individual borrowers. In addition, the Dodd-Frank Wall Street Reform and Consumer Protection Act requires the Board to publish certain information on individual discount window borrowers and transactions (*i.e.*, the identity of the borrower, the amount that was borrowed, the interest rate, and the

types and amounts of collateral or assets pledged) after approximately a two year lag.¹ The FR 2046 report is considered confidential until the fact that the institution borrowed from the discount window is disclosed. Until this point, the release of this report would reveal confidential commercial information about the borrower (*i.e.*, the fact that the institution borrowed from the discount window, as only borrowers are required to file this form), which is reasonably likely to cause substantial harm to the competitive position of the institution that submitted the report if the institution is prematurely identified. Thus, the report is kept confidential under exemption 4 of the Freedom of Information Act (“FOIA”), 5 U.S.C. 552(b)(4), which protects from disclosure “trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential.” Once the fact that an institution borrowed from the discount window is disclosed, the FR 2046 report is no longer considered confidential in the event a FOIA request is received.

Current actions: On July 19, 2019, the Board published a notice in the **Federal Register** (84 FR 34890) requesting public comment for 60 days on the extension, with revision, of the FR 2046. The Board proposed to update data element definitions to account for the introduction of the FFIEC 051 reporting form. In addition, the face of the FR 2046 report will be updated to (1) reflect all of the legal statutes that authorize the collection of the report; (2) indicate that the report is “authorized” (not “required”) by law; and (3) clarify that, if the report is requested under the FOIA, the report will be treated as confidential unless the borrower’s identity has already been disclosed pursuant to the two year lag provided under the Dodd-Frank Wall Street Reform and Consumer Protection Act.² The comment period for this notice expired on September 17, 2019. The Board did not receive any comments. The revisions will be implemented as proposed.

Board of Governors of the Federal Reserve System, November 22, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2019–25842 Filed 11–27–19; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners’ Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association.

The applications listed below are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on whether the proposed transaction complies with the standards enumerated in the HOLA (12 U.S.C. 1467a(e)).

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than December 27, 2019.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Eaton Federal Mutual Holding Company and Eaton Federal Stock Holding Company, both of Charlotte, Michigan;* to become a mutual savings and loan holding company and a mid-tier stock savings and loan holding company, respectively, by acquiring Eaton Federal Savings Bank, Charlotte, Michigan.

Board of Governors of the Federal Reserve System, November 22, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–25825 Filed 11–27–19; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes

and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, 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 the BHC Act (12 U.S.C. 1842(c)).

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 Street and Constitution Avenue NW, Washington DC 20551–0001, not later than December 30, 2019.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Bosshard Financial Group, Inc., La Crosse, Wisconsin;* to merge with Northern Bankshares, Inc., and thereby indirectly acquire McFarland State Bank, both of McFarland, Wisconsin.

Board of Governors of the Federal Reserve System, November 25, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–25900 Filed 11–27–19; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, with revision, the Interchange Transaction Fees Survey. The revisions are applicable as of the collection of calendar year 2019.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—

¹ See 12 U.S.C. 248(s).

² 12 U.S.C. 248(s).

Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files. These documents also are available on the Federal Reserve Board's public website at <https://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears above.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are placed into OMB's public docket files.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, With Revision, of the Following Information Collection

Report title: Interchange Transaction Fees Survey.

Agency form number: FR 3064.

OMB control number: 7100-0344.

Effective date: The revisions are effective for the collection of calendar year 2019.

Frequency: Annually.

Respondents: Debit card issuers and payment card networks.

Estimated number of respondents: FR 3064a, 541 respondents; and FR 3064b, 15 respondents.

Estimated average hours per response: FR 3064a, 160 hours; and FR 3064b, 75 hours.

Estimated annual burden hours: FR 3064a, 86,560 hours; and FR 3064b, 1,125 hours.

General description of report: The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) requires the Board to disclose, at least every two years, such aggregate or summary information concerning the costs incurred for, and interchange transaction fees received by, issuers with respect to debit card transactions as the Board considers appropriate or in the public interest. The data from these surveys are used in fulfilling that disclosure requirement. In

addition, the Board uses data from the payment card network survey (FR 3064b) to publicly report on an annual basis the extent to which networks have established separate interchange fees for exempt and covered issuers.¹ Finally, the Board uses the data from these surveys in determining whether to propose revisions to the interchange fee standards in Debit Card Interchange Fees and Routing (Regulation II) (12 CFR part 235). The Dodd-Frank Act provides the Board with authority to require debit card issuers and payment card networks to submit information in order to carry out provisions of the Dodd-Frank Act regarding interchange fee standards.

Legal authorization and confidentiality: The FR 3064 is authorized by subsection 920(a) of the Electronic Fund Transfer Act, which was amended by section 1075(a) of the Dodd-Frank Act.² This statutory provision requires the Board, at least once every two years,³ to disclose aggregate or summary information concerning the costs incurred and interchange transaction fees charged or received by issuers or payment card networks in connection with the authorization, clearance or settlement of electronic debit transactions as the Board considers appropriate and in the public interest.⁴ It also provides the Board with authority to require issuers and payment card networks to provide information to enable the Board to carry out the provisions of the subsection.⁵ The FR 3064 is mandatory. In accordance with the statutory requirement, the Board releases aggregate or summary information from the survey responses. In addition, the Board releases, at the network level, the percentage of total number of transactions, the percentage of total value of transactions, and the average transaction value for exempt and non-exempt issuers obtained on the FR 3064b. The Board has determined to release this information both because it can already be determined mathematically based on the information the Board currently releases on average interchange fees and because the Board believes the release of such information may be useful to issuers and merchants in choosing payment card networks in which to participate

¹ Average debit card interchange fee by payment card network <http://www.federalreserve.gov/paymentsystems/regii-average-interchange-fee.htm>.

² 15 U.S.C. 1693o-2.

³ The subsection refers to bi-annual disclosures and the Board interprets this to mean once every two years. See 76 FR 43458.

⁴ 15 U.S.C. 1693o-2(a)(3)(B).

⁵ *Id.*

and to policymakers in assessing the effect of Regulation II on the level of interchange fees received by issuers over time.

The remaining individual issuer and payment card information collected on these surveys may be kept confidential under exemption (b)(4) of the Freedom of Information Act (FOIA) to the extent that, if released, this information would cause substantial harm to the competitive position of the survey respondents.⁶

Current actions: On August 12, 2019, the Board published a notice in the **Federal Register** (84 FR 39847) requesting public comment for 60 days on the extension, with revision, of the FR 3064. The Board proposed revisions to the FR 3064a to (1) remove the breakout of interchange fees reimbursed to acquirers as a result of chargebacks or returns, (2) add tokenization as an option for fraud prevention activity, and (3) update the survey instructions and glossary terms to improve clarity. In addition, the Board proposed revisions to the FR 3064b to (1) remove a question about the number of merchant establishments, (2) remove questions about offering an interchange fee schedule that differentiates between exempt and non-exempt issuers, (3) remove questions about refunds of interchange fees to acquirers for chargebacks and returns, and (4) update the survey instructions and glossary of terms to improve clarity. The comment period for this notice expired on October 11, 2019. The Board did not receive any comments. The revisions will be implemented as proposed.

Board of Governors of the Federal Reserve System, November 22, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2019-25822 Filed 11-27-19; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage de novo, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or

⁶ See 5 U.S.C. 552(b)(4) (exempting from disclosure "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential").

other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the 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 Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than December 12, 2019.

A. *Federal Reserve Bank of St. Louis* (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166-2034. Comments can also be sent electronically to

Comments.applications@stls.frb.org:

1. *First Waterloo Bancshares, Inc., Waterloo, Illinois*; to acquire Best Hometown Bancorp, Inc., and thereby indirectly acquire Best Hometown Bank, both of Collinsville, Illinois, and thereby operate a savings association pursuant to section 4(c)(8) of the BHC Act.

Board of Governors of the Federal Reserve System, November 22, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019-25817 Filed 11-27-19; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS-1500/1490S, CMS-10704 and CMS-10338]

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 30, 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:* Extension without change of a currently approved collection; *Title of Information Collection:* Health Insurance Common Claims Form and Supporting Regulations at 42 CFR part 424, subpart C (CMS-1500 and CMS-1490S); *Use:* Social Security Act, Part E, Section 1861(s) provides definition of services and institutions covered under the Act. The CMS-1500 is used to bill for services covered under section 1861(a)(1) by persons entitled to payment for such services. Benefits are paid either to the physician/supplier under an agreement, the beneficiary on the basis of an itemized bill per section 1842(b)(3)(B)(i) and (ii) of the Social Security Act, or to an organization authorized to receive payment per 1842(b)(6).

The CMS-1500 and the CMS-1490S forms are used to deliver information to CMS in order for CMS to reimburse for provided services. Medicare Administrative Contractors use the data collected on the CMS-1500 and the CMS-1490S to determine the proper amount of reimbursement for Part B medical and other health services (as listed in section 1861(s) of the Social Security Act) provided by physicians and suppliers to beneficiaries. The CMS-1500 is submitted by physicians/suppliers for all Part B Medicare. Serving as a common claim form, the CMS-1500 can be used by other third-party payers (commercial and nonprofit health insurers) and other Federal programs (e.g., TRICARE, RRB, and Medicaid). As the CMS-1500 displays data items required for other third-party payers in addition to Medicare, the form is considered too complex for use by beneficiaries when they file their own claims. Therefore, the CMS-1490S (Patient's Request for Medical Payment) was explicitly developed for easy use by beneficiaries who file their own claims. The English and Spanish version CMS-1490S form (version 01/18) can be obtained from a Medicare Administrative Contractor or online. *Form Number:* CMS-1500/1490S (OMB control number: 0938-1197); *Frequency:* Yearly; *Affected Public:* State, Local, or

Tribal Governments; *Number of Respondents:* 2,029,505; *Total Annual Responses:* 1,033,839,906; *Total Annual Hours:* 18,847,500. (For policy questions regarding this collection contact Charlene Parks at 410-786-8684.)

2. Type of Information Collection Request: Extension of a currently approved collection; **Title of Information Collection:** Health Reimbursement Arrangements and Other Account-Based Group Health Plans; **Use:** On June 20, 2019, the Department of the Treasury, the Department of Labor, and the Department of Health and Human Services (collectively, the Departments) issued final regulations titled “Health Reimbursement Arrangements and Other Account-Based Group Health Plans” (84 FR 28888) under section 2711 of the PHS Act and the health nondiscrimination provisions of HIPAA, Public Law 104-191 (HIPAA nondiscrimination provisions). The regulations expand the use of health reimbursement arrangements and other account-based group health plans (collectively referred to as HRAs). In general, the regulations expand the use of HRAs by eliminating the current prohibition on integrating HRAs with individual health insurance coverage, thereby permitting employers to offer individual coverage HRAs to employees that can be integrated with individual health insurance coverage or Medicare. Under the regulations employees will be permitted to use amounts in an individual coverage HRA to pay expenses for medical care (including premiums for individual health insurance coverage and Medicare), subject to certain requirements. This information collection includes provisions related to substantiation of individual health insurance coverage (45 CFR 146.123(c)(5)), the notice requirement for individual coverage HRAs (45 CFR 146.123(c)(6)), and notification of termination of coverage (45 CFR 146.123(c)(1)(iii)). **Form Number:** CMS-10704 (OMB Control Number 0938-1361); **Frequency:** Annually; **Affected Public:** Private Sector, State Governments; **Number of Respondents:** 2,005; **Total Annual**

Responses: 273,492; **Total Annual Hours:** 6,016. (For policy questions regarding this collection contact Usree Bandyopadhyay at 410-786-6650.)

3. Type of Information Collection Request: Extension without change of a currently approved collection; **Title of Information Collection:** Affordable Care Act Internal Claims and Appeals and External Review Procedures for Non-grandfathered Group Health Plans and Issuers and Individual Market Issuers; **Use:** The information collection requirements ensure that claimants receive adequate information regarding the plan’s claims procedures and the plan’s handling of specific benefit claims. Claimants need to understand plan procedures and plan decisions in order to appropriately request benefits and/or appeal benefit denials. The information collected in connection with the HHS-administered federal external review process is collected by HHS, and is used to provide claimants with an independent external review. **Form Number:** CMS-10338 (OMB control number: 0938-1099); **Frequency:** Occasionally; **Affected Public:** State, Local, or Tribal Governments; **Number of Respondents:** 109,653; **Total Annual Responses:** 4,711; **Total Annual Hours:** 1,195,626. (For policy questions regarding this collection contact Laura Byabazaire at 410-786-6650.)

Dated: November 25, 2019.

William N. Parham, III,
Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2019-25861 Filed 11-27-19; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Intergovernmental Reference Guide (IRG) OMB #0970-0209

AGENCY: Office of Child Support Enforcement, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Intergovernmental Reference Guide (IRG) is a centralized and automated repository of state and tribal profiles that contains high-level descriptions of each state and tribal child support enforcement (CSE) program. These profiles provide state, tribal, and foreign country CSE agencies with an effective and efficient method for updating and accessing information needed to process intergovernmental child support cases.

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, 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: The Office of Child Support Enforcement (OCSE) is proposing to add a new section (Section O) with six questions pertaining to family violence in the state profile. This will help process intergovernmental cases with family violence and help ensure the safety of children and families. OCSE is also proposing to delete Sections A-L (140 questions) from the tribal profile and create new sections (Sections A-D) with 11 questions regarding case processing. This will assist in the efficient processing of paternity and support obligations.

Respondents: State and tribal CSE agencies.

ANNUAL BURDEN ESTIMATES

Information collection instrument	Total number of respondents	Number of responses per respondent	Average burden hour per response	Annual burden hours
IRG: State Profile Guidance (states and territories)	54	18	0.3	292
IRG: Tribal Profile Guidance	62	18	0.3	335

Estimated Total Annual Burden Hours: 627.

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 for the IRG information collection activities is: (1) 42 U.S.C. 652(a)(7), which requires the federal OCSE to provide technical assistance to state child support enforcement agencies to help them establish effective systems for collecting child and spousal support; (2) 42 U.S.C. 666(f), which requires states to enact the Uniform Interstate Family Support Act; (3) 45 CFR 301.1, which defines an intergovernmental case to include cases between states and tribes; (4) 45 CFR 303.7, which requires state CSE agencies to provide services in intergovernmental cases; and (5) 45 CFR 309.120, which requires a tribal child support program to include intergovernmental procedures in its tribal IV-D plan.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2019-25851 Filed 11-27-19; 8:45 am]

BILLING CODE 4184-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2019-N-1537]

James R. Casey: Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) debarring James R. Casey for a period of 5 years from importing articles of food or offering such articles for importation into the United States. FDA bases this order on a finding that Mr. Casey was

convicted, as defined in the FD&C Act, of a felony count under Federal law for conduct relating to the importation into the United States of an article of food. Mr. Casey was given notice of the proposed permanent debarment and an opportunity to request a hearing within the timeframe prescribed by regulation. As of June 30, 2019 (thirty days after receipt of the notice), Mr. Casey had not responded. Mr. Casey's failure to respond and request a hearing constitutes a waiver of his right to a hearing concerning this matter.

DATES: This order is applicable November 29, 2019.

ADDRESSES: Submit applications for termination of debarment to the Division of Dockets Management, Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Jaime Espinosa (ELEM-4029) Division of Enforcement, Office of Strategic Planning and Operational Policy, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857 or at debarments@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(1)(C) of the FD&C Act (21 U.S.C. 335a(b)(1)(C)) permits FDA to debar an individual from importing an article of food or offering such an article for import into the United States if FDA finds, as required by section 306(b)(3)(A) of the FD&C Act (21 U.S.C. 335a(b)(3)(A)), that the individual has been convicted of a felony for conduct relating to the importation into the United States of any food.

On January 9, 2019, Mr. Casey was convicted as defined in section 306(l)(1)(B) of the FD&C Act, in the United States District Court for the Eastern District of Virginia, when the court accepted his plea of guilty and entered judgment against him for the offense of conspiracy to violate the Lacey Act in violation of 18 U.S.C. 371 and 16 U.S.C. 3372(d) and 3373(d)(3)(A)(ii).

FDA's finding that the debarment is appropriate is based on the felony conviction referenced herein. The factual basis for this conviction is as follows: As contained in the Stipulation of Facts incorporated into Mr. Casey's Plea Agreement, filed on September 26, 2018, from on or about 2010 to June 2015, while serving as the owner, operator, and President of Casey's Seafood, Inc. ("the company"), Mr. Casey regularly purchased foreign crab meat from a variety of sources and from a number of different countries. Mr.

Casey also purchased foreign crab meat that had been recalled, returned, or that was approaching or beyond its posted "best used by" dates. Mr. Casey directed company employees to unpack the foreign crab meat from containers and re-pack the crab meat into company containers, all of which were labeled "Product of USA." During that time period, employees routinely emptied foreign crab meat onto tables, comingling crab meat from different sources, and then re-packaged the crab meat into company containers, all of which were labeled "Product of USA." From on or about July 1, 2012 and continuing until June 17, 2015, Mr. Casey caused to be sold at least 367,765 pounds of crab meat falsely labeled "Product of USA" with a total wholesale value of approximately \$4,324,916.

As a result of this conviction, FDA sent Mr. Casey by certified mail on May 22, 2019, a notice proposing to debar him a period of 5 years from importing articles of food or offering such articles for import into the United States. The proposal was based on a finding under section 306(b)(1)(C) of the FD&C Act (21 U.S.C. 335a(b)(1)(C)) that Mr. Casey's felony conviction of conspiracy to violate the Lacey Act in violation of 18 U.S.C. 371 and 16 U.S.C. 3372(d) and 3373(d)(3)(A)(ii) constitutes conduct relating to the importation into the United States of an article of food because the offense he committed involved falsely labeling crab meat that was imported from a number of foreign countries as "Product of USA."

The proposal was also based on a determination, after consideration of the relevant factors set forth in section 306(c)(3) of the FD&C Act, that Mr. Casey should be subject to a 5-year period of debarment. The proposal also offered Mr. Casey an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Mr. Casey failed to respond within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and waived any contentions concerning his debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Assistant Commissioner, Office of Human and Animal Food Operations, under section 306(b)(1)(C) of the FD&C Act, under authority delegated to the Assistant Commissioner, finds that Mr. Casey has

been convicted of a felony count under Federal law for conduct relating to the importation into the United States of an article of food and that he is subject to a 5-year period of debarment.

As a result of the foregoing finding, Mr. Casey is debarred for a period of 5 years from importing articles of food or offering such articles for import into the United States, effective (see DATES). Pursuant to section 301(cc) of the FD&C Act (21 U.S.C. 331(cc)), the importing or offering for import into the United States of an article of food by, with the assistance of, or at the direction of Mr. Casey is a prohibited act.

Any application by Mr. Casey for termination of debarment under section 306(d)(1) of the FD&C Act should be identified with Docket No. FDA-2019-N-1537 and sent to the Dockets Management Staff (see ADDRESSES). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20.

Publicly available submissions will be placed in the docket, and will be viewable at <http://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 22, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019-25848 Filed 11-27-19; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2013-N-0879]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Procedures for the Safe and Sanitary Processing and Importing of Fish and Fishery Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by December 30, 2019.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202-395-7285, or emailed to oira_submission@omb.eop.gov. All comments should be identified with the OMB control number 0910-0354. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-5733, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Procedures for the Safe and Sanitary Processing and Importing of Fish and Fishery Products—21 CFR part 123

OMB Control Number 0910-0354—Extension

This information collection supports regulations in part 123 (21 CFR part 123), which mandate the application of hazard analysis and critical control point (HACCP) principles to the processing of seafood. HACCP is a preventive system of hazard control designed to help ensure the safety of foods. The regulations were issued under FDA's statutory authority to regulate food safety, including section 402(a)(1) and (4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(a)(1) and (4)).

Certain provisions in part 123 require that processors and importers of seafood collect and record information. The HACCP records compiled and maintained by a seafood processor primarily consist of the periodic observations recorded at selected monitoring points during processing and packaging operations, as called for in a processor's HACCP plan (e.g., the values for processing times, temperatures, acidity, etc., as observed at critical control points). The primary purpose of HACCP records is to permit a processor to verify that products have been produced within carefully established processing parameters (critical limits) that ensure that hazards have been avoided.

HACCP records are normally reviewed by appropriately trained employees at the end of a production lot or at the end of a day or week of production to verify that control limits have been maintained, or that appropriate corrective actions were taken if the critical limits were not maintained. Such verification activities are essential to ensure that the HACCP system is working as planned. A review of these records during the conduct of periodic plant inspections also permits FDA to determine whether the products have been consistently processed in conformance with appropriate HACCP food safety controls.

Section 123.12 requires that importers of seafood products take affirmative steps and maintain records that verify that the fish and fishery products they offer for import into the United States were processed in accordance with the HACCP and sanitation provisions set forth in part 123. These records are also to be made available for review by FDA as provided in § 123.12(c).

The time and costs of these recordkeeping activities will vary considerably among processors and importers of fish and fishery products, depending on the type and number of products involved, and on the nature of the equipment or instruments required to monitor critical control points. The burden estimate in table 1 includes only those collections of information under the seafood HACCP regulations that are not already required under other statutes and regulations. The estimate also does not include collections of information that are a usual and customary part of businesses' normal activities. For example, the tagging and labeling of molluscan shellfish (§ 1240.60 (21 CFR 1240.60)) is a customary and usual practice among seafood processors. Consequently, the estimates in table 1 account only for information collection and recording requirements attributable to part 123.

Description of Respondents: Respondents to this collection of information include processors and importers of seafood.

In the **Federal Register** of September 4, 2019 (84 FR 46544), we published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN ¹

21 CFR section ²	Number of recordkeepers	Number of records per recordkeeper ³	Total annual records	Average burden per record-keeping ⁴	Total hours
123.6(a)–(c); Prepare hazard analysis and HACCP plan	50	1	50	16	800
123.6(c)(5); Undertake and prepare records of corrective actions.	15,000	4	60,000	0.30 (18 minutes).	18,000
123.8(a)(1) and (c); Reassess hazard analysis and HACCP plan.	15,000	1	15,000	4	60,000
123.12(a)(2)(ii); Verify compliance of imports and prepare records of verification activities.	4,100	80	328,000	0.20 (12 minutes).	65,600
123.6(c)(7); Document monitoring of critical control points.	15,000	280	4,200,000	0.30 (18 minutes).	1,260,000
123.7(d); Undertake and prepare records of corrective actions due to a deviation from a critical limit.	6,000	4	24,000	0.10 (6 minutes)	2,400
123.8(d); Maintain records of the calibration of process-monitoring instruments and the performing of any periodic end-product and in-process testing.	15,000	47	705,000	0.10 (6 minutes)	70,500
123.11(c); Maintain sanitation control records	15,000	280	4,200,000	0.10 (6 minutes)	420,000
123.12(c); Maintain records that verify that the fish and fishery products they offer for import into the United States were processed in accordance with the HACCP and sanitation provisions set forth in part 123.	4,100	80	328,000	0.10 (6 minutes)	32,800
123.12(a)(2); Prepare new written verification procedures to verify compliance of imports.	41	1	41	4	164
Total					1,930,264

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

² These estimates include the information collection requirements in the following sections:

§ 123.16—Smoked Fish—process controls (see § 123.6(b));

§ 123.28(a)—Source Controls—molluscan shellfish (see § 123.6(b));

§ 123.28(c) and (d)—Records—molluscan shellfish (see § 123.6(c)(7)).

³ Based on an estimated 280 working days per year.

⁴ Estimated average time per 8-hour work day unless one-time response.

Based on a review of the information collection since our last OMB approval, we have made no adjustments to our burden estimate. We base this hour burden estimate on our experience with the application of HACCP principles in food processing. Further, the burdens have been estimated using typical small seafood processing firms as a model because these firms represent a significant proportion of the industry. The hour burden of HACCP recordkeeping activities will vary considerably among processors and importers of fish and fishery products, depending on the size of the facility and complexity of the HACCP control scheme (i.e., the number of products and the number of hazards controlled); the daily frequency that control points are monitored and values recorded; and also on the extent that data recording time and cost are minimized by the use of automated data logging technology. The burden estimate does not include burden hours for activities that are a usual and customary part of businesses' normal activities. For example, the

tagging and labeling of molluscan shellfish (§ 1240.60) is a customary and usual practice among seafood processors.

Dated: November 19, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–25857 Filed 11–27–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–0163]

Hospira, Inc., et al.; Withdrawal of Approval of Six Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is withdrawing approval of six abbreviated new drug applications (ANDAs) from

multiple applicants. The applicants notified the Agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

DATES: Approval is withdrawn as of December 30, 2019.

FOR FURTHER INFORMATION CONTACT:

Martha Nguyen, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1676, Silver Spring, MD 20993–0002, 240–402–6980, *Martha.Nguyen@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: The applicants listed in the table have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications under the process described in § 314.150(c) (21 CFR 314.150(c)). The applicants have also, by their requests, waived their opportunity for a hearing. Withdrawal of approval of an application or abbreviated application under § 314.150(c) is without prejudice to refiling.

Application No.	Drug	Applicant
ANDA 040806	Mepivacaine Hydrochloride (HCl) Injection USP, 3%, 30 milligrams (mg)/milliliter (mL).	Hospira, Inc., 275 North Field Dr., Bldg. H, Lake Forest, IL 60045.

Application No.	Drug	Applicant
ANDA 077523	Fluconazole for Oral Suspension, 50 mg/5 mL and 200 mg/5 mL.	IVAX Pharmaceuticals, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc., 425 Privet Rd., Horsham, PA 19044.
ANDA 078772	Epinephrine and Lidocaine HCl, 0.01 mg/mL; 2% and 0.02 mg/mL; 2%.	Hospira, Inc.
ANDA 079138	Articaine HCl and Epinephrine Bitartrate Injection, 4%; EQ 0.017 mg base/1.7 mL, 4%; EQ 0.01 mg base/mL.	Do.
ANDA 204236	Norethindrone Acetate Tablets, 5 mg	Aurobindo Pharma Ltd., 279 Princeton-Hightstown Rd., East Windsor, NJ 08520.
ANDA 204421	Tramadol HCl Extended-Release Tablets, 100 mg, 200 mg, and 300 mg.	Do.

Therefore, approval of the applications listed in the table, and all amendments and supplements thereto, is hereby withdrawn as of December 30, 2019. Approval of each entire application is withdrawn, including any strengths or products inadvertently missing from the table. Introduction or delivery for introduction into interstate commerce of products without approved new drug applications violates section 301(a) and (d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(a) and (d)). Drug products that are listed in the table that are in inventory on December 30, 2019 may continue to be dispensed until the inventories have been depleted or the drug products have reached their expiration dates or otherwise become violative, whichever occurs first.

Dated: November 25, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019-25901 Filed 11-27-19; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2019-D-5255]

Clinical Immunogenicity Considerations for Biosimilar and Interchangeable Insulin Products; Draft Guidance for Industry; 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 for industry entitled “Clinical Immunogenicity Considerations for Biosimilar and Interchangeable Insulin Products.” The purpose of this draft guidance is to provide recommendations to applicants

regarding whether and when comparative clinical immunogenicity studies may be needed to support licensure of proposed biosimilar and interchangeable recombinant human insulins, recombinant human insulin mix products, and recombinant insulin analog products that are intended for the treatment of patients with Type 1 or Type 2 diabetes mellitus.

DATES: Submit either electronic or written comments on the draft guidance by January 28, 2020 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA-2019-D-5255 for “Clinical Immunogenicity Considerations for Biosimilar and Interchangeable Insulin Products.” 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 the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

Sandra Benton, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 1132, Silver Spring, MD 20993, 301–796–1042; sandra.benton@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled “Clinical Immunogenicity Considerations for Biosimilar and Interchangeable Insulin Products.” The purpose of this draft guidance is to provide recommendations to applicants regarding whether and when comparative clinical immunogenicity studies may be needed to support licensure of proposed biosimilar and interchangeable recombinant human insulins, recombinant human insulin mix products, and recombinant insulin analog products that are intended for the treatment of patients with Type 1 or Type 2 diabetes mellitus (collectively referred to as “insulin products”).

Section 7002(e)(4) of the Biologics Price Competition and Innovation Act of 2009 (BPCI Act) requires that on March

23, 2020, an approved application for a biological product under section 505 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355) will be deemed to be a license for the biological product under section 351 of the Public Health Service Act (PHS Act) (42 U.S.C. 262). Although the majority of therapeutic biological products have been licensed under section 351 of the PHS Act, some protein products historically have been approved under section 505 of the FD&C Act. The BPCI Act clarified the statutory authority under which certain protein products will be regulated by amending the definition of a “biological product” in section 351(i) of the PHS Act to include a “protein (except any chemically synthesized polypeptide),” and describing procedures for submission of a marketing application for certain “biological products.”

The biological products affected by this transition include insulin products. On March 23, 2020, the approved new drug applications (NDAs) for insulin products will be deemed to be licenses under section 351(a) of the PHS Act. Such deemed BLAs will then be available to be used as reference products by applicants seeking licensure of proposed biosimilar and interchangeable insulin products under section 351(k) of the PHS Act.

This draft guidance is being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on “Clinical Immunogenicity Considerations for Biosimilar and Interchangeable Insulin Products.” 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

This draft guidance refers to information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521). The submission of an investigational new drug application is covered under 21 CFR part 312 and approved under OMB control number 0910–0014. The submission of a BLA under section 351(a) of the PHS Act is covered under 21 CFR part 601 and approved under OMB control number 0910–0338. The submission of a BLA under section 351(k) of the PHS Act is covered under 21 CFR part 601 and approved under OMB control number 0910–0719.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either <https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm> or <https://www.regulations.gov>.

Dated: November 21, 2019.

Brett P. Giroir,

Acting Commissioner of Food and Drugs.

[FR Doc. 2019–25919 Filed 11–27–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–E–4429]

Determination of Regulatory Review Period for Purposes of Patent Extension; CRYSVITA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for CRYSVITA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of applications to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of patents which claim that human biological product.

DATES: Anyone with knowledge that any of the dates as published (see the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by January 28, 2020. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by May 27, 2020. See “Petitions” in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before January 28, 2020. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of January 28, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery

service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2018-E-4429 for "Determination of Regulatory Review Period for Purposes of Patent Extension; CRYSVITA." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper

submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301-796-3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human biologic product CRYSVITA (burosumab-twza). CRYSVITA is indicated for the treatment of X-linked hypophosphatemia in adult and pediatric patients 1 year of age and older. Subsequent to this approval, the USPTO received patent term restoration applications for CRYSVITA (U.S. Patent Nos. 7,314,618; 7,883,705; and 9,290,569) from Indiana University Research and Technology Institute and Ludwig-Maximilians-Universität München, and the USPTO requested FDA's assistance in determining the patents' eligibility for patent term restoration. In a letter dated May 13, 2019, FDA advised the USPTO that this human biological product had undergone a regulatory review period and that the approval of CRYSVITA represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for CRYSVITA is 3,485 days. Of this time, 3,241 days occurred during the testing phase of the regulatory review period, while 244 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* October 3, 2008. FDA has verified the applicants' claim that the date the investigational new drug

application became effective was on October 3, 2008.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262):* August 17, 2017. FDA has verified the applicants' claim that the biologics license application (BLA) for CRYSVITA (BLA 761068) was initially submitted on August 17, 2017.

3. *The date the application was approved:* April 17, 2018. FDA has verified the applicants' claim that BLA 761068 was approved on April 17, 2018.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In the applications for patent extension, these applicants seek 5 days, 1,168 days, or 501 days, respectively, of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: Must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to <https://www.regulations.gov> at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: November 21, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–25821 Filed 11–27–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–1614]

Tzvi Lexier: Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) debarring Tzvi Lexier for a period of 10 years from importing any drug into the United States. FDA bases this order on a finding that Mr. Lexier was convicted, as defined in the FD&C Act, of one felony count under Federal law for conspiracy to smuggle into and distribute within the United States misbranded drugs and one felony count under Federal law for unlicensed wholesale distribution of prescription drugs. The factual basis supporting both felony convictions, as described below, is conduct relating to the importation into the United States of a drug or controlled substance. Mr. Lexier was given notice of the proposed debarment and, in accordance with the FD&C Act, was given an opportunity to request a hearing to show why he should not be debarred. As of August 2, 2019 (30 days after receipt of the notice), Mr. Lexier had not responded. Mr. Lexier's failure to respond and request a hearing constitutes a waiver of his right to a hearing concerning this matter.

DATES: This order is applicable November 29, 2019.

ADDRESSES: Submit applications for termination of debarment to the Dockets Management Staff, Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Jaime Espinosa, Division of Enforcement, Office of Strategic Planning and Operational Policy, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857 or at debarments@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(1)(D) of the FD&C Act (21 U.S.C. 335a(b)(1)(D)) permits debarment of an individual from importing or offering for import any drug into the United States if FDA finds, as required by section 306(b)(3)(C) of the FD&C Act, that the individual has been convicted of a felony for conduct

relating to the importation into the United States of any drug or controlled substance. On January 18, 2019, Mr. Lexier was convicted as defined in section 306(l)(1)(B) of the FD&C Act, in the United States District Court for the Eastern District of Virginia, when the court accepted his plea of guilty and entered judgment against him for the offenses of conspiracy in violation of 18 U.S.C. 371 and unlicensed wholesale distribution of prescription drugs in violation of section 301(t) of the FD&C Act (21 U.S.C. 331(t)).

FDA's finding that debarment is appropriate is based on the felony convictions referenced herein. The factual basis for these convictions is as follows: As contained in the Stipulation of Facts incorporated into the Plea Agreement, filed on October 25, 2018, from on or about April 2011 to December 2014, Tzvi Lexier conspired with certain other named individuals to smuggle into and distribute within the United States, on multiple occasions, misbranded drugs. During this time, Mr. Lexier served as a principal of SB Medical and TC Medical. In that role, he coordinated the supply of drugs from foreign countries ultimately intended for the illegal importation into and sale inside the United States. The misbranded and unapproved prescription drugs smuggled and sold in the United States by the conspiracy include: Aclasta; Mabthera; and Bonviva, as well as foreign, unapproved versions of FDA-approved drug products Actemra; Botox; Botox Cosmetic; Dysport; Lucentis; Orencia; Prolia; Remicade; and, Zometa.

As a result of this conviction, FDA sent Mr. Lexier by certified mail on June 24, 2019, a notice proposing to debar him for two consecutive 5-year periods (10 years) from importing or offering for import any drug into the United States. The proposal was based on a finding under section 306(b)(3)(C) of the FD&C Act that Mr. Lexier's felony convictions for conspiracy in violation of 18 U.S.C. 371 and unlicensed wholesale distribution of prescription drugs in violation of section 301(t) of the FD&C Act were for conduct relating to the importation into the United States of any drug or controlled substance because he conspired with others to smuggle into and distribute within the United States, on multiple occasions, misbranded drugs. In proposing a debarment period, FDA weighed the considerations set forth in section 306(c)(3) of the FD&C Act that it considered applicable to Mr. Lexier's offenses, concluded that each of these felony offenses independently warranted a five-year period of

debarment, and proposed that these debarment periods be served consecutively under section 306(c)(2)(A)(iii).

The proposal informed Mr. Lexier of the proposed debarment and offered Mr. Lexier an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Mr. Lexier received the proposal and notice of opportunity for a hearing on July 1, 2019. Mr. Lexier failed to request a hearing within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and waived any contentions concerning his debarment. (21 CFR part 12).

II. Findings and Order

Therefore, the Assistant Commissioner, Office of Human and Animal Food Operations, under section 306(b)(3)(C) of the FD&C Act, under authority delegated to the Assistant Commissioner, finds that Mr. Lexier has been convicted of two felony counts under Federal law for conduct relating to the importation into the United States of any drug or controlled substance. FDA finds that each offense should be accorded a debarment period of 5 years. Under section 306(c)(2)(A)(iii) of the FD&C Act, in the case of a person debarred for multiple offenses, FDA shall determine whether the periods of debarment shall run concurrently or consecutively. FDA has concluded that the 5-year period of debarment for each of the two offenses of conviction needs to be served consecutively, resulting in a total debarment period of 10 years.

As a result of the foregoing finding, Mr. Lexier is debarred for a period of 10 years from importing or offering for import any drug into the United States, effective (see **DATES**). Pursuant to section 301(cc) of the FD&C Act, the importing or offering for import into the United States of any drug or controlled substance by, with the assistance of, or at the direction of Mr. Lexier is a prohibited act.

Any application by Mr. Lexier for termination of debarment under section 306(d)(1) of the FD&C Act should be identified with Docket No. FDA-2019-N-1614 and sent to the Dockets Management Staff (see **ADDRESSES**). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j).

Publicly available submissions will be placed in the docket, and will be

viewable at <http://www.regulations.gov> or at the Dockets Management Staff (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 21, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019-25824 Filed 11-27-19; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2018-E-2595]

Determination of Regulatory Review Period for Purposes of Patent Extension; OZEMPIC

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for OZEMPIC and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (see the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by January 28, 2020. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by May 27, 2020. See "Petitions" in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before January 28, 2020. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of January 28, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2018-E-2595 for "Determination of Regulatory Review Period for Purposes of Patent Extension; OZEMPIC."

Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the

information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301-796-3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and

an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product OZEMPIC (semaglutide). OZEMPIC is indicated as an adjunct to diet and exercise to improve glycemic control in adults with type 2 diabetes mellitus. Subsequent to this approval, the USPTO received a patent term restoration application for OZEMPIC (U.S. Patent No. 8,129,343) from Novo Nordisk A/S, and the USPTO requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated September 18, 2018, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of OZEMPIC represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for OZEMPIC is 3,336 days. Of this time, 2,970 days occurred during the testing phase of the regulatory review period, while 366 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* October 19, 2008. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on October 19, 2008.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* December 5, 2016. FDA has verified the applicant's claim that the new drug application

(NDA) for OZEMPIC (NDA 209637) was initially submitted on December 5, 2016.

3. *The date the application was approved:* December 5, 2017. FDA has verified the applicant's claim that NDA 209637 was approved on December 5, 2017.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,040 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: Must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to <https://www.regulations.gov> at Docket No. FDA-2013-S-0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: November 21, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019-25850 Filed 11-27-19; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Physician-Focused Payment Model Technical Advisory Committee; Meetings

ACTION: Notice of meetings.

SUMMARY: This notice announces the 2020 meetings of the Physician-Focused

Payment Model Technical Advisory Committee (PTAC). These meetings will include deliberation and voting on proposals for physician-focused payment models (PFPMs) submitted by individuals and stakeholder entities. All meetings are open to the public.

DATES: The 2020 PTAC meetings will occur on the following dates:

- Monday, March 16, 2020, from 9:00 a.m. to 5:00 p.m. ET
- Monday–Tuesday, June 22–23, 2020, from 9:00 a.m. to 5:00 p.m. ET
- Tuesday–Wednesday, September 15–16, 2020, from 9:00 a.m. to 5:00 p.m. ET
- Monday–Tuesday, December 7–8, 2020, from 9:00 a.m. to 5:00 p.m. ET

Please note that times are subject to change. If the times change, registrants will be notified directly via email.

ADDRESSES: All PTAC meetings will be held in the Great Hall of the Hubert H. Humphrey Building, 200 Independence Avenue SW, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Sarah Selenich, Designated Federal Officer, (202) 690–6870.

SUPPLEMENTARY INFORMATION:

Agenda and Comments. PTAC will hear presentations on proposed PFPMs that have been submitted by individuals and stakeholder entities. Following each presentation, PTAC will deliberate on the proposed PFPM. If PTAC completes its deliberation, PTAC will vote on the extent to which the proposed PFPM meets criteria established by the Secretary of Health and Human Services and on an overall recommendation to the Secretary. Time will be allocated for public comments. The agenda and other documents will be posted on the PTAC section of the ASPE website, <https://aspe.hhs.gov/ptac-physician-focused-payment-model-technical-advisory-committee>, prior to the meeting. The agenda is subject to change. If the agenda does change, registrants will be notified directly via email, the website will be updated, and notification will be sent out through the PTAC email listserv (go to <https://list.nih.gov/cgi-bin/wa.exe?A0=PTAC> to subscribe).

Meeting Attendance. These meetings are open to the public. The public may attend in person, via conference call, or view the meeting via livestream at www.hhs.gov/live. The conference call dial-in information will be sent to registrants prior to the meeting. Space may be limited, and registration is preferred. Registration may be completed online at <http://www.cvent.com/d/gbq2tg>. Name, organization name, and email address

are submitted when registering. Registrants will receive a confirmation email shortly after completing the registration process.

Special Accommodations. If sign language interpretation or other reasonable accommodation for a disability is needed, please contact ASPE PTAC staff, no later than two weeks prior to the scheduled meeting. Please submit your requests by email to PTAC@hhs.gov or by calling 202–690–6870.

Authority. 42 U.S.C. 1395(ee); Section 101(e)(1) of the Medicare Access and CHIP Reauthorization Act of 2015; Section 51003(b) of the Bipartisan Budget Act of 2018. PTAC is governed by provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), which sets forth standards for the formation and use of federal advisory committees.

Dated: November 22, 2019.

Brenda Destro,

Deputy Assistant Secretary for Planning and Evaluation (HSP).

[FR Doc. 2019–25898 Filed 11–27–19; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Regenerative Medicine 2020.

Date: January 6, 2020.

Time: 8:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Kristin Goltry, Ph.D. Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and

Blood Institute, 6701 Rockledge Drive, Room 7198, Bethesda, MD 20892, 301–435–0297, goltryki@mail.nih.gov.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Complications of Hemolysis and Transfusion Therapy.

Date: January 16, 2020.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, RKL II, 6701 Rockledge Drive, Bethesda, MD 21892 (Telephone Conference Call).

Contact Person: Melissa E. Nagelin, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7202, Bethesda, MD 20892, 301–435–0297, nagelinmh2@nhlbi.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: November 22, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–25845 Filed 11–27–19; 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, Member Conflict: Topics in Bacterial Pathogenesis and Host Interactions, December 10, 2019, 10:00 a.m. to December 10, 2019, 5:00 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on November 19, 2019, 84 FR 63883.

The meeting start date is being changed to December 16, 2019. The meeting start time and location remains the same. The meeting is closed to the public.

Dated: November 22, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–25846 Filed 11–27–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed project or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer at (240) 276-1243. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project—"Talk. They Hear You." Campaign Evaluation: Case Study (OMB No. 0930-0373)—Extension

The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Prevention (CSAP) is requesting approval from the Office of Management and Budget (OMB) for a replicated data collection, "Talk. They Hear You." Campaign Evaluation: Case Study (the "case study"). This collection includes three instruments:

1. Parent/Caregiver Pre-Test/Post-Test Survey
2. Youth Pre-Test and Post-Test Survey
3. Parent/Caregiver Interview Guide

The case study collection is part of a larger effort to evaluate the impact of the "Talk. They Hear You." campaign. This evaluation will help determine the extent to which the campaign has been successful in educating parents and caregivers nationwide about effective methods for reducing underage drinking. The campaign is designed to educate and empower parents and caregivers to talk with children about alcohol and other substances. To prevent initiation of underage drinking and substance use, the campaign targets parents and caregivers of children aged 9-20, with the following specific aims:

1. Increasing parents' awareness of the prevalence and risk of underage drinking and substance use;
2. Equipping parents with the knowledge, skills, and confidence to prevent underage drinking and substance use; and
3. Increasing parents' actions to prevent underage drinking and

substance use. For this evaluation, SAMHSA intends to measure knowledge and attitudes before and after a focused campaign outreach effort in areas that have not previously had significant exposure to the campaign. Participants in the evaluation will be recruited from a middle school community, and will include parents/caregivers and students. School administrators and partnering organization(s), such as parent/caregiver organizations and/or local educational partner organizations will assist in the dissemination of campaign materials and data collection efforts.

There will be two sites selected for the case study—one site will serve as the experimental group, and the other site will serve as the control group. The experimental group will be exposed to the "Talk. They Hear You." messages using standard campaign materials and dissemination strategies, which will be coordinated through the school and potentially a local partner organization. The control group will not be intentionally exposed to the campaign materials. The case study will include baseline surveys of parents/caregivers and children of middle school age in both the experimental and control communities, followed by exposure to campaign materials in the experimental community, and post-exposure surveys of parents/caregivers and children in both communities. Additionally, SAMHSA will conduct 30 interviews with parents and caregivers following the post-exposure surveys at the experimental site to obtain more detailed information about the specific impact of the campaign.

ANNUALIZED HOURLY BURDEN

Instrument	Total number of respondents	Total responses/respondent	Total responses	Hours per response	Total hour burden
Pre-test survey for middle school youth	1,093	1	1,093	0.17	185.8
Post-test survey for middle school youth	1,093	1	1,093	0.17	185.8
Pre-test survey for parents and caregivers	690	1	690	0.17	117.3
Post-test survey for parents and caregivers	690	1	690	0.17	117.3
Individual interviews with parents and caregivers	30	1	30	1	30
Total	1,783	.....	3,596	.....	636.2

Send comments to the SAMHSA Reports Clearance Officer, Room 15E57B, 5600 Fishers Lane, Rockville,

MD 20857 OR email a copy to Summer King, Statistician Summer.King@samhsa.hhs.gov

samhsa.hhs.gov. Written comments should be received by January 28, 2020.

Summer King,
Statistician.

[FR Doc. 2019-25870 Filed 11-27-19; 8:45 am]

BILLING CODE 4162-20-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276-1112.

Proposed Project: National Mental Health Services Survey (N-MHSS) (OMB No. 0930-0119)—Revision

The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Behavioral Health Statistics and Quality (CBHSQ) is requesting a revision to the National Mental Health Services Survey (N-MHSS) (OMB No. 0930-0119), which expires on January 31, 2020. The N-MHSS provides annual national and state-level data on the number and characteristics of mental health treatment facilities in the United States and biennial national and state-level data on the number and characteristics of persons treated in these facilities. The information in the N-MHSS is needed to assess the nature and extent of these resources, to identify gaps in services, and to provide a database for treatment referrals.

The request for OMB approval will include a request to conduct the N-MHSS and the between-survey updates in 2020, 2021, and 2022. This update is a procedure for collecting services data from newly identified facilities between main cycles of the survey and will be used to improve the listing of treatment facilities in the online Behavioral Health Treatment Services Locator.

The N-MHSS will provide updated information about facilities for SAMHSA’s online Behavioral Health Treatment Services Locator (see: <https://findtreatment.samhsa.gov>), which was last updated with information from the N-MHSS in 2018. A full-scale N-MHSS will be conducted in 2020 and 2022 to collect (1) information about facilities needed for updating the online Locator, such as the facility name and address, specific services offered, and special client groups served and (2) additional information about client counts and the demographics of persons treated in these facilities. An abbreviated N-MHSS (N-MHSS-Locator Survey) will be conducted in 2021 only to update the information about facilities in the online Locator. Three small surveys are proposed for adding new facilities to the online Locator as they become known to SAMHSA. Both the 2021 N-MHSS-Locator Survey and the addition of new facilities to the online Locator will use the same N-MHSS-Locator Survey instrument.

This request for a revision seeks to change the content of the currently approved abbreviated N-MHSS (*i.e.*, N-MHSS-Locator) survey instrument, and the previously approved 2018 full-scale

N-MHSS (OMB No. 0930-0119) to accommodate two related N-MHSS activities:

(1) Collection of information from the total N-MHSS universe of mental health treatment facilities during 2020, 2021, and 2022; and

(2) collection of information on newly identified facilities throughout the year as they are identified so that new facilities can quickly be added to the online Locator.

The survey mode for both data collection activities will be web with telephone follow-up. A paper questionnaire will also be available to facilities who request one.

The database resulting from the N-MHSS will be used to update SAMHSA’s online Behavioral Health Treatment Services Locator and to produce an electronic version of a national directory of mental health facilities, for use by the general public, behavioral health professionals, and treatment service providers. In addition, a data file derived from the survey will be used to produce a summary report providing national and state-level outcomes. The summary report and a public-use data file will be used by researchers, mental health professionals, State governments, the U.S. Congress, and the general public.

The request for OMB approval will include a request to conduct a full-scale N-MHSS in 2020 and 2022, and an abbreviated N-MHSS-Locator survey in 2021.

The following table summarizes the estimated annual response burden for the I-BHS and the N-MHSS:

SUMMARY OF ESTIMATED ANNUAL BURDEN FOR THE N-MHSS

Facility respondent	Number of respondents	Responses per respondent	Average hours per Response	Total burden hours
Facilities in full-survey N-MHSS universe in 2020 and 2022	17,000	1	0.75	12,750
Newly identified facilities in Between-Survey Update in 2017, 2018, and 2019 ^{1,2}	1,700	1	0.42	714
Facilities in N-MHSS-Locator Survey universe in 2021	17,000	1	0.42	7,140
Average Annual Total	18,700	1	0.59	11,118

¹ Throughout the year, approximately ten percent of facilities close or merge and a similar number of new facilities are identified.

² Collection of information on newly identified facilities throughout the year, as they are identified, so that new facilities can quickly be added to the Locator.

To stay current with the field and to collect policy relevant information, SAMHSA will add a series of questions about facilities offering pharmacotherapy for the treatment of serious mental illness (SMI), in particular information on the first- and

second-generation antipsychotics used by these facilities. Also, a series of questions on crisis services were added to the survey. The N-MHSS will also be collecting information on facilities providing services to persons experiencing first episode psychosis

(FEP), which was not asked in previous versions of the survey. In consultation with experts in the field, some categories and wording were updated to reflect current terminology in the field.

Written comments and recommendations concerning the proposed information collection should be sent by December 30, 2019 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov*. Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202-395-7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,
Statistician.

[FR Doc. 2019-25871 Filed 11-27-19; 8:45 am]

BILLING CODE 4162-20-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276-1243.

Project: Project: Voluntary Customer Satisfaction Surveys To Implement Executive Order 12862 in the Substance Abuse and Mental Health Services Administration (SAMHSA)

(OMB No. 0930-0197)—Extension

SAMHSA provides significant services directly to the public, including treatment providers and State substance abuse and mental health agencies,

through a range of mechanisms, including publications, training, meetings, technical assistance and websites. Many of these services are focused on information dissemination activities. The purpose of this submission is to extend the existing generic approval for such surveys.

The primary use for information gathered is to identify strengths and weaknesses in current service provisions by SAMHSA and to make improvements that are practical and feasible. Several of the customer satisfaction surveys expected to be implemented under this approval will provide data for measurement of program effectiveness under the Government Performance and Results Act (GPRA). Information from these customer surveys will be used to plan and redirect resources and efforts to improve or maintain a high quality of service to health care providers and members of the public. Focus groups may be used to develop the survey questionnaire in some instances.

The estimated annual hour burden is as follows:

Type of data collection	Number of respondents	Responses/ respondent	Hours/ response	Total hours
Focus groups	250	1	2.50	625
Self-administered, mail, telephone and e-mail surveys	89,750	1	.250	22,438
Total	90,000	.....	.....	23,063

Written comments and recommendations concerning the proposed information collection should be sent by December 30, 2019 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov*. Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202-395-7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory

Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,
Statistician.

[FR Doc. 2019-25872 Filed 11-27-19; 8:45 am]

BILLING CODE 4162-20-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of HHS-Certified Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines).

A notice listing all currently HHS-certified laboratories and IITFs is published in the **Federal Register** during the first week of each month. If any laboratory or IITF certification is suspended or revoked, the laboratory or IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the internet at <http://www.samhsa.gov/workplace>.

FOR FURTHER INFORMATION CONTACT:

Anastasia Donovan, Division of Workplace Programs, SAMHSA/CSAP, 5600 Fishers Lane, Room 16N06B, Rockville, Maryland 20857; 240-276-2600 (voice).

SUPPLEMENTARY INFORMATION: The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); April 30, 2010 (75 FR 22809); and on January 23, 2017 (82 FR 7920).

The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100-71. The "Mandatory Guidelines for Federal Workplace Drug Testing Programs," as amended in the revisions listed above, requires strict standards that laboratories and IITFs must meet in order to conduct drug and specimen validity tests on urine specimens for federal agencies.

To become certified, an applicant laboratory or IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A HHS-certified laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA), which attests that it has met minimum standards.

In accordance with the Mandatory Guidelines dated January 23, 2017 (82 FR 7920), the following HHS-certified laboratories and IITFs meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

HHS-Certified Instrumented Initial Testing Facilities

Dynacare, 6628 50th Street NW, Edmonton, AB Canada T6B 2N7, 780-

784-1190 (Formerly: Gamma-Dynacare Medical Laboratories)

HHS-Certified Laboratories

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504-361-8989/800-433-3823 (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.)

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804-378-9130 (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.)

Clinical Reference Laboratory, Inc., 8433 Quivira Road, Lenexa, KS 66215-2802, 800-445-6917

Cordant Health Solutions, 2617 East L Street, Tacoma, WA 98421, 800-442-0438 (Formerly: STERLING Reference Laboratories)

Desert Tox, LLC, 10221 North 32nd Street Suite J, Phoenix, AZ 85028, 602-457-5411

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800-235-4890

Dynacare *, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519-679-1630 (Formerly: Gamma-Dynacare Medical Laboratories)

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662-236-2609

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713-856-8288/800-800-2387

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908-526-2400/800-437-4986 (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 TW Alexander Drive, Research Triangle Park, NC 27709, 919-572-6900/800-833-3984 (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866-827-8042/800-233-6339 (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center)

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913-888-3927/800-873-8845 (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for

Laboratory Services, a Division of LabOne, Inc.)

Legacy Laboratory Services—MetroLab, 1225 NE 2nd Ave., Portland, OR 97232, 503-413-5295/800-950-5295

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651-636-7466/800-832-3244

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612-725-2088, Testing for Veterans Affairs (VA) Employees Only

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800-328-6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory)

Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509-755-8991/800-541-7891x7

Phamatech, Inc., 15175 Innovation Drive, San Diego, CA 92128, 888-635-5840

Quest Diagnostics Incorporated, 1777 Montreal Circle, Tucker, GA 30084, 800-729-6432 (Formerly: SmithKline Beecham Clinical Laboratories;

SmithKline Bio-Science Laboratories) Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610-631-4600/877-642-2216 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

Redwood Toxicology Laboratory, 3700 Westwind Blvd., Santa Rosa, CA 95403, 800-255-2159

USArmy Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755-5235, 301-677-7085, Testing for Department of Defense (DoD) Employees Only

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on January 23, 2017 (82 FR

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

7920). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Anastasia Marie Donovan,
Policy Analyst.

[FR Doc. 2019-25902 Filed 11-27-19; 8:45 am]

BILLING CODE 4160-20-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R2-ES-2019-N159;
FXES1114020000-201-FF02ENEH00]

Incidental Take Permit Application To Participate in American Burying Beetle Amended Oil and Gas Industry Conservation Plan in Oklahoma

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comments.

SUMMARY: Under the Endangered Species Act, we, the U.S. Fish and Wildlife Service, invite the public to comment on a federally listed American burying beetle incidental take permit application. The applicant anticipates American burying beetle take as a result of impacts to Oklahoma habitat the species uses for breeding, feeding, and sheltering. The take would be incidental to the applicant's activities associated with oil and gas well field and pipeline infrastructure (gathering, transmission, and distribution), including geophysical exploration (seismic), construction, maintenance, operation, repair, decommissioning, and reclamation. If approved, the permit would be issued under the approved *American Burying Beetle Amended Oil and Gas Industry Conservation Plan (ICP) Endangered Species Act Section 10(a)(1)(B) Permit Issuance in Oklahoma*.

DATES: To ensure consideration, we must receive written comments on or before December 30, 2019.

ADDRESSES: You may obtain copies of all documents and submit comments on the applicant's ITP application by one of the following methods. Please refer to the proposed permit number when requesting documents or submitting comments.

- *Email:* fw2_hcp_permits@fws.gov.
- *U.S. Mail:* U.S. Fish and Wildlife Service, Endangered Species—HCP

Permits, P.O. Box 1306, Room 6093, Albuquerque, NM 87103.

FOR FURTHER INFORMATION CONTACT: Marty Tuegel, Branch Chief, by U.S. mail at U.S. Fish and Wildlife Service, Environmental Review Division, P.O. Box 1306, Room 6078, Albuquerque, NM 87103; by telephone at 505-248-6651; or via the Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Introduction

Under the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*), we, the U.S. Fish and Wildlife Service, invite the public to comment on an incidental take permit (ITP) application to take the federally listed American burying beetle (*Nicrophorus americanus*) during oil and gas well field infrastructure geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning, as well as oil and gas gathering, transmission, and distribution pipeline infrastructure construction, maintenance, operation, repair, decommissioning, and reclamation in Oklahoma.

If approved, the permit would be issued to the applicant under the *American Burying Beetle Amended Oil and Gas Industry Conservation Plan (ICP) Endangered Species Act Section 10(a)(1)(B) Permit Issuance in Oklahoma*. The original ICP was approved on May 21, 2014, and the “no significant impact” finding notice was published in the **Federal Register** on July 25, 2014 (79 FR 43504). The draft amended ICP was made available for comment on March 8, 2016 (81 FR 12113), and approved on April 13, 2016. The original ICP of 2014 and the associated environmental assessment/finding of no significant impact and the amended ICP of 2016 are available on our website at <http://www.fws.gov/southwest/es/oklahoma/ABBICP>. However, we are no longer taking comments on these finalized, approved documents.

The second draft amendment to the ICP was made available for public comment via publication in the **Federal Register** on March 14, 2019 (84 FR 9371), with a comment period end of April 15, 2019.

Application Available for Review and Comment

We invite local, State, Tribal, and Federal agencies and the public to comment on the following application

under the ICP for incidentally taking the federally listed American burying beetle. Please refer to the proposed permit number (TEXXXXXX-X) when requesting application documents and when submitting comments. Documents and other information the applicant submitted are available for review, subject to Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552) requirements.

Permit No. TE59403D

Applicant: Cushing Connect Pipeline Holdings, LLC, Dallas, TX. Applicant requests a permit for oil and gas upstream and midstream production, including oil and gas well field infrastructure geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning, as well as oil and gas gathering, transmission, and distribution pipeline infrastructure construction, maintenance, operation, repair, decommissioning, and reclamation in Oklahoma.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*), its implementing regulations (50 CFR 17.22), and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Amy L. Lueders,

Regional Director, Southwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 2019-25907 Filed 11-27-19; 8:45 am]

BILLING CODE 4333-15-P

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service**

[Docket No. FWS-R1-ES-2019-N157;
FXES1114010000-201-FF01E00000]

**Record of Decision for the Final
Environmental Impact Statement for
Amending the 1997 Washington State
Trust Lands Habitat Conservation Plan
To Include a Marbled Murrelet Long-
Term Conservation Strategy**

AGENCY: Fish and Wildlife Service,
Interior.

ACTION: Notice of availability of a record
of decision and habitat conservation
plan.

SUMMARY: We, the U.S. Fish and
Wildlife Service (Service), announce the
availability of a record of decision
(ROD) for the proposed issuance of an
Endangered Species Act incidental take
permit (ITP) addressing the Washington
Department of Natural Resources
(WDNR) 1997 State Trust Lands Habitat
Conservation Plan (HCP), as amended to
include a Long-Term Conservation
Strategy for the federally threatened
marbled murrelet. The ROD documents
the Service's decision to select
Alternative H, the Proposed Action
(described below), which includes
approval of the amended HCP, and
issuance of an amended ITP authorizing
incidental take of the marbled murrelet
that is reasonably certain to occur with
implementation of the amended HCP.

ADDRESSES: You may obtain copies of
the documents by any of the following
methods:

- *Internet:* <https://www.fws.gov/wafwo/> or www.dnr.wa.gov/non-project-actions.

- *Upon Request:* You may call Tim
Romanski of the Service at 360-753-
5823 or Heidi Tate of WDNR at 360-
902-1662 to request alternative formats
of the documents, or to make an
appointment to inspect the documents
during normal business hours at the
U.S. Fish and Wildlife Service,
Washington Fish and Wildlife Office,
510 Desmond Dr. SE, Suite 102, Lacey,
WA 98503 or the Washington
Department of Natural Resources, SEPA
Center, 1111 Washington Street,
Olympia, WA 98504-7015.

FOR FURTHER INFORMATION CONTACT: Tim
Romanski, by mail at U.S. Fish and
Wildlife Service, Washington Fish and
Wildlife Office (see **ADDRESSES**), by
email at Tim_Romanski@fws.gov, or by
phone at 360-753-5823. Hearing or
speech impaired individuals may call
the Federal Relay Service at 800-877-
8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We, the
U.S. Fish and Wildlife Service (Service),
announce the availability of a record of
decision (ROD) for the proposed
issuance of an amended Endangered
Species Act (ESA) incidental take
permit (ITP) to the Washington
Department of Natural Resources
(WDNR) for the 1997 State Trust Lands
Habitat Conservation Plan (HCP) as
amended to include a Long-Term
Conservation Strategy (LTCS) for the
federally listed marbled murrelet
(murrelet). The ROD documents the
Service's decision to select Alternative
H, the Proposed Action (described
below), which includes implementation
of the HCP as amended to include the
LTCS, and issuance of the amended ITP
authorizing incidental take of the
federally threatened marbled murrelet
in conjunction with implementation of
the HCP.

We are advising the public of the
availability of the ROD, developed in
compliance with the National
Environmental Policy Act of 1969, as
amended (NEPA). All alternatives have
been described in detail, evaluated, and
analyzed in our final environmental
impact statement (FEIS). A notice of
availability of the FEIS and HCP
Amendment was published in the
Federal Register on September 27, 2019
(84 FR 51172).

Background

The marbled murrelet, a seabird, was
listed as threatened in 1992 under the
ESA. In 1996, the WDNR released its
draft HCP covering multiple fish and
wildlife species (including the marbled
murrelet), and forest management
activities on 1.9 million acres (ac) of
forested State Trust lands within the
range of the northern spotted owl in
Washington.

On January 30, 1997, the Service
issued an ITP (Permit No. 812521) to
WDNR covering implementation of the
WDNR HCP. The Service's ITP decision
and the availability of related decision
documents were announced in the
Federal Register on February 27, 1997
(62 FR 8980). Among other conservation
strategies, the 1997 WDNR HCP
committed the WDNR to developing a
LTCS for the murrelet. However, at the
time the HCP was being developed, the
Service and WDNR determined that
incorporating a LTCS for the murrelet
into the 1997 HCP was not possible
because of the lack of scientific
information about the murrelet in
relation to State Trust lands. This HCP
Amendment incorporates the LTCS into
the HCP.

Purpose and Need

Under the proposed action, the
Service's purposes are to ensure that
ESA permit issuance criteria are met,
the permit amendment complies with
all other applicable Federal laws and
regulations, the permit amendment is
consistent with the Service's legal
authorities, and the ITP and
implementation of the HCP Amendment
achieve long-term species and
ecosystem conservation objectives at
ecologically appropriate scales. The
need is to fulfill our legal obligations
under section 10(a)(1)(B) of the ESA in
response to WDNR's request to the
Service to amend the ITP.

Any ITP issued by the Service must
meet all applicable issuance criteria and
implementation should be technically
and economically feasible (see 16 U.S.C.
1539(a)(2)(B); 43 CFR 46.420(b)). ITP
issuance criteria under the ESA include
the requirements that the applicant will
minimize and mitigate the impacts of
the taking on covered species to the
maximum extent practicable, and the
taking will not appreciably reduce the
likelihood of survival and recovery of
the covered species in the wild.

Alternatives

The FEIS analyzed the environmental
impacts of the no action alternative, and
the following seven action alternatives
related to the issuance of an amended
ITP and implementation of the WDNR
HCP, as amended. In general, the
alternatives varied in the amount,
location, and configuration of forest
habitat designated to support long-term
conservation of the murrelet; the
amount of forest habitat that would be
released for harvest over the remaining
term of the amended ITP; and the
amount of authorized marbled murrelet
incidental take. Each alternative uses
habitat as a surrogate to express the
anticipated level of take of the marbled
murrelet.

Under all of the action alternatives
analyzed in the FEIS, the combination
of lands that provide for marbled
murrelet conservation through existing
WDNR policies (for example, protection
of riparian zones), plus marbled
murrelet-specific conservation areas,
provide a network of long-term forest
cover for the marbled murrelet on
WDNR-managed lands. Long-term forest
cover means lands on which WDNR
maintains and grows forest cover for
conservation purposes, including for the
marbled murrelet, through the life of the
1997 HCP. A variety of management and
land use activities occur on DNR-
managed forestlands, including lands
within long-term forest cover. Some of

these activities have the potential to negatively impact the marbled murrelet or its habitat. The effects of these activities, along with impact avoidance, minimization, and mitigation measures, are described in the FEIS.

No Action—Alternative A

Inclusion of a No Action alternative in the FEIS is consistent with the regulations implementing NEPA at 40 CFR 1502.14(d). Under the No Action alternative (analyzed as Alternative A in the FEIS), the Service would not amend the existing ITP, would not authorize take above that currently specified on the ITP, and the WDNR would not implement the additional conservation measures proposed for the murrelet under the LTCS. Under the No Action alternative, WDNR would continue operations as authorized under the Interim Strategy and described in the 1997 HCP for all of the west-side planning units.

Alternative B

Under this alternative, WDNR would manage their lands to support approximately 576,000 ac of long-term forest cover. Alternative B focuses exclusively on conserving known murrelet-occupied sites on WDNR-managed lands. This alternative is the only alternative that does not provide buffers around murrelet-occupied sites. Under this alternative, harvest and thinning would be prohibited within murrelet-occupied sites. Alternative B would conserve 59,000 ac of occupied sites. Under this alternative, approximately 39,293 ac of low-quality murrelet habitat and 5,754 ac of high-quality murrelet habitat would be released for harvest.

Alternative C

Under this alternative, WDNR would manage their lands to support approximately 617,000 ac of long-term forest cover. This alternative conserves 59,000 ac of known occupied murrelet sites, murrelet emphasis areas, and other high-quality habitat. This alternative also applies a 328-ft (100-m) buffer around all known murrelet-occupied sites except on the Olympic Experimental State Forest, where the buffer would be 164 feet (50 m) for occupied sites greater than 200 ac. Under this alternative, approximately 32,608 ac of low-quality murrelet habitat would be released for harvest.

Alternative D

Under this alternative, WDNR would manage their lands to support approximately 618,000 ac of long-term forest cover. Alternative D would

protect 59,000 ac of murrelet-occupied sites in addition to occupied site buffers, and special habitat areas. This alternative also applies a 328-ft (100-m) buffer around all known occupied sites. Under this alternative, approximately 33,178 ac of low-quality murrelet habitat and 5,090 ac of high-quality murrelet habitat would be released for harvest.

Alternative E

Under this alternative, WDNR would manage their lands to support approximately 621,000 ac of long-term forest cover. Alternative E combines the conservation approaches described in alternatives C and D. Alternative E would protect 59,000 ac of murrelet-occupied sites in addition to occupied site buffers, emphasis areas, special habitat areas, and high-quality murrelet habitat. Under this alternative, approximately 31,600 ac of low-quality murrelet habitat would be released for harvest.

Alternative F

Under this alternative, WDNR would manage their lands to support approximately 743,000 ac of long-term forest cover. This alternative conserves murrelet management areas identified in a Science Team Report, as described further in the FEIS, that would be established in the North and South Puget planning units. Additionally, under this alternative, all northern spotted owl old forest habitat (as defined in the 1997 HCP) in the Olympic Experimental State Forest (OESF) planning unit would be subject to a 328-ft (100-m) buffer. Existing, mapped, low-quality northern spotted owl nesting/roosting/foraging, and dispersal habitat in designated spotted owl conservation areas and in the OESF are included as long-term forest cover. Alternative F would also protect 59,000 ac of murrelet-occupied sites in addition to occupied site buffers. Under this alternative, approximately 19,307 ac of low-quality marbled murrelet habitat and 2,697 ac of high-quality marbled murrelet habitat will be released for harvest. Pursuant to NEPA implementing regulations found at 40 CFR 15.2(b), the Service identified Alternative F as the environmentally preferable alternative in the ROD.

Alternative G

Under this alternative, WDNR would manage their lands to support approximately 642,000 ac of long-term forest cover. This alternative applies 328-ft (100-m) buffers around all known murrelet-occupied sites. Alternative G would protect 59,000 ac of murrelet-

occupied sites in addition to occupied site buffers, emphasis areas, special habitat areas, priority areas identified by the Washington Department of Fish and Wildlife, and murrelet management areas. Under this alternative, approximately 23,619 ac of low-quality murrelet habitat will be released for harvest.

Alternative H—Proposed Action

Under this alternative, WDNR would manage their lands to support approximately 604,000 ac of long-term forest cover. Alternative H would protect 59,000 ac of murrelet-occupied sites and special habitat areas as well as delay the harvest of 5,000 adjusted ac in order to achieve “no net loss” of adjusted acres of habitat, as described in the FEIS and HCP Amendment. Alternative H also applies 328-ft (100-m) buffers around all known murrelet-occupied sites. Under this alternative, approximately 33,030 ac of low-quality marbled murrelet habitat and 5,017 ac of high-quality marbled murrelet habitat will be released for harvest. The proposed HCP Amendment is best represented by Alternative H. Both the Service and WDNR identified Alternative H as their respective preferred alternative in the FEIS.

Decision and Rationale for Decision

Based on our review of the alternatives and their environmental consequences as described in the FEIS, we have selected the Proposed Action (Alternative H). The Proposed Action includes WDNR’s implementation of the 1997 HCP, as amended to include the LTCS, and the Service’s issuance of an amended ITP authorizing incidental take of the covered species that may occur as a result of WDNR forest land management activities which are undertaken in accordance with the amended HCP and the ITP terms and conditions.

In order to issue an ITP for covered species under the ESA, we must determine that the HCP meets the issuance criteria set forth in Section 10 of the ESA (16 U.S.C. 1539(a)(2)(B)). As discussed in the ROD, the Service has made the determination that the WDNR HCP, as amended, meets the ESA section 10 permit issuance criteria.

Authority

We provide this notice in accordance with the requirements of NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR

1506.6; 40 CFR 1506.10; 43 CFR part 46).

Robyn Thorson,

Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 2019–25905 Filed 11–27–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[201D0102DM/DS64600000/
DLSN00000.000000/DX.64601]

**Notice of Senior Executive Service
Performance Review Board
Appointments**

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of appointments.

SUMMARY: This notice provides the names of individuals who are eligible to be appointed to serve on the Department of the Interior Senior Executive Service (SES) Performance Review Board.

DATES: These appointments take effect upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: To request additional information about this notice, contact Raymond Limon, Deputy Assistant Secretary—Human Capital and Diversity/Chief Human Capital Officer, by email at Raymond_Limon@ios.doi.gov, or by telephone at (202) 208–3100.

SUPPLEMENTARY INFORMATION: The individuals who are eligible to be appointed to serve on the Department of the Interior SES Performance Review Board are as follows:

Ackerman, Jennifer A.
Addington, Charles E.
Anderson, James G.
Anderton, James B.
Angelle, Scott A.
Applegate, James D.R.
Arroyo, Bryan
Austin, Stanley J.
Bathrick, Mark L.
Beall, James W.
Bearpaw, George Watie
Bearquiver, Kevin T.
Benedetto, Kathleen M.F.
Benge, Shawn T.
Berry, David A.
Black, Michael S.
Blackhair, Johnna M.
Blanchard, Mary Josie
Bockmier, John M.
Bowker, Bryan L.
Bowron, Jessica L.
Brandon, Andrea L.
Branum, Lisa A.
Brown, Carter L.
Brown, Laura B.
Brown, Vicki A.
Brown, William Y.

Buckner, Shawn M.
Budd-Falen, Karen Jean
Cameron, Scott J.
Cantor, Howard M.
Cardinale, Richard T.
Carlson, Jeffrey O.
Cash, Cassius M.
Cason, James E.
Celata, Michael A.
Clayborne, Alfred L.
Cline, Donald Walter
Compton, Jeffrey S.
Conant, Ernest A.
Connell, Jamie E.
Cordova-Harrison, Elizabeth
Costello, Matthew J.
Craff, Robert C.
Cribley, Bud C.
Cruikshank, Walter D.
Cruz, Mark A.
Danko, Carol Lynn
Davis, Kimbra G.
De La Vega, Scott Anthony
Dearman, Tony L.
Devaris, Aimee Marie
Donnelly, John F.
Douglas, Nicholas E.
Downs, Bruce M.
Dumontier, Debra L.
Dutschke, Amy L.
Eggers, Barbara L.
Erdos, Lanny E.
Esplin, Brent C.
Everson, Margaret Emma
Flanagan, Denise A.
Ford, Jerome E.
Frazer, Gary D.
Freeman, Michael T.
Freeman, Sharee M.
Freihage, Jason E.
Frost, Herbert C.
Fulp, Terrance J.
Gallagher, Kevin T.
Gelber, Adam R.
Gibson, Paul Raymond
Gidner, Jerold L.
Glomb, Stephen J.
Goessling, Shannon Lee
Goklany, Indur M.
Gonzales-Schreiner, Roseann
Goodro, Margaret Loretta
Gordon, Robert E. Jr.
Gould, Gregory J.
Grace, Edward J.
Gray, Lorri J.
Guertin, Stephen D.
Hagenauer, Shelby L.
Hambleton, Ryan M.
Hamley, Jeffrey L.
Hammond, Casey B.
Hanna, Jeanette D.
Hart, Paula L.
Hawbecker, Karen S.
Herbst, Lars T.
Hildebrandt, Betsy J.
Hill, Jason Alan
Hoskins, David William
James, James D. Jr.
Johnson, Tonya R.
Jones, Jacqueline M.
Jorgenson, Sarah T.
Jorjani, Daniel H.
Joss, Laura.
Keable, Edward T.
Kendall, James J. Jr.
Kindred, Joshua Michael

Kinsinger, Anne E.
Knight, Karen A.
La Counte, Darryl D. II
Laird, Joshua Radbill
Lapointe, Timothy L.
Lawkowski, Gary Michael
Limon, Raymond A.
Lockwood-Shabat, Eugene N.
Lodge, Cynthia Louise
Lords, Douglas A.
Loria, Christopher Joseph
Luebke, Thomas A.
Lueders, Amy L.
Mabry, Scott L.
Macgregor, Katharine S.
Maclean, Robert D.
Martinez, Cynthia T.
Mashburn, Lori K.
Mattingly, Patricia L.
May, Rick A.
Maytubby, Bruce W.
McCulloch, Katherine M.
McDowall, Lena E.
McKeown, Matthew J.
Mehlhoff, John J.
Mercier, Bryan K.
Middleton, Brandon Murray
Mikkelsen, Alan Wayne
Miranda-Castro, Leopoldo
Morris, Douglas W.
Moss, Adrienne L.
Mouritsen, Karen E.
Myers, Richard G.
Neal, Kerry K.
Nedd, Michael D.
Nguyen, Nhien Tony
Noble, Michaela E.
Olsen, Megan C.
Oneill, Keith James
Orr, L. Renee
Ortiz, Hankie P.
Owens, Glenda Hudson
Padgett, Chad B.
Palumbo, David M.
Payne, Grayford F.
Peltola, Eugene R. Jr.
Pendley, William Perry
Peterson, Penny Lynn
Pfeiffer, Tamarah
Pierre-Louis, Alesia J.
Pinto, Sharon Ann
Poitra, Tammie J.
Prandoni, Christopher D.
Pula, Nikolao Iuli
Quinlan, Martin J.
Raby, Jon K.
Ramos, Pedro M.
Rauch, Paul A.
Reinbold, Jeffrey P.
Relat, Hubbel Robert
Renkes, Gregg D.
Reynolds, Michael T.
Reynolds, Thomas G.
Rideout, Sterling J. Jr.
Riggs, Helen
Roberson, Edwin L.
Rojewski, Cole J.
Romanik, Peg A.
Ross, John W.
Ruhs, John F.
Rupert, Jeffery R.
Rusten, Michael W.
Ryker, Sarah J.
Salotti, Christopher P.
Sauvajot, Raymond Marc
Scherer, Kyle E.

Schock, James H.
 Shepard, Eric N.
 Sholly, Cameron H.
 Shope, Thomas D.
 Shuler, Gary A.
 Siekaniec, Gregory Eugene
 Simmons, Shayla F.
 Singer, Michele F.
 Skipwith, Aurelia
 Small, Jeffrey D.
 Smiley, Karla J.
 Smith, Marc Alan
 Smith, Paul Daniel
 Sogge, Mark K.
 Souza, Paul
 Spector, Rachel
 Spisak, Timothy R.
 Stevens, Bartholomew S.
 Steward, James D.
 Streater, Eddie R.
 Suazo, Raymond
 Sullins, Tony A.
 Tahsuda, John Iii
 Tanner, John R.
 Thorson, Robyn
 Todd, Raymond K.
 Travnicek, Andrea J.
 Tribsch, George F.
 Tucker, Kaprice Lynch
 Tupper, Michael H.
 Vajda, William E.
 Vela, Raymond David
 Velasco, Janine M.
 Vietzke, Gay E.
 Vogel, Robert A.
 Wainman, Barbara W.
 Walsh, Noreen E.
 Wayson, Thomas C.
 Weaver, Kiel P.
 Weber, Wendi
 Welch, Ruth L.
 Wenger, Lance C.
 Werkheiser, William H.
 Weyers, Holly S.
 White, John Ethan
 White-Dunston, Erica D.
 Willens, Todd D.
 Williams, LC
 Williams, Margaret C.
 Wolf, Robert W.
 Woody, William C.
 Wooley, Charles M.
 Woronka, Theodore
 Younger, Cally A.
 Zerzan, Gregory Peter

Authority: Title 5, U.S. Code 4314.

Raymond Limon,

Deputy Assistant Secretary—Human Capital and Diversity, Chief Human Capital Officer.

[FR Doc. 2019-25925 Filed 11-27-19; 8:45 am]

BILLING CODE 4334-63-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

**[WO220000.L1030000.PH0000;
 WO220000.L6310000.PH0000;
 WO320000.L1330000.FW0000; OMB
 Control Number 1004-0001]**

**Agency Information Collection
 Activities; Submission to the Office of
 Management and Budget for Review
 and Approval; Free Use Application
 and Permit for Vegetative or Mineral
 Materials**

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of information collection; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before December 30, 2019.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at OIRA_submission@omb.eop.gov; or via facsimile to (202) 395-5806. Please provide a copy of your comments to the BLM at U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW, Room 2134LM, Washington, DC 20240, Attention: Jean Sonneman, or by email to jesonneman@blm.gov. Please reference OMB Control Number 1004-0001 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Chris Schumacher or Tim Barnes by email at c1schuma@blm.gov or tbarnes@blm.gov, or by telephone at 202-912-7433, or 541-416-6858 for vegetative, or mineral materials respectively. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>. Persons who use a telecommunication device for the deaf may call the Federal Relay Service at 1-800-877-8339, to leave a message for Mr. Schumacher or Mr. Barnes.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, the BLM provides the general public and other Federal agencies with an opportunity to comment on new, proposed, revised and continuing collections of information. This helps to assess the impact of the BLM's information collection requirements and minimize the public's

reporting burden. It also helps the public understand the BLM's information collection requirements and provides the requested data in the desired format. A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on June 11, 2019 (84 FR 27155). No comments were received.

We are again soliciting comments on the proposed ICR that is described below. The BLM is especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the BLM; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BLM enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BLM 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. The BLM 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 in your comment to the BLM to withhold your personal identifying information from public review, the BLM cannot guarantee that it will be able to do so.

The following information pertains to this request:

Abstract: Control Number 1004-0001 authorizes the BLM to collect information to continue the use of separate permit forms for the free use of vegetative materials and mineral materials.

Title of Collection: Free Use Application and Permit for Vegetative or Mineral Materials (43 CFR parts 3600, 3620, and 5510).

OMB Control Number: 1004-0001.

Form Numbers:

- 3604-1 a and b, Free Use Application and Permit for Mineral Materials; and
- 5510-1, Free Use Application and Permit for Vegetative Materials.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals seeking authorization for free use of mineral or vegetative materials.

Description of Respondents: The Free use vegetative permits are available for Mining Claimants, Federal, State, Territorial agencies, municipalities and associations or corporations not organized for profit and that the materials are not used commercial or industrial purposes. Free Use Permits for Mineral Materials are available to any Federal, State, or territorial agency, unit, or subdivision including municipalities or any non-profit organization.

Total Estimated Number of Annual Respondents: 167 mineral materials applications; and 80 vegetative material applications.

Total Estimated Completion Time per Response: 30 minutes per response for mineral materials; 30 minutes per response for vegetative materials.

Total Estimated Number of Annual Burden Hours: 84 burden hours for mineral materials; and 40 burden hours for vegetative materials.

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.*).

Chandra Little,

Bureau of Land Management, Regulatory Analyst.

[FR Doc. 2019–25956 Filed 11–27–19; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAK940000.L14100000.BX0000.20X.LXSS001L0100]

Filing of Plats of Survey: Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plats of survey of lands described in this notice are scheduled to be officially filed in the Bureau of Land Management (BLM), Alaska State Office, Anchorage, Alaska. These surveys were executed at the request of the BLM, are necessary for the management of these lands.

DATES: The BLM must receive protests by December 30, 2019.

ADDRESSES: You may buy a copy of the plats from the BLM Alaska Public Information Center, 222 W 7th Avenue, Mailstop 13, Anchorage, AK 99513.

Please use this address when filing written protests. You may also view the plats at the BLM Alaska Public Information Center, Fitzgerald Federal Building, 222 W 8th Avenue, Anchorage, Alaska, at no cost.

FOR FURTHER INFORMATION CONTACT:

Douglas N. Haywood, Chief, Branch of Cadastral Survey, Alaska State Office, Bureau of Land Management, 222 W 7th Avenue, Anchorage, AK 99513; 907–271–5481; dhaywood@blm.gov. People who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the BLM 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 lands surveyed are:

U.S. Survey No. 12479, accepted November 20, 2019, situated within:

Fairbanks Meridian, Alaska

T. 27 N, R. 2 E

U.S. Survey No. 14500, accepted November 21, 2019, situated within:

Fairbanks Meridian, Alaska

T. 16 S, R. 18 W

Seward Meridian, Alaska

T. 15 N, R. 1 W, accepted November 22, 2019

T. 2 S, R. 52 W, accepted November 21, 2019

T. 3 S, R. 52 W, accepted November 21, 2019

T. 2 S, R. 53 W, accepted November 21, 2019

T. 3 S, R. 53 W, accepted November 21, 2019

T. 4 S, R. 54 W, accepted November 21, 2019

A person or party who wishes to protest one or more plats of survey identified above must file a written notice of protest with the State Director for the BLM in Alaska. The notice of protest must identify the plat(s) of survey that the person or party wishes to protest. You must file the notice of protest before the scheduled date of official filing for the plat(s) of survey being protested. The BLM will not consider any notice of protest filed after the scheduled date of official filing. A notice of protest is considered filed on the date it is received by the State Director for the BLM in Alaska during regular business hours; if received after regular business hours, a notice of protest will be considered filed the next business day. A written statement of reasons in support of a protest, if not

filed with the notice of protest, must be filed with the State Director for the BLM in Alaska within 30 calendar days after the notice of protest is filed.

If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personally identifiable information in a notice of protest or statement of reasons, you should be aware that the documents you submit, including your personally identifiable information, may be made publicly available in their entirety at any time. While you can ask the BLM to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 U.S.C. Chap. 3.)

Douglas N. Haywood,

Chief Cadastral Surveyor, Alaska.

[FR Doc. 2019–25906 Filed 11–27–19; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2019–0006; 201E1700D2 ET1SF0000.EAQ000 EEEE500000; OMB Control Number 1014–0001]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Oil and Gas Well-Workover Operations

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before December 30, 2019.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at OIRA_Submission@omb.eop.gov; or via facsimile to (202) 395–5806. Please provide a copy of your comments to the

Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nicole Mason; 45600 Woodland Road, Sterling, VA 20166; or by email to kye.mason@bsee.gov. Please reference OMB Control Number 1014-0001 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nicole Mason by email at kye.mason@bsee.gov, or by telephone at (703) 787-1607. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on July 23, 2019 (84 FR 35417). No comments were received.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comments addressing the following issues: (1) Is the collection necessary to the proper functions of BSEE; (2) Will this information be processed and used in a timely manner; (3) Is the estimate of burden accurate; (4) How might BSEE enhance the quality, utility, and clarity of the information to be collected; and (5) How might BSEE 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. 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 regulations at 30 CFR part 250, subpart F, concern the Oil and

Gas Well-Workover Operations regulatory requirements of oil, gas, and sulphur operations in the Outer Continental Shelf (OCS) and are the subject of this collection. This request also covers any related Notices to Lessees and Operators (NLTs) that BSEE issues to clarify, supplement, or provide additional guidance on some aspects of our regulations.

The BSEE uses the information collected under the Subpart F regulations to ensure that operations on the OCS are carried out in a safe and pollution-free manner, do not interfere with the rights of other users on the OCS, and balance the protection and development of OCS resources. Specifically, we use the information collected to:

- Review log entries of crew meetings to verify that safety procedures have been properly reviewed.
- review well-workover procedures relating to hydrogen sulfide (H₂S) to ensure the safety of the crew in the event of encountering H₂S.
- review well-workover diagrams and procedures to ensure the safety of well-workover operations.
- verify that the crown block safety device is operating and can be expected to function and avoid accidents.
- verify that the Blowout Preventer Equipment (BOPE) is in compliance with the latest Well Control Rule (WCR) and API Standard 53.
- assure that the well-workover operations are conducted on well casing that is structurally competent.

Title of Collection: 30 CFR part 250, subpart F, *Oil and Gas and Sulfur Operations in the OCS—Oil and Gas Well-Workover Operations*.

OMB Control Number: 1014-0001.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents are comprised of Federal OCS oil, gas, and sulfur lessees/operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Not all potential respondents will submit information in any given year and some may submit multiple times.

Total Estimated Number of Annual Responses: 1,933.

Estimated Completion Time per Response: Varies from 1 hour to 6.5 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 5,284.

Respondent's Obligation: Most responses are mandatory, while others are required to obtain or retain benefits.

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.*).

Amy White,

Acting Chief, Regulations and Standards Branch.

[FR Doc. 2019-25913 Filed 11-27-19; 8:45 am]

BILLING CODE 4310-VH-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1091]

Certain Color Intraoral Scanners and Related Hardware and Software; Notice of a Commission Determination Finding No Violation of Section 337; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to affirm, with modified reasoning, the final initial determination's ("ID") finding of no violation of section 337 has occurred.

FOR FURTHER INFORMATION CONTACT: Amanda Pitcher Fisherow, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2737. Copies of non-confidential documents filed in connection with this investigation are or 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 <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted the underlying investigation on December 20, 2017, based on a complaint filed on behalf of Align Technology, Inc. of San Jose,

California (“Align”). 82 FR (Dec. 20, 2017). The complaint alleged violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain color intraoral scanners and related hardware and software by reason of infringement of certain claims of U.S. Patent Nos. 8,363,228 (“the ‘228 patent”); 8,451,456 (“the ‘456 patent”); 8,675,207 (“the ‘207 patent”); 9,101,433 (“the ‘433 patent”); 948,931 (“the ‘931 patent”); and 6,685,470 (“the ‘470 patent”). See *id.* The complaint named 3Shape A/S and 3Shape Inc. as the respondents. On March 15, 2018, the ALJ granted Align’s unopposed motion to amend the complaint and notice of investigation to add as an additional respondent in this investigation 3Shape Trios A/S of Copenhagen, Denmark (respondents are collectively referred to as “3Shape”). See 83 FR 13781–82 (March 30, 2018), *unreviewed*, Notice (March 27, 2018). The Office of Unfair Import Investigations did not participate in the investigation.

On March 1, 2019, the ALJ issued his final ID finding that no violation of section 337 has occurred. On March 18, 2019, Align filed a petition for review and 3Shape filed a contingent petition for review of the ID. On March 26, 2019, all of the parties filed responses to the respective petitions for review.

On July 18, 2019, the Commission determined to review the final ID in part. Specifically, the Commission determined to review the ID’s findings on the following issues: (1) Importation; (2) the construction of “processor”; (3) the construction of “confocal imaging techniques”; (4) all findings concerning infringement; (5) all findings concerning invalidity; (6) all findings concerning whether Align’s products practice one or more claims of the asserted patents; and (7) all findings concerning whether Align’s financial investments and activities relating to Align’s products meet the domestic industry requirement. The Commission requested briefing on some of the issues under review, and requested submissions from the parties, government agencies and the public on remedy, bonding, and the public interest. 84 FR 35688 (July 25, 2019). On July 30, 2019, Align and 3Shape filed their written responses to the Commission’s request for briefing. On August 6, 2019, Align and 3Shape filed their reply submissions.

The Commission has examined the record of this investigation, including the ALJ’s final ID, the petitions for review, and the responses thereto, and filings in response to the Commission’s request for briefing. The Commission

affirms in part, with modified reasoning as discussed in the accompanying opinion, the ID’s finding of no violation of section 337. Specifically, the Commission determines: (1) Claim 1 of each of the ‘228, ‘456, and ‘207 patents is infringed; (2) claim 26 of the ‘228 patent is infringed; (4) claim 15 of the ‘456 patent is not infringed; (5) claim 12 of the ‘433 is not infringed; (6) the asserted claims of the ‘228 and ‘456 patents are invalid for failing to meet the written description requirement; (7) the ‘228, ‘456, and ‘433 patents are not invalid as anticipated or obvious; (8) the asserted claim of the ‘207 patent is invalid as obvious; (9) Align’s products do not practice the ‘228, ‘456, and ‘207 patents; (10) Align’s products practice claim 12 of the ‘433 patent; (11) the importation requirement is met for 3Shape Trios A/S; (12) to take no position on whether 3Shape A/S and 3Shape Inc. have met the importation requirement; (13) to take no position on whether claim 4 of the ‘228 patent is infringed; (14) to take no position on secondary considerations for the ‘228, ‘456, and ‘433 patents; and (15) to take no position on whether Align’s investments and activities relating to Align’s products meet the domestic industry requirement. The Commission also affirms, without modification, the ID’s finding of no violation for the ‘931 and ‘470 patents. The investigation is terminated.

The authority for the Commission’s determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission’s Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: November 22, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–25849 Filed 11–27–19; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1186]

Certain Balanced Armature Devices, Products Containing Same, and Components Thereof; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on

August 29, 2019, under section 337 of the Tariff Act of 1930, as amended, on behalf of Knowles Corporation of Itasca, Illinois; Knowles Electronics, LLC of Itasca, Illinois; and Knowles Electronics (Suzhou) Co., Ltd. of China.

Supplements to the complaint were filed on September 18 and November 5, 2019. The complaint alleges violations of section 337 based upon the importation into the United States, and in the sale of certain balanced armature devices, products containing same, and components thereof by reason of misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure a domestic industry. The complainants request that the Commission institute an investigation and, after the investigation, issue a general exclusion order or, in the alternative, limited exclusion orders, and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT:

Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission’s Rules of Practice and Procedure, 19 CFR 210.10 (2018).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on November 22, 2019, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(A) of

section 337 in the importation into the United States, or in the sale of certain products identified in paragraph (2) by reason of misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure an industry in the United States;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is balanced armature devices (also known as balanced armature receivers), and devices used on the ear or in the ear canal containing accused balanced armature devices (earphones, ear buds, headsets, headphones, in-ear monitors, hearing aids, hearing aid replacement receiver tubes, receiver in canal (RIC) replacement modules, and personal sound amplifiers), and components of devices used on the ear or in the ear canal containing accused balanced armature devices.

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Knowles Corporation, 1151 Maplewood Drive, Itasca, IL 60143.
Knowles Electronics, LLC, 1151 Maplewood Drive, Itasca, IL 60143.
Knowles Electronics (Suzhou) Co., Ltd., No. 20, Chunxing Road, Xiangcheng District, Suzhou, 215131, Jiangsu Province, China.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Liang Li (a/k/a Ryan Li), Room 602, Building 48, Fengqing Shuiian Garden, Xizhou Road, Suzhou Industrial Park, Suzhou City, 215028, Jiangsu Province, China.
Shenzhen Bellsing Acoustic Technology Co., Ltd., 12/f, Sanhang Science and Technology Building, 45 Gaoxin South Ninth Road, Nanshan District, Shenzhen City, 518057, Guangdong Province, China.
Suzhou Bellsing Acoustic Technology Co., Ltd., Ruiqi Building, No. 668, Fenting Avenue, Suzhou Industrial Park, Suzhou City, 215028, Jiangsu Province, China.
Bellsing Corporation, 3333 Warrenville Rd, #155, Lisle, IL 60532.
Dongguan Bellsing Precision Device Co., Ltd., Fifth Industry Zone, Xieshan Village, Xiegang Town, Dongguan, 523598, Guangdong Province, China.
Dongguan Xinyao Electronics Industrial Co., Ltd., d/b/a Fidue Acoustics,

Liuhua West Street, Xiakou, Dongcheng District, 523115, Dongguan, Guangdong, China.

Soundlink Co., Ltd., 2F-1# Building North, No. 89 Songshan Road, Shishan Industrial Complex Park, New District, 215129 Suzhou, China.

Magnatone Hearing Aid Corporation d/b/a Persona, Medical and InEarz Audio, 170 N Cypress Way, Casselberry, FL 32707.

Jerry Harvey Audio LLC, 111 W. Jefferson St., Ste. 300, Orlando, FL 32801.

Magic Dynamics, LLC d/b/a MagicEar, 22089 U.S. Hwy 19 N, Clearwater, FL 33765.

Campfire Audio, LLC, 2400 SE Ankeny St., Portland, OR 97214.

Clear Tune Monitors, Inc., 5528 Commerce Dr., Orlando, FL 32839.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the Administrative Law Judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: November 22, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019-25852 Filed 11-27-19; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-513 and 731-TA-1249 (Review)]

Sugar From Mexico; Institution of Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to the Tariff Act of 1930 ("the Act"), as amended, to determine whether termination of the suspension investigation on sugar from Mexico would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted November 29, 2019. To be assured of consideration, the deadline for responses is December 30, 2019. Comments on the adequacy of responses may be filed with the Commission by February 11, 2020.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202-205-3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—On December 19, 2014, the Department of Commerce ("Commerce") suspended antidumping and countervailing duty investigations on imports of sugar from Mexico (79 FR 78039 and 78044, December 29, 2014).¹

¹ On January 16, 2015, Commerce received timely requests pursuant to sections 734(g) and 704(g) of the Act, as amended (19 U.S.C. 1673c(g), 1671c(g)),

Continued

The Commission is conducting reviews pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether termination of the suspended investigations would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR parts 201, subparts A and B and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by Commerce.

(2) The *Subject Country* in these reviews is Mexico.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determinations, the Commission defined a single *Domestic Like Product* consisting of all sugar that is coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the *Domestic Industry* as all U.S. producers of sugar within Commerce's scope, including sugarcane and sugar beet farmers/growers, as well as cane millers, cane refiners, and sugar beet processors, but did not include one firm because it did not engage in sufficient production-related activities.

(5) The *Order Date* is the date that the investigations were suspended. In these reviews, the *Order Date* is December 19, 2014.

to continue the antidumping and countervailing duty investigations on sugar from Mexico. Commerce resumed the investigations on May 4, 2015, and on September 23, 2015, published its final affirmative antidumping and countervailing duty determinations (80 FR 57337 and 57341). On November 16, 2015, the Commission published its affirmative determinations (80 FR 70833).

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008).

Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Office of the General Counsel, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized

applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding 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. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is December 30, 2019. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is February 11, 2020. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures*, available on the Commission's website at https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf, elaborates upon the Commission's procedures with respect to filings. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of

service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

No response to this request for information is required if a currently valid Office of Management and Budget (“OMB”) number is not displayed; the OMB number is 3117 0016/USITC No. 19–5–449, expiration date June 30, 2020. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission’s rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution: As used below, the term “firm” includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. sugarcane or sugar beet farmer/grower, cane miller, cane refiner, and/or sugar beet processor of the *Domestic Like Product*, a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise*, a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the termination of the suspended investigations on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry*.

(5) A list of all known and currently operating U.S. sugarcane or sugar beet farmers/growers, cane millers, cane refiners, and sugar beet processors of the *Domestic Like Product*. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date*.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product* by reason of sugar beet and/or sugarcane farming/growing, provide the following information on your firm’s farmer/grower operations on the *Domestic Like Product* during crop year (typically October–September) 2017/18: Total acres owned/leased (in number of acres), total acres of sugarcane and sugar beets harvested (in number of acres), sugar beet and sugarcane production (in short tons), an estimate of the percentage of total U.S. sugar beet and sugarcane production by U.S. sugar beet and sugarcane growers accounted for by your firm’s(s’) production (if known), and an estimate of the percentage of total U.S. acres of sugarcane and sugar beets harvested accounted for by your firm’s(s’) acres of sugarcane and sugar beets harvested (if known). If you are a U.S. producer of the *Domestic Like*

Product by reason of cane milling, cane refining, and/or sugar beet processing, provide the following information on your firm’s operations on the *Domestic Like Product* during crop year 2017/18 (report quantity data in short tons raw value, and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm’s(s’) production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country*, provide the following information on your firm’s(s’) operations on that product during crop year 2017/18 (report quantity data in short tons raw value, and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm’s(s’) imports;

(b) the quantity and value (f.o.b. U.S. port) of U.S. commercial shipments of

Subject Merchandise imported from the *Subject Country*; and

(c) the quantity and value (f.o.b. U.S. port) of U.S. internal consumption/ company transfers of *Subject Merchandise* imported from the *Subject Country*.

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country*, provide the following information on your firm's(s') operations on that product during crop year 2017/18 (report quantity data in short tons raw value, and value data in U.S. dollars, landed and duty-paid at the U.S. port). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* since the *Order Date*, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad).

Demand conditions to consider include

end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country*, and such merchandise from other countries.

(13) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry*; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: November 25, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019-25873 Filed 11-27-19; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2012-0004]

The Cadmium in Construction Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

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

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Cadmium in Construction Standard.

DATES: Comments must be submitted (postmarked, sent, or received) by January 28, 2020.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693-1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit

your comments and attachments to the OSHA Docket Office, Docket No. OSHA-2012-0004, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA-2012-0004) for the Information Collection Request (ICR). All comments, including any personal information you provide, such as social security numbers and dates of birth, are placed in the public docket without change, and may be made available online at <http://www.regulations.gov>. For further information on submitting comments see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to <http://www.regulations.gov> or the OSHA Docket Office at the above above. All documents in the docket (including this **Federal Register** notice) are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download from the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You also may contact Theda Kenney at the below phone number to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Seleda Perryman, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693-2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of a continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of

1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining information (29 U.S.C. 657).

The collection of information requirements specified in the Cadmium in Construction Standard (29 CFR 1926.1127) protect workers from the adverse health effects that may result from their exposure to cadmium. The major collection of information requirements of the Standard include: Conducting worker exposure monitoring, notifying workers of their cadmium exposures, implementing a written compliance program, implementing medical surveillance of workers, providing examining physicians with specific information, ensuring that workers receive a copy of their medical surveillance results, maintaining workers' exposure monitoring and medical surveillance records for specific periods, and providing access to these records by the worker who is the subject of the records, the worker's representative, and other designated parties.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

The agency is not seeking a burden-hour adjustment and will summarize any comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Cadmium in Construction (29 CFR 1926.1127).

OMB Number: 1218-0186.

Affected Public: Business or other for-profits.

Number of Respondents: 10,000.

Frequency of Response: On occasion; Quarterly; Semi-annually; Annually.

Total Responses: 258,250.

Average Time per Response: Varies from 5 minutes (.08) for an employer to notify a worker with exposure monitoring results to 1.5 hours to administer worker medical examinations.

Estimated Total Burden Hours: 33,720.

Estimated Cost (Operation and Maintenance): \$2,082,199.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows:

- (1) Electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal; (2) by facsimile; or (3) by hard copy. All comments, attachments, and other material must identify the agency name and the OSHA docket number for this ICR (Docket No. OSHA-2012-0004). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693-2350 TTY (877) 889-5627).

Comments and submissions are posted without change at <http://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting personal information such as your social security number and date of birth. Although all submissions are listed in the <http://www.regulations.gov> index, some information (e.g., copyrighted material) is not publicly available to read or download from this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

Information on using the <http://www.regulations.gov> website to submit comments and access the docket is available at the website's "User Tips" link. Contact the OSHA Docket Office for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1-2012 (77 FR 3912).

Signed at Washington, DC, on November 22, 2019.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2019-25828 Filed 11-27-19; 8:45 am]

BILLING CODE 4510-26-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2012-0026]

Regulations Containing Procedures for Handling of Retaliation Complaints; Revision of Approved Information Collection (Paperwork) Requirements for Office of Management and Budget (OMB) Approval

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

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to extend and revise the collection of information currently approved by the Office of Management and Budget (OMB) for handling of retaliation complaints filed with OSHA under various whistleblower protection statutes and the procedural regulations described in this notice. These regulations contain procedures employees must use to file a complaint with OSHA alleging that their employer violated a whistleblower protection provision contained in certain statutes that generally prohibit retaliatory action by employers against employees who engage in activities protected by the statutes. This collection of information includes revisions to the electronic form for employees to submit retaliation complaints to OSHA.

DATES: Comments must be submitted (postmarked, sent, or received) by January 28, 2020.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693-1648.

Mail, hand delivery, express mail, messenger or courier service: When using this method, you must submit your comments and attachments to the OSHA Docket Office, OSHA Docket No. OSHA-2012-0026, U.S. Department of Labor, Occupational Safety and Health Administration, Room N-3653, 200 Constitution Avenue NW, Washington, DC 20210. Due to security procedures, there may be delays in receiving materials that are sent by regular mail. For more information about security procedures concerning the delivery of materials by express delivery, hand delivery, and messenger or courier service, please contact the OSHA Docket Office. The hours of operation for the OSHA Docket Office are 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA-2012-0026) for the Information Collection Request (ICR). All comments, including any personal information you provide, such as social security numbers and dates of birth, are placed in the public docket without change and may be made available online at <http://www.regulations.gov>.

For further information on submitting comments see the "Public Participation" heading in the section of this notice titled

SUPPLEMENTARY INFORMATION.

Docket: To read or download comments or other material in the docket, go to <http://www.regulations.gov> or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download from the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact the Directorate of Whistleblower Protection Programs at the below phone number to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT:

Anthony Rosa, Acting Director, Directorate of Whistleblower Protection Programs, OSHA, U.S. Department of Labor; telephone: (202) 693-2199.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of a continuing effort to reduce paperwork and respondent (e.g., an employee filing a retaliation complaint) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing collection of information in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate.

The agency is responsible for investigating alleged violations of whistleblower provisions contained in a number of statutes. These whistleblower provisions generally prohibit retaliation by employers against employees who report alleged violations of certain laws or regulations. Accordingly, these provisions prohibit an employer from discharging or taking any other retaliatory action against an employee because the employee engages in any of the protected activities specified by the whistleblower provisions of the statutes. These statutes are covered under the following regulations: 29 CFR part 24, Procedures for the Handling of Retaliation Complaints under the Employee Protection Provisions of Six Environmental Statutes and Section 211 of the Energy Reorganization Act of 1974, as Amended (29 CFR part 24 covers the: Safe Drinking Water Act, 42 U.S.C. 300j-9(i); Federal Water Pollution Control Act, 33 U.S.C. 1367; Toxic Substances Control Act, 15 U.S.C. 2622; Solid Waste Disposal Act, 42 U.S.C. 6971; Clean Air Act, 42 U.S.C. 7622; Energy Reorganization Act of 1974, 42 U.S.C. 5851; and Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9610); 29 CFR part 1977, Discrimination Against Employees Exercising Rights under the Williams-Steiger Occupational Safety and Health Act (29 CFR part 1977 covers the: Occupational Safety and Health Act, 29 U.S.C. 660; Asbestos Hazard Emergency Response Act, 15 U.S.C. 2651; and International Safe Container Act, 46 U.S.C. 80507); 29 CFR part 1978, Procedures for the Handling of

Retaliation Complaints under the Employee Protection Provision of the Surface Transportation Assistance Act of 1982; 29 CFR part 1979, Procedures for Handling Discrimination Complaints Under the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century; 29 CFR part 1980, Procedures for Handling of Discrimination Complaints Under Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002 (Title VIII of the Sarbanes-Oxley Act of 2002); 29 CFR part 1981, Procedures for the Handling of Discrimination Complaints under Section 6 of the Pipeline Safety and Improvement Act of 2002; 29 CFR part 1982, Procedures for the Handling of Retaliation Complaints Under the National Transit Systems Security Act and the Federal Railroad Safety Act; 29 CFR part 1983, Procedures for the Handling of Retaliation Complaints Under Section 219 of the Consumer Product Safety Improvement Act of 2008; 29 CFR part 1984, Procedures for Handling of Retaliation Complaints Under Section 1558 of the Affordable Care Act; 29 CFR part 1985, Procedures for Handling Retaliation Complaints Under the Employee Protection Provision of the Consumer Financial Protection Act of 2010; 29 CFR part 1986, Procedures for the Handling of Retaliation Complaints Under the Employee Protection Provision of the Seaman's Protection Act (SPA), as Amended; and 29 CFR part 1987, Procedures for Handling Retaliation Complaints Under Section 402 of the FDA Food Safety Modernization Act, and 29 CFR part 1988 Procedures for Handling Retaliation Complaints Under Section 31307 of the Moving Ahead for Progress in the 21st Century.

In addition, OSHA investigates complaints of retaliation filed under the recently-enacted whistleblower provision Section 7623 of the Taxpayer First Act. Collection of information contained in future regulations promulgated by the agency with respect to a whistleblower provision of any other Federal law, except those that are assigned to another DOL agency, will be added to this information collection.

OSHA's whistleblower regulations specify the procedures that an employee must use to file a complaint alleging that their employer violated a whistleblower provision for which the agency has investigative responsibility. Any employee who believes that such a violation occurred may file a complaint, or have the complaint filed on their behalf. Two of these regulations, 29 CFR parts 1979 and 1981, state that complaints must be filed in writing and should include a full statement of the

acts and omissions, with pertinent dates, that the employee believes constitute the violation. The other regulations, 29 CFR parts 24, 1977, 1978, 1980, 1982, 1983, 1984, 1986, 1986, 1987, and 1988 require no particular form of filing for complaints. However, it is OSHA's policy to accept complaints in any form (*i.e.*, orally or in writing) under all statutes. This policy helps ensure that employees of all circumstances and education levels will have equal access to the complaint filing process.

The agency currently utilizes the OSHA Online Whistleblower Complaint Form, which includes interactive features to aid employees seeking to understand the process and requirements for filing a retaliation complaint with OSHA. The web-based form enables employees to submit whistleblower complaints directly to OSHA 24-hours a day. The electronic form also provides information about employee protections enforced by other agencies, in order to better direct complainants to the proper investigative agencies.

OSHA proposes to revise this ICR to include revisions to the electronic complaint form to make the following changes and technical updates. On the landing page, before the electronic complaint form, the user will have the opportunity to click a hyperlink which will direct them to a map that identifies the OSHA regions and their respective contact information. Once in the electronic form, "pop-ups" will appear whenever the user attempts to click away from a required field without making an entry. Lastly, the character count for two optional text boxes will increase from 500 to 1,000 characters. This allows the users to explain their case to OSHA. A mark-up of the proposed changes to the form is available in the docket.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed collection of information is necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the collection of information, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and

- Ways to minimize the burden on individuals who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB approve the proposed extension and revision of the collection of information contained in OSHA's statutory authorities and the regulations containing procedures for handling retaliation complaints at 29 CFR parts 24, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, and 1988.¹ Specifically, this revision contains a revised information collection instrument, a form, which employees may use to file complaints. In addition, OSHA is requesting an adjustment increase in burden hours from 7,566 burden hours to 10,126 burden hours (a total increase of 2,560 hours). The updated data shows an increase in the annual number of complaints filed. The agency will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB.

Type of Review: Revision of a currently approved collection.

Title: Regulations Containing Procedures for Handling Retaliation Complaints.

OMB Number: 1218-0236.

Affected Public: Individuals.

Number of Respondents: 10,126.

Frequency of Response: Once per complaint.

Average Time per Response: 1 hour.

Estimated Total Burden Hours: 10,126.

Estimated Cost (Operation and Maintenance): \$0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows:

- (1) Electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal;
- (2) by facsimile (fax); or
- (3) by hard copy. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR (Docket No. OSHA-2012-0026).

¹ Several of these regulations use the term "discrimination" or "discrimination complaints" titles. These terms are synonymous with "retaliation" and "retaliation complaints," respectively.

You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger or courier service, please contact the OSHA Docket Office at (202) 693-2350, (TTY) (877) 889-5627. Comments and submissions are posted without change at <http://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the <http://www.regulations.gov> index, some information (*e.g.*, copyrighted material) is not publicly available to read or download through this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the <http://www.regulations.gov> website to submit comments and access the docket is available at the website's "User Tips" link. Contact the OSHA Docket Office for information about materials not available through the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1-2012 (77 FR 3912).

Signed at Washington, DC, on November 22, 2019.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2019-25832 Filed 11-27-19; 8:45 am]

BILLING CODE 4510-26-P

DEPARTMENT OF LABOR**Occupational Safety and Health Administration**

[Docket No. OSHA–2013–0008]

The Benzene Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.**ACTION:** Request for public comments.**SUMMARY:** OSHA solicits public comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Benzene Standard.**DATES:** Comments must be submitted (postmarked, sent, or received) by January 28, 2020.**ADDRESSES:**

Electronically: You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2013–0008, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2010–0037) for the Information Collection Request (ICR). All comments, including any personal information you provide, such as social security numbers and dates of birth, are placed in the public docket without change, and may be made available online at <http://www.regulations.gov>. For further information on submitting comments see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the

docket, go to <http://www.regulations.gov> or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download from the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You also may contact Theda Kenney at the below phone number to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Seleda Perryman, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:**I. Background**

The Department of Labor, as part of a continuing effort to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining information (29 U.S.C. 657).

The information collection requirements specified in the Benzene Standard (29 CFR 1910.1028) protects workers from the adverse health effects that may result from occupational exposure to benzene. The major information collection requirements in the Standard include conducting worker exposure monitoring, notifying workers of the benzene exposure, implementing a written compliance program, implementing medical surveillance for workers, providing examining

physicians with specific information, ensuring that workers receive a copy of their medical surveillance records, and providing access to these records by OSHA, the National Institute for Occupational Safety and Health, the worker who is the subject of the records, the worker's representative, and other designated parties.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting an adjustment decrease of 5,640 burden hours (from 144,909 hours to 139,269).

OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information collection requirements contained in the Benzene Standard.

Type of Review: Extension of a currently approved collection.

Title: The Benzene Standard for Welding, Cutting, and Brazing (29 CFR 1910.1028).

OMB Number: 1218–0129.

Affected Public: Business or other for-profits; Not-for-profit organizations Federal Government; State, Local, or Tribal Government.

Number of Respondents: 29,727.

Frequency of Response: On occasion.

Total Responses: 280,704.

Average Time per Response: OSHA estimates it will take 1 minute (.02 hour) to maintain the inspection certification record to 5 minutes (.08 hour) for each welder to perform the inspection periodically (semiannually).

Estimated Total Burden Hours: 139,269.

Estimated Cost (Operation and Maintenance): \$11,353,312.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal; (2) by facsimile; or (3) by hard copy. All comments, attachments, and other material must identify the agency name and the OSHA docket number for this ICR (Docket No. OSHA–2013–0008). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350 TTY (877) 889–5627).

Comments and submissions are posted without change at <http://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting personal information such as your social security number and date of birth. Although all submissions are listed in the <http://www.regulations.gov> index, some information (e.g., copyrighted material) is not publicly available to read or download from this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the <http://www.regulations.gov> website to submit comments and access the docket is available at the website's "User Tips" link. Contact the OSHA Docket Office for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on November 22, 2019.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2019–25827 Filed 11–27–19; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2012–0009]

The Asbestos in Shipyards Standard; Extension of the Office of Management and Budget's Approval of Information Collection (Paperwork) Requirements

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

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Asbestos in Shipyards Standard.

DATES: Comments must be submitted (postmarked, sent, or received) by January 28, 2020.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal e-Rulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2012–0009, Occupational Safety and Health Administration, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the OSHA Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2012–0009) for the Information Collection Request (ICR). All comments, including any personal information you provide, such as social security numbers and dates of birth, are placed in the public docket without change, and may be made available online at <http://www.regulations.gov>.

www.regulations.gov. For further information on submitting comments see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to <http://www.regulations.gov> or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download from the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney or Seleda Perryman at (202) 693–2222 to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Seleda Perryman, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, telephone: (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of the continuing effort to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, the reporting burden (time and costs) is minimal, the collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires OSHA to obtain such information with a minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining said information (29 U.S.C. 657).

The information collection requirements specified in the Asbestos in Shipyards Standard (29 CFR 1915.1001) protect workers from the

adverse health effects that may result from occupational exposure to asbestos. The major information collection requirements in the standard include: Implementing an exposure monitoring program that informs workers of their exposure-monitoring results; ensuring notification of on-site employers, at multi-employer worksites, when establishing regulated areas for work performed with asbestos-containing materials (ACMs) and/or presumed asbestos-containing materials (PACMs), of the requirements for such regulated areas, and the measures necessary to protect workers from overexposure; providing medical surveillance for workers potentially exposed to ACMs and/or PACMs, including administering a worker medical questionnaire, providing information to the examining physician, and providing the physician's written opinion to the worker; and maintaining records of objective data used for exposure determinations, worker exposure monitoring and medical surveillance records, training records, the record (*i.e.*, information, data, and analyses) used to demonstrate that PACMs do not contain asbestos, and notifications made, as well as received by building or facility owners regarding the content of ACMs and/or PACMs.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is proposing an increase in the information collection requirements contained in the Asbestos in Shipyards Standard. The adjustment is primarily the result of the increase of the number of establishments in shipyards. The agency is requesting an increase of 47 hours in the current burden hour total (from 1,189 hours to 1,235 hours). The agency will summarize the comments submitted in response to this notice and

will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Asbestos in Shipyards Standard (29 CFR 1915.1001).

OMB Control Number: 1218-0195.

Affected Public: Business or other for-profits; Federal Government; State, Local or Tribal Government.

Frequency: On occasion.

Average Time per Response: Various.

Estimated Total Burden Hours: 1,235.

Estimated Cost (Operation and Maintenance): \$44,578.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows:

- (1) Electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the agency name and the OSHA docket number (Docket No. OSHA-2012-0009) for the ICR. You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify electronic comments by your name, date, and the docket number so the agency can attach them to your comments.

Due to security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693-2350, TTY (877) 889-5627.

Comments and submissions are posted without change at <http://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the <http://www.regulations.gov> index, some information (*e.g.*, copyrighted material) is not publicly available to read or download from this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

Information on using the <http://www.regulations.gov> website to submit comments and access the docket is available at the website's "User Tips"

link. Contact the OSHA Docket Office for information about materials not available through the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1-2012 (77 FR 3912).

Signed at Washington, DC, on November 22, 2019.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2019-25831 Filed 11-27-19; 8:45 am]

BILLING CODE 4510-26-P

NATIONAL SCIENCE FOUNDATION

Committee Management; Renewal

The NSF management officials having responsibility for the advisory committee listed below have determined that renewing this committee for another two years is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), by 42 U.S.C. 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Committee

President's Committee on the National Medal of Science, #1182

Effective date for renewal is November 22, 2019. For more information, please contact Crystal Robinson, NSF, at (703) 292-8687.

Dated: November 22, 2019.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2019-25843 Filed 11-27-19; 8:45 am]

BILLING CODE 7555-01-P

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 29, 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 22, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express & Priority Mail Contract 106 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2020-36, CP2020-34.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019-25830 Filed 11-27-19; 8:45 am]

BILLING CODE 7710-12-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87593; File No. SR-CboeEDGX-2019-070]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Subparagraph (a)(1) of Rule 11.1 To Allow the Exchange to Accept Market Orders With a Stop Price Entered Between 6:00 and 7:00 a.m. Eastern Time

November 22, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 19, 2019, Cboe EDGX Exchange, Inc. (“Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (“EDGX” or the “Exchange”) is filing with the Securities and Exchange Commission (the “Commission”) a proposed rule change to amend subparagraph (a)(1) of

Rule 11.1 to allow the Exchange to accept Market Orders with a Stop Price entered between 6:00 and 7:00 a.m. Eastern Time. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/options/regulation/rule_filings/edgx/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend subparagraph (a)(1) of Rule 11.1 to allow the Exchange to accept Market Orders³ with a Stop Price⁴ (a “Stop Order”) entered between 6:00 and 7:00 a.m. Eastern Time.

Subparagraph (a)(1) of Rule 11.1 provides that orders entered between 6:00 a.m. and 7:00 a.m. Eastern Time are not eligible for execution until the start of the Early Trading Session,⁵ Pre-Opening Session⁶ or Regular Trading Hours,⁷ depending on the Time in Force selected by the User.⁸ Subparagraph (a)(1) also provides that the Exchange will not accept certain orders⁹ entered

³ A Market Order is an order to buy or sell a stated amount of a security that is to be executed at the NBBO or better when the order reaches the Exchange. See Exchange Rule 11.8(a).

⁴ A Market Order “may include a Stop Price which will convert the order into a Market Order when the Stop Price is triggered. An order to buy converts to a Market Order when the consolidated last sale in the security occurs at, or above, the specified Stop Price. An order to sell converts into a Market Order when the consolidated last sale in the security occurs at, or below, the specified Stop Price.” See Exchange Rule 11.8(a)(1).

⁵ See Exchange Rule 1.5(ii).

⁶ See Exchange Rule 1.5(s).

⁷ See Exchange Rule 1.5(y).

⁸ See Exchange Rule 1.5(ee).

⁹ Specifically, Exchange Rule 11.1(a)(1) provides that orders with a Post Only instruction,

prior to 7:00 a.m. Eastern Time including Market Orders with a Time in Force other than Regular Hours Only (“RHO”).¹⁰ Market Orders with a Time in Force other than RHO are rejected by the Exchange prior to 7:00 a.m. Eastern Time because Market Orders are not eligible to trade prior to the start of Regular Trading Hours and such orders are generally not designated to queue for later entry onto the Exchange's order book. Rather, Market Orders with a Time in Force other than RHO are designed to immediately execute at the NBBO when the order reaches the Exchange, and thus are generally intended for entry during a trading session where continuous trading is occurring. Alternatively, other order types and modifiers, such as Market Orders with a Time in Force of RHO and Limit Orders,¹¹ including Limit Orders with a Stop Limit Price (“Stop Limit Orders”),¹² are allowed for entry on the Exchange between 6:00 and 7:00 a.m. Eastern Time as those order types and modifiers are consistent with an order designated to queue for later entry on to the Exchange's order book. Specifically, Market Orders with a Time in Force of RHO are effectively for use in the Opening Auction and are cancelled if not executed in the Opening Auction. Therefore, Market Orders with a Time in Force of RHO would be queued until the start of the regular trading session for participation in the Opening Auction. Similarly, the Stop Price of a Stop Limit Order can only be triggered by a consolidated last sale eligible trade.¹³ Therefore, a Stop Limit Order would be queued until the time the Stop Price of

Intermarket Sweep Orders (“ISOs”), Market Orders with a Time in Force instruction other than Regular Hours Only, orders with a Minimum Execution Quantity instruction that also include a Time in Force instruction of Regular Hours Only, and all orders with a Time in Force of Immediate-or-Cancel (“IOC”) or Fill-or-Kill (“FOK”) are not accepted if entered prior to 7:00 a.m. Eastern Time.

¹⁰ RHO is an “instruction a User may attach to an order designating it for execution only during Regular Trading Hours, which includes the Opening Process and Re-Opening Process following a halt suspension or pause.” See Exchange Rule 11.6(q)(6).

¹¹ A Limit Order is an “order to buy or sell a stated amount of a security at a specified price or better. A marketable Limit Order is a Limit Order to buy (sell) at or above (below) the lowest (highest) Protected Offer (Protected Bid) for the security.” See Exchange Rule 11.8(b).

¹² A Stop Order “may contain a Stop Limit Price which will convert to a Limit Order once the Stop Limit Price is triggered. A Limit Order to buy with a Stop Limit Price becomes eligible for execution by the System when the consolidated last sale in the security occurs at, or above, the specified Stop Price. A Limit Order to sell with a Stop Limit Price becomes eligible for execution by the System when the consolidated last sale in the security occurs at, or below, the specified Stop Limit Price.” See Exchange Rule 11.8(b)(1).

¹³ See supra note 12.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

the order is triggered by a consolidated last sale eligible trade occurring Regular Trading Hours.

As proposed, the amendment would allow the Exchange to accept Stop Orders entered between 6:00 and 7:00 a.m. Eastern Time, which is consistent with an order designated to queue for later entry on to the Exchange's order book. Similar to a Stop Limit Order, the Stop Price of a Stop Order can only be triggered by a consolidated last sale eligible trade.¹⁴ Therefore, a Stop Order can only become a Market Order after at least the start of Regular Trading Hours. Further, Stop Orders entered on the Exchange between 6:00 and 7:00 a.m. Eastern Time would behave similar to Stop Limit Orders between the time of entry up to at least the start of Regular Trading Hours.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁵ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁶ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating 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.

As discussed above, all Stop Orders are designed to queue until at least the start of Regular Trading Hours as such orders are only eligible to be elected based on the consolidated last sale set during Regular Trading Hours. Therefore, the proposed amendment to allow the entry of Stop Orders between 6:00 and 7:00 a.m. Eastern Time would not allow such Stop Orders to be elected and execute prior to the start of Regular Trading Hours. Prior to the start of Regular Trading Hours, Stop Orders entered between 6:00 and 7:00 a.m. Eastern Time would behave similar to Stop Limit Orders entered during that time. Therefore, the Exchange believes the proposed amendment would consistently allow order types and modifiers that are consistent with orders

designated to queue to be entered on the Exchange between 6:00 and 7:00 a.m. Eastern Time.

Additionally, the Exchange believes the proposed amendment would allow Members the convenience to enter all Stop Orders and Stop Limit Orders between 6:00 and 7:00 a.m. Eastern Time without those orders being eligible for election, and consequently execution, until at least the start of the Regular Trading Hours. Thus, the proposed amendment would provide Members with both greater convenience and flexibility in managing their Stop Orders and Stop Limit Orders without impacting how those orders trade.

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. Rather, the proposed rule change would consistently allow for the entry of order types and modifiers that are designated to queue between 6:00 and 7:00 a.m. Eastern Time. Stop Limit Orders are currently allowed for entry on the Exchange between 6:00 and 7:00 a.m. Eastern Time and behave similar to the manner in which a Stop Order would behave prior to the start of Regular Trading Hours if allowed entry during that time. The Exchange therefore believes that the proposed rule change would increase consistency around the operation of the Exchange to the benefit of Members and investors as well as provide greater flexibility to Members in managing their Stop Orders, without imposing any significant burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on 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

Act¹⁷ and Rule 19b-4(f)(6)¹⁸ thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will 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-CboeEDGX-2019-070 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-CboeEDGX-2019-070. 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

¹⁴ See supra note 4.

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(5).

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 17 CFR 240.19b-4(f)(6).

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-CboeEDGX-2019-070, and should be submitted on or before December 20, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019-25838 Filed 11-27-19; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available

From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736.

60 Day Notice—Proposed Collection; Comment Request

Extension:

Rule 22e-4 (60 Day Notice 2019), SEC File No. 270-794, OMB Control No. 3235-0737.

Notice is hereby given that, under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), the Securities and Exchange Commission (the “Commission”) is soliciting comments on the collections of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Section 22(e) of the Investment Company Act of 1940 (“Investment Company Act”) provides that no registered investment company shall suspend the right of redemption or postpone the date of payment of redemption proceeds for more than seven days after tender of the security absent specified unusual circumstances. The provision was designed to prevent funds and their investment advisers from interfering with the redemption rights of shareholders for improper purposes, such as the preservation of

management fees. Although section 22(e) permits funds to postpone the date of payment or satisfaction upon redemption for up to seven days, it does not permit funds to suspend the right of redemption for any amount of time, absent certain specified circumstances or a Commission order.

Rule 22e-4 under the Act [17 CFR 270.22e-4] requires an open-end fund and an exchange-traded fund that redeems in kind (“In-Kind ETF”) to establish a written liquidity risk management program that is reasonably designed to assess and manage the fund’s or In-Kind ETF’s liquidity risk. The rule also requires board approval and oversight of a fund’s or In-Kind ETF’s liquidity risk management program and recordkeeping. Rule 22e-4 also requires a limited liquidity review, under which a UIT’s principal underwriter or depositor determines, on or before the date of the initial deposit of portfolio securities into the UIT, that the portion of the illiquid investments that the UIT holds or will hold at the date of deposit that are assets is consistent with the redeemable nature of the securities it issues and retains a record of such determination for the life of the UIT and for five years thereafter.

The following estimates of average burden hours and costs are made solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms.

Commission staff estimates that funds within 846 fund complexes are subject to rule 22e-4. Compliance with rule 22e-4 is mandatory for all such funds and In-Kind ETFs, with certain program elements applicable to certain funds within a fund complex based upon whether the fund is an In-Kind ETF or does not primarily hold assets that are highly liquid investments. The Commission estimates that a fund complex will incur a one time average burden of 40 hours associated with documenting the liquidity risk management programs adopted by each fund within a fund complex, in addition to a one time burden of 10 hours per fund complex associated with fund boards’ review and approval of the funds’ liquidity risk management programs and preparation of board materials. We estimate that the total burden for initial documentation and review of funds’ written liquidity risk management program will be 42,300 hours.

Rule 22e-4 requires any fund that does not primarily hold assets that are highly liquid investments to determine a highly liquid investment minimum for

the fund, which must be reviewed at least annually, and may not be changed during any period of time that a fund’s assets that are highly liquid investments are below the determined minimum without approval from the fund’s board of directors. We estimate that fund complexes will have at least one fund that will be subject to the highly liquid investment minimum requirement. Thus, we estimate that 846 fund complexes will be subject to this requirement under rule 22e-4 and that the total burden for preparation of the board report associated will be 11,844 hours.

Rule 22e-4 requires a fund or In-Kind ETF to maintain a written copy of the policies and procedures adopted pursuant to its liquidity risk management program for five years in an easily accessible place. The rule also requires a fund to maintain copies of materials provided to the board in connection with its initial approval of the liquidity risk management program and any written reports provided to the board, for at least five years, the first two years in an easily accessible place. If applicable, a fund must also maintain a written record of how its highly liquid investment minimum and any adjustments to the minimum were determined, as well as any reports to the board regarding a shortfall in the fund’s highly liquid investment minimum, for five years, the first two years in an easily accessible place. We estimate that the total burden for recordkeeping related to the liquidity risk management program requirement of rule 22e-4 will be 3,384 hours.

We estimate that the hour burdens and time costs associated with rule 22e-4 for open-end funds, including the burden associated with (1) funds’ initial documentation and review of the required written liquidity risk management program, (2) reporting to a fund’s board regarding the fund’s highly liquid investment minimum, and (3) recordkeeping requirements will result in an average aggregate annual burden of 25,380 hours.

UITs may in some circumstances be subject to liquidity risk (particularly where the UIT is not a pass-through vehicle and the sponsor does not maintain an active secondary market for UIT shares). On or before the date of initial deposit of portfolio securities into a registered UIT, the UIT’s principal underwriter or depositor is required to determine that the portion of the illiquid investments that the UIT holds or will hold at the date of deposit that are assets is consistent with the redeemable nature of the securities it issues, and maintain a record of that

¹⁹ 17 CFR 200.30-3(a)(12).

determination for the life of the UIT and for five years thereafter. We estimate that 1,385 newly registered UITs will be subject to the UIT liquidity determination requirement under rule 22e-4 each year. We estimate that the total burden for the initial documentation and review of UIT funds' written liquidity risk management program would be 13,850 hours. We estimate that the total burden for recordkeeping related to UIT liquidity risk management programs will be 2,770 hours.

Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (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 respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days after this publication.

Please direct your written comments to Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, C/O Cynthia Roscoe, 100 F Street NE, Washington, DC 20549; or send an email to: PRA_Mailbox@sec.gov.

Dated: November 25, 2019.

Eduardo A. Aleman,
Deputy Secretary.

[FR Doc. 2019-25868 Filed 11-27-19; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87602; File No. SR-CboeBYX-2019-022]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Paragraph (a) of Rule 11.1 To Allow the Exchange To Accept Stop Orders Entered Between 6:00 and 7:00 a.m. Eastern Time

November 22, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 19, 2019, Cboe BYX Exchange, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. ("BYX" or the "Exchange") is filing with the Securities and Exchange Commission (the "Commission") a proposed rule change to amend paragraph (a) of Rule 11.1 to allow the Exchange to accept Stop Orders entered between 6:00 and 7:00 a.m. Eastern Time. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/equities/regulation/rule_filings/byx/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend paragraph (a) of Rule 11.1 to allow the Exchange to accept Stop Orders³ entered between 6:00 and 7:00 a.m. Eastern Time.

Paragraph (a) of Rule 11.1 provides that orders entered between 6:00 a.m. and 7:00 a.m. Eastern Time are not eligible for execution until the start of the Early Trading Session,⁴ Pre-Opening Session⁵ or Regular Trading Hours,⁶ depending on the Time in Force selected by the User.⁷ Paragraph (a) also provides that the Exchange will not accept certain orders⁸ entered prior to 7:00 a.m. Eastern Time including BYX Market Orders⁹ with a Time in Force other than Regular Hours Only ("RHO").¹⁰ BYX Market Orders with a Time in Force other than RHO are rejected by the Exchange prior to 7:00 a.m. Eastern Time because BYX Market Orders are not eligible to trade prior to the start of Regular Trading Hours and such orders are generally not designated to queue for later entry onto the Exchange's order book. Rather, BYX Market Orders with a Time in Force other than RHO are designed to immediately execute at the NBBO when

³ A Stop Order is an order that becomes a BYX market order when the stop price is elected. A Stop Order to buy is elected when the consolidated last sale in the security occurs at, or above, the specified stop price. A Stop Order to sell is elected when the consolidated last sale in the security occurs at, or below, the specified stop price. See Exchange Rule 11.9(c)(16).

⁴ See Exchange Rule 1.5(ee).

⁵ See Exchange Rule 1.5(f).

⁶ See Exchange Rule 1.5(w).

⁷ See Exchange Rule 1.5(cc).

⁸ Specifically, Exchange Rule 11.1(a) provides that BYX Post Only Orders, Partial Post Only at Limit Orders, Intermarket Sweep Orders ("ISOs"), BYX Market Orders with a Time in Force other than Regular Hours Only, Minimum Quantity Orders that also include a Time in Force of Regular Hours Only, RPI Orders and all orders with a Time in Force of Immediate-or-Cancel ("IOC") or Fill-or-Kill ("FOK") are not accepted if entered prior to 7:00 a.m. Eastern Time.

⁹ A BYX Market Order is an "order to buy or sell a stated amount of a security that is to be executed at the NBBO when the order reaches the Exchange. BYX market orders shall not trade through Protected Quotations . . . BYX Market Orders are not eligible for execution during the Early Trading Session, Pre-Opening Session or the After Hours Trading Session." See Exchange Rule 11.9(a)(2).

¹⁰ RHO refers to a "limit or market order that is designated for execution only during Regular Trading Hours, which includes the Opening Process, as defined in Rule 11.23." See Exchange Rule 11.9(b)(7).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

the order reaches the Exchange, and thus are generally intended for entry during a trading session where continuous trading is occurring. Alternatively, other order types and modifiers, such as BYX Market Orders with a Time in Force of RHO and Limit Orders,¹¹ including Stop Limit Orders,¹² are allowed for entry on the Exchange between 6:00 and 7:00 a.m. Eastern Time as those order types and modifiers are consistent with an order designated to queue for later entry on to the Exchange's order book. Specifically, BYX Market Orders with a Time in Force of RHO are effectively for use in the Opening Auction and are cancelled if not executed in the Opening Auction.¹³ Therefore, BYX Market Orders with a Time in Force of RHO would be queued until the start of the regular trading session for participation in the Opening Auction. Similarly, the stop price of a Stop Limit Order can only be triggered by a consolidated last sale eligible trade.¹⁴ Therefore, a Stop Limit Order would be queued until the time the stop price of the order is triggered by a consolidated last sale eligible trade occurring Regular Trading Hours.

As proposed, the amendment would allow the Exchange to accept Stop Orders entered between 6:00 and 7:00 a.m. Eastern Time, which is consistent with an order designated to queue for later entry on to the Exchange's order book. Similar to a Stop Limit Order, the stop price of a Stop Order can only be triggered by a consolidated last sale eligible trade.¹⁵ Therefore, a Stop Order can only become a BYX Market Order after at least the start of Regular Trading Hours. Further, Stop Orders entered on the Exchange between 6:00 and 7:00 a.m. Eastern Time would behave similar to Stop Limit Orders between the time of entry up to at least the start of Regular Trading Hours.

¹¹ A Limit Order is an "order to buy or sell a stated amount of a security at a specified price or better." See Exchange Rule 11.9(a)(1).

¹² A Stop Limit Order is "an order that becomes a limit order when the stop price is elected. A Stop Limit Order to buy is elected when the consolidated last sale in the security occurs at, or above, the specified stop price. A Stop Limit Order to sell becomes a sell limit order when the consolidated last sale in the security occurs at, or below, the specified stop price." See Exchange Rule 11.9(c)(17).

¹³ An order with a Time in Force of RHO is a limit or market order that is designated for execution only during Regular Trading Hours, which includes the Opening Auction and Closing Auction. See Exchange Rule 11.9(b)(7).

¹⁴ See supra note 12.

¹⁵ See supra note 3.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁶ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁷ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating 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.

As discussed above, all Stop Orders are designed to queue until at least the start of Regular Trading Hours as such orders are only eligible to be elected based on the consolidated last sale set during Regular Trading Hours. Therefore, the proposed amendment to allow the entry of Stop Orders between 6:00 and 7:00 a.m. Eastern Time would not allow such Stop Orders to be elected and execute prior to the start of Regular Trading Hours. Prior to the start of Regular Trading Hours, Stop Orders entered between 6:00 and 7:00 a.m. Eastern Time would behave similar to Stop Limit Orders entered during that time. Therefore, the Exchange believes the proposed amendment would consistently allow order types and modifiers that are consistent with orders designated to queue to be entered on the Exchange between 6:00 and 7:00 a.m. Eastern Time.

Additionally, the Exchange believes the proposed amendment would allow Members the convenience to enter all Stop Orders and Stop Limit Orders between 6:00 and 7:00 a.m. Eastern Time without those orders being eligible for election, and consequently execution, until at least the start of the Regular Trading Hours. Thus, the proposed amendment would provide Members with both greater convenience and flexibility in managing their Stop Orders and Stop Limit Orders without impacting how those orders trade.

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. Rather, the proposed rule change would consistently allow for the entry of order types and modifiers that are designated to queue between 6:00 and 7:00 a.m. Eastern Time. Stop Limit Orders are currently allowed for entry on the Exchange between 6:00 and 7:00 a.m. Eastern Time and behave similar to the manner in which a Stop Order would behave prior to the start of Regular Trading Hours if allowed entry during that time. The Exchange therefore believes that the proposed rule change would increase consistency around the operation of the Exchange to the benefit of Members and investors as well as provide greater flexibility to Members in managing their Stop Orders, without imposing any significant burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on 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 Act¹⁸ and Rule 19b-4(f)(6)¹⁹ thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will 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,

¹⁶ 15 U.S.C. 78f(b).

¹⁷ 15 U.S.C. 78f(b)(5).

¹⁸ 15 U.S.C. 78s(b)(3)(A).

¹⁹ 17 CFR 240.19b-4(f)(6).

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-CboeBYX-2019-022 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CboeBYX-2019-022. 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-CboeBYX-2019-022, and should be submitted on or before December 20, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Eduardo A. Aleman,
Deputy Secretary.

[FR Doc. 2019-25840 Filed 11-27-19; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87592; File No. SR-CboeEDGA-2019-020]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Subparagraph (a)(1) of Rule 11.1 To Allow the Exchange To Accept Market Orders With a Stop Price Entered Between 6:00 and 7:00 a.m. Eastern Time

November 22, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 19, 2019, Cboe EDGA Exchange, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGA Exchange, Inc. ("EDGA" or the "Exchange") is filing with the Securities and Exchange Commission (the "Commission") a proposed rule change to amend subparagraph (a)(1) of Rule 11.1 to allow the Exchange to accept Market Orders with a Stop Price entered between 6:00 and 7:00 a.m. Eastern Time. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/equities/regulation/rule_filings/edga/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend subparagraph (a)(1) of Rule 11.1 to allow the Exchange to accept Market Orders³ with a Stop Price⁴ (a "Stop Order") entered between 6:00 and 7:00 a.m. Eastern Time.

Subparagraph (a)(1) of Rule 11.1 provides that orders entered between 6:00 a.m. and 7:00 a.m. Eastern Time are not eligible for execution until the start of the Early Trading Session,⁵ Pre-Opening Session⁶ or Regular Trading Hours,⁷ depending on the Time in Force selected by the User.⁸ Subparagraph (a)(1) also provides that the Exchange will not accept certain orders⁹ entered prior to 7:00 a.m. Eastern Time including Market Orders with a Time in Force other than Regular Hours Only ("RHO").¹⁰ Market Orders with a Time in Force other than RHO are rejected by the Exchange prior to 7:00 a.m. Eastern Time because Market Orders are not eligible to trade prior to the start of Regular Trading Hours and such orders are generally not designated to queue for later entry onto the Exchange's order book. Rather, Market Orders with a Time in Force other than RHO are designed to immediately execute at the NBBO when the order reaches the Exchange, and thus are generally

³ A Market Order is an order to buy or sell a stated amount of a security that is to be executed at the NBBO or better when the order reaches the Exchange. See Exchange Rule 11.8(a).

⁴ A Market Order "may include a Stop Price which will convert the order into a Market Order when the Stop Price is triggered. An order to buy converts to a Market Order when the consolidated last sale in the security occurs at, or above, the specified Stop Price. An order to sell converts into a Market Order when the consolidated last sale in the security occurs at, or below, the specified Stop Price." See Exchange Rule 11.8(a)(1).

⁵ See Exchange Rule 1.5(ii).

⁶ See Exchange Rule 1.5(s).

⁷ See Exchange Rule 1.5(y).

⁸ See Exchange Rule 1.5(ee).

⁹ Specifically, Exchange Rule 11.1(a)(1) provides that orders with a Post Only instruction, Intermarket Sweep Orders ("ISOs"), Market Orders with a Time in Force instruction other than Regular Hours Only, orders with a Minimum Execution Quantity instruction that also include a Time in Force instruction of Regular Hours Only, and all orders with a Time in Force of Immediate-or-Cancel ("IOC") or Fill-or-Kill ("FOK") are not accepted if entered prior to 7:00 a.m. Eastern Time.

¹⁰ RHO is an "instruction a User may attach to an order designating it for execution only during Regular Trading Hours, which includes the Opening Process and Re-Opening Process following a halt suspension or pause." See Exchange Rule 11.6(q)(6).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

²⁰ 17 CFR 200.30-3(a)(12).

intended for entry during a trading session where continuous trading is occurring. Alternatively, other order types and modifiers, such as Market Orders with a Time in Force of RHO and Limit Orders,¹¹ including Limit Orders with a Stop Limit Price (“Stop Limit Orders”),¹² are allowed for entry on the Exchange between 6:00 and 7:00 a.m. Eastern Time as those order types and modifiers are consistent with an order designated to queue for later entry on to the Exchange’s order book. Specifically, Market Orders with a Time in Force of RHO are effectively for use in the Opening Auction and are cancelled if not executed in the Opening Auction. Therefore, Market Orders with a Time in Force of RHO would be queued until the start of the regular trading session for participation in the Opening Auction. Similarly, the Stop Price of a Stop Limit Order can only be triggered by a consolidated last sale eligible trade.¹³ Therefore, a Stop Limit Order would be queued until the time the Stop Price of the order is triggered by a consolidated last sale eligible trade occurring Regular Trading Hours.

As proposed, the amendment would allow the Exchange to accept Stop Orders entered between 6:00 and 7:00 a.m. Eastern Time, which is consistent with an order designated to queue for later entry on to the Exchange’s order book. Similar to a Stop Limit Order, the Stop Price of a Stop Order can only be triggered by a consolidated last sale eligible trade.¹⁴ Therefore, a Stop Order can only become a Market Order after at least the start of Regular Trading Hours. Further, Stop Orders entered on the Exchange between 6:00 and 7:00 a.m. Eastern Time would behave similar to Stop Limit Orders between the time of entry up to at least the start of Regular Trading Hours.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the

¹¹ A Limit Order is an “order to buy or sell a stated amount of a security at a specified price or better. A marketable Limit Order is a Limit Order to buy (sell) at or above (below) the lowest (highest) Protected Offer (Protected Bid) for the security.” See Exchange Rule 11.8(b).

¹² A Stop Order “may contain a Stop Limit Price which will convert to a Limit Order once the Stop Limit Price is triggered. A Limit Order to buy with a Stop Limit Price becomes eligible for execution by the System when the consolidated last sale in the security occurs at, or above, the specified Stop Price. A Limit Order to sell with a Stop Limit Price becomes eligible for execution by the System when the consolidated last sale in the security occurs at, or below, the specified Stop Limit Price.” See Exchange Rule 11.8(b)(1).

¹³ See supra note 12.

¹⁴ See supra note 4.

“Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁵ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁶ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating 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.

As discussed above, all Stop Orders are designed to queue until at least the start of Regular Trading Hours as such orders are only eligible to be elected based on the consolidated last sale set during Regular Trading Hours. Therefore, the proposed amendment to allow the entry of Stop Orders between 6:00 and 7:00 a.m. Eastern Time would not allow such Stop Orders to be elected and execute prior to the start of Regular Trading Hours. Prior to the start of Regular Trading Hours, Stop Orders entered between 6:00 and 7:00 a.m. Eastern Time would behave similar to Stop Limit Orders entered during that time. Therefore, the Exchange believes the proposed amendment would consistently allow order types and modifiers that are consistent with orders designated to queue to be entered on the Exchange between 6:00 and 7:00 a.m. Eastern Time.

Additionally, the Exchange believes the proposed amendment would allow Members the convenience to enter all Stop Orders and Stop Limit Orders between 6:00 and 7:00 a.m. Eastern Time without those orders being eligible for election, and consequently execution, until at least the start of the Regular Trading Hours. Thus, the proposed amendment would provide Members with both greater convenience and flexibility in managing their Stop Orders and Stop Limit Orders without impacting how those orders trade.

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. Rather, the proposed rule change would consistently allow for the entry of order

types and modifiers that are designated to queue between 6:00 and 7:00 a.m. Eastern Time. Stop Limit Orders are currently allowed for entry on the Exchange between 6:00 and 7:00 a.m. Eastern Time and behave similar to the manner in which a Stop Order would behave prior to the start of Regular Trading Hours if allowed entry during that time. The Exchange therefore believes that the proposed rule change would increase consistency around the operation of the Exchange to the benefit of Members and investors as well as provide greater flexibility to Members in managing their Stop Orders, without imposing any significant burden on competition.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on 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 Act¹⁷ and Rule 19b-4(f)(6)¹⁸ thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will 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:

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(5).

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 17 CFR 240.19b-4(f)(6).

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-CboeEDGA-2019-020 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CboeEDGA-2019-020. 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-CboeEDGA-2019-020, and should be submitted on or before December 20, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019-25837 Filed 11-27-19; 8:45 am]

BILLING CODE 8011-01-P

¹⁹ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87603; File No. SR-OCC-2019-007]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Instituting Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Concerning a Proposed Capital Management Policy That Would Support The Options Clearing Corporation's Function as a Systemically Important Financial Market Utility

November 22, 2019.

I. Introduction

On August 9, 2019, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change SR-OCC-2019-007 ("Proposed Rule Change") pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Exchange Act")¹ and Rule 19b-4² thereunder to adopt a policy concerning capital management at OCC, which includes OCC's plan to replenish its capital in the event it falls close to or below target capital levels.³ The Proposed Rule Change was published for public comment in the **Federal Register** on August 27, 2019.⁴ The Commission received comments regarding the Proposed Rule Change.⁵ On September 11, 2019, OCC filed a partial amendment ("Partial Amendment No. 1") to modify the Proposed Rule Change.⁶ On October 8, 2019, the Commission designated a longer period for Commission action on the Proposed Rule Change.⁷ The Commission is publishing this order pursuant to Section 19(b)(2)(B) of the Exchange Act⁸

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Notice of Filing *infra* note 4, at 84 FR 44952.

⁴ Securities Exchange Act Release No. 86725 (Aug. 21, 2019), 84 FR 44952 (Aug. 27, 2019) (SR-OCC-2019-007) ("Notice of Filing"). OCC also filed a related advance notice (SR-OCC-2019-805) ("Advance Notice") with the Commission pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled the Payment, Clearing, and Settlement Supervision Act of 2010 and Rule 19b-4(n)(1)(i) under the Exchange Act. 12 U.S.C. 5465(e)(1). 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b-4. The Advance Notice was published in the **Federal Register** on September 11, 2019. Securities Exchange Act Release No. 86888 (Sep. 5, 2019), 84 FR 47990 (Sep. 11, 2019) (SR-OCC-2019-805).

⁵ Comments are available at <https://www.sec.gov/comments/sr-occ-2019-007/srocc2019007.htm>.

⁶ See Extension *infra* note 7, at 84 FR 55189.

⁷ Securities Exchange Act Release No. 87246 (Oct. 8, 2019), 84 FR 55189 (Oct. 15, 2019) (File No. SR-OCC-2019-007) ("Extension").

⁸ 15 U.S.C. 78s(b)(2)(B).

to institute proceedings to determine whether to approve or disapprove the Proposed Rule Change.

II. Description of the Proposed Rule Change

OCC now proposes changes to adopt, as part of its rules, a new policy concerning capital management at OCC ("Capital Management Policy"). Specifically, the proposed Capital Management Policy would (i) describe how OCC would determine the amount of liquid net assets funded by equity ("LNAFBE") necessary to cover OCC's potential general business losses; (ii) require OCC to hold a minimum amount of shareholders equity ("Equity") sufficient to support the amount of LNAFBE determined to be necessary;⁹ and (iii) establish a plan for replenishing OCC's capital in the event that Equity were to fall below certain thresholds. OCC also proposes to revise its existing rules to support the terms of the proposed Capital Management policy.

III. Proceedings To Determine Whether To Approve or Disapprove File No. SR-OCC-2019-007 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act to determine whether the Proposed Rule Change should be approved or disapproved.¹⁰ Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the Proposed Rule Change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved.

Pursuant to Section 19(b)(2)(B) of the Exchange Act,¹¹ the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis and input concerning the Proposed Rule Change's consistency with the Exchange Act and the rules thereunder, including the following:

- Section 17A(b)(3)(D) of the Exchange Act, which requires the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants;¹² and
- Section 17A(b)(3)(F) of the Exchange Act, which requires, among

⁹ LNAFBE would mean cash and cash equivalents to the extent that such cash and cash equivalents do not exceed Equity.

¹⁰ 15 U.S.C. 78s(b)(2)(B).

¹¹ *Id.*

¹² 15 U.S.C. 78q-1(b)(3)(D).

other things, that the rules of OCC be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of OCC or for which it is responsible.¹³

- Rule 17Ad-22(e)(15) of the Exchange Act, which requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to identify, monitor, and manage the covered clearing agency's general business risk and hold sufficient liquid net assets funded by equity to cover potential general business losses so that the covered clearing agency can continue operations and services as a going concern if those losses materialize, including by taking the actions described in Rules 17Ad-22(e)(15)(i)-(iii) under the Exchange Act.¹⁴

IV. Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the Proposed Rule Change with respect to the issues identified above, as well as any other concerns they may have with the Proposed Rule Change. In particular, the Commission invites the written views of interested persons concerning whether the Proposed Rule Change is consistent with Sections 17A(b)(3)(D) and 17A(b)(3)(F) of the Exchange Act and Rule 17Ad-22(e)(15) thereunder, cited above, or any other provision of the Exchange Act, rules, and regulations thereunder.

Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.¹⁵

Interested persons are invited to submit written data, views, and arguments regarding whether the Proposed Rule Change should be approved or disapproved by December 16, 2019. Any person who wishes to file

a rebuttal to any other person's submission must file that rebuttal by December 20, 2019.

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 No. SR-OCC-2019-007 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File No. SR-OCC-2019-007. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the Proposed Rule Change that are filed with the Commission, and all written communications relating to the Proposed Rule Change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at <https://www.theocc.com/about/publications/bylaws.jsp>.

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 No. SR-OCC-2019-007 and should be submitted on or before December 16, 2019. If comments are received, any rebuttal comments should be submitted on or before December 20, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019-25841 Filed 11-27-19; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87590; File No. SR-CBOE-2019-109]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Financial Incentive Programs for Global Trading Hours Lead Market-Makers in VIX

November 22, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 15, 2019, Cboe Exchange, Inc. ("Exchange" or "Cboe Options") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to amend its financial incentive programs for Global Trading Hours Lead Market-Makers in VIX. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these

¹³ 15 U.S.C. 78q-1(b)(3)(F).

¹⁴ 17 CFR 240.17Ad-22(e)(15).

¹⁵ Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94-29, 89 Stat. 97 (1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

¹⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Global Trading Hours ("GTH") VIX

Lead Market-Makers ("LMMs") Incentive Program, effective November 18, 2019.

Background

By way of background, pursuant to the Fees Schedule, a LMM in VIX will receive a rebate for that month in the amount of a pro-rata share of a compensation pool equal to \$20,000 times the number of LMMs in that class (or pro-rated amount if an appointment begins after the first trading day of the month or ends prior to the last trading

day of the month) if the LMM(s): (1) Provide continuous electronic quotes during GTH that meet or exceed the following heightened quoting standards in at least 99% of the VIX series 90% of the time in a given month:

Premium	Expiring		Near term		Mid term		Long term	
Level	7 days or less		8 days to 60 days		61 days to 270 days		271 days or Greater	
	Width	Size	Width	Size	Width	Size	Width	Size
\$0-\$3.00	\$0.50	25	\$0.40	50	\$0.50	25	\$1.00	10
\$3.01-\$5.00	0.75	15	0.60	30	0.75	15	1.50	7
\$5.01-\$10.00	1.00	10	0.80	20	1.00	10	2.00	5
\$10.01-\$30.00	3.00	5	1.00	10	3.00	5	5.00	3
\$30.01-\$100.00	5.00	3	3.00	5	5.00	3	7.00	2
Greater than \$100.00	10.00	1	5.00	1	10.00	1	12.00	1

Additionally, a GTH LMM in VIX is not currently obligated to satisfy the heightened quoting standards described in the table above. Rather, an LMM is eligible to receive the rebate if they satisfy the heightened quoting standards above, which the Exchange believes encourage LMMs to provide liquidity during GTH. The Exchange may also consider other exceptions to this quoting standard based on demonstrated legal or regulatory requirements or other mitigating circumstances.

Proposed Change

The Exchange now wishes to amend the heightened quoting standard under the GTH VIX LMM incentive program. Particularly, the Exchange proposes to eliminate the current size and width requirements and in their place adopt a maximum allowable width standard. The Exchange notes that the proposed change is designed to make the heightened quoting standard easier to attain. The Exchange believes that by easing the standard, it will encourage VIX GTH LMM(s) who cannot meet the current standard to continue to provide liquidity in VIX during GTH. As such, the Exchange proposes to slightly ease the criteria and amend the program to provide that in order to receive the rebate under the program, an LMM must: provide continuous electronic quotes during GTH that meet or exceed the following heightened quoting standards in at least 99% of the VIX

series 90% of the time in a given month:³

Premium level	Maximum allowable width
\$0.00-\$100.00	\$10.00
\$100.01-\$200.00	16.00
Greater than \$200.00	24.00

As is the case today, VIX GTH LMM(s) will still not be obligated to satisfy the amended heightened quoting standard. The Exchange believes the program, as amended, will encourage VIX GTH LMM(s) to provide liquidity in VIX during GTH. The Exchange believes the rebate provided under the VIX GTH LMM program continues to encourage VIX GTH LMM(s) to provide liquidity in VIX options during GTH, including during the opening.⁴ Additionally, the Exchange notes that a VIX GTH LMM may need to undertake expenses to be able to quote at a significantly heightened standard in VIX, such as

³ For the month of November 2019, the Exchange proposes to apply the heightened quoting standard from November 18 to November 30, in light of the mid-month proposal to modify the heightened quoting standard. The Exchange also notes the previous LMM term expired October 1, 2019, and the Exchange intends to appoint a new LMM effective November 18, 2019. Such LMM will be eligible for the full financial payment for November 2019 if the LMM meets the heightened quoting standard from November 18 to November 30.

⁴ The Exchange notes that quotes qualify only when the series is open (*i.e.*, pre-open quotes do not count).

purchase more logical connectivity based on its increased capacity needs.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.⁵ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁶ requirements that the rules of an exchange be 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 regulating, clearing, settling, processing information with respect to, and 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. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,⁷ which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange believes amending the GTH VIX LMM Incentive Program is

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78f(b)(4).

reasonable as a VIX GTH LMM will still be eligible to receive the proposed financial payment. The Exchange believes the monthly payment continues to be commensurate with the heightened quoting standard, even as amended. The Exchange believes the proposed changes to the heightened quoting standard are reasonable and appropriate as the changes result in a more attainable incentive program, while still acting as an incentive for a VIX GTH LMM to provide liquid and active markets in VIX during GTH. The Exchange believes it is equitable and not unfairly discriminatory to continue to only offer this financial incentive to VIX GTH LMM(s) because it benefits all market participants trading VIX during GTH to encourage the LMM(s) to satisfy the heightened quoting standard, which ensures, and may even provide increased, liquidity, which thereby may provide more trading opportunities and tighter spreads. Indeed, the Exchange notes that the VIX GTH LMM(s) serve a crucial role in providing quotes and the opportunity for market participants to trade VIX, which can lead to increased volume, providing a robust market. The Exchange ultimately wishes to ensure a GTH LMM is adequately incentivized to provide liquid and active markets in VIX during GTH to encourage liquidity. The Exchange believes that the program, even as amended, will continue to encourage increased quoting to add liquidity in VIX, thereby protecting investors and the public interest. The Exchange also notes that a VIX GTH LMM may have added costs each month that it needs to undertake in order to satisfy that heightened quoting standard (e.g., having to purchase additional logical connectivity). The Exchange believes the proposed amendments are equitable and not unfairly discriminatory because they apply to any TPH that is appointed as a VIX GTH LMM equally. Additionally, if a VIX GTH LMM does not satisfy the heightened quoting standard for any given month, then it simply will not receive the offered payment for that month.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition that are not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it applies uniformly to similarly

situated VIX GTH LMMs, which market participants play a crucial role in providing active and liquid markets in VIX during GTH. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because VIX options are a proprietary product that will only be traded on Cboe Options. To the extent that the proposed changes make Cboe Options a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become Cboe Options market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and paragraph (f) of Rule 19b-4⁹ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will 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-CBOE-2019-109 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f).

Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2019-109. 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-CBOE-2019-109 and should be submitted on or before December 20, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019-25836 Filed 11-27-19; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736.

Extension:

Rule 17a-6, SEC File No. 270-506, OMB Control No. 3235-0564.

¹⁰ 17 CFR 200.30-3(a)(12).

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget ("OMB") for extension and approval.

Section 17(a) of the Investment Company Act of 1940 (the "Act") generally prohibits affiliated persons of a registered investment company ("fund") from borrowing money or other property from, or selling or buying securities or other property to or from, the fund or any company that the fund controls.¹ Rule 17a-6 (17 CFR 270.17a-6) permits a fund and a "portfolio affiliate" (a company that is an affiliated person of the fund because the fund controls the company, or holds five percent or more of the company's outstanding voting securities) to engage in principal transactions that would otherwise be prohibited under section 17(a) of the Act under certain conditions. A fund may not rely on the exemption in the rule to enter into a principal transaction with a portfolio affiliate if certain prohibited participants (e.g., directors, officers, employees, or investment advisers of the fund) have a financial interest in a party to the transaction. Rule 17a-6 specifies certain interests that are not "financial interests," including any interest that the fund's board of directors (including a majority of the directors who are not interested persons of the fund) finds to be not material. A board making this finding is required to record the basis for the finding in its meeting minutes. This recordkeeping requirement is a collection of information under the Paperwork Reduction Act of 1995 ("PRA").²

The rule is designed to permit transactions between funds and their portfolio affiliates in circumstances in which it is unlikely that the affiliate would be in a position to take advantage of the fund. In determining whether a financial interest is "material," the board of the fund should consider whether the nature and extent of the interest in the transaction is sufficiently small that a reasonable person would not believe that the interest affected the determination of whether to enter into the transaction or arrangement or the terms of the transaction or arrangement. The information collection requirements in rule 17a-6 are intended to ensure that

Commission staff can review, in the course of its compliance and examination functions, the basis for a board of director's finding that the financial interest of an otherwise prohibited participant in a party to a transaction with a portfolio affiliate is not material.

Based on staff discussions with fund representatives, we estimate that funds currently do not rely on the exemption from the term "financial interest" with respect to any interest that the fund's board of directors (including a majority of the directors who are not interested persons of the fund) finds to be not material. Accordingly, we estimate that annually there will be no principal transactions under rule 17a-6 that will result in a collection of information.

The Commission requests authorization to maintain an inventory of one burden hour to ease future renewals of rule 17a-6's collection of information analysis should funds rely on this exemption to the term "financial interest" as defined in rule 17a-6.

The estimate of burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Complying with this collection of information requirement is necessary to obtain the benefit of relying on rule 17a-6. 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 control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will 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 collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, C/O Cynthia Roscoe, 100 F Street NE, Washington, DC 20549; or send an email to: PRA_Mailbox@sec.gov.

Dated: November 25, 2019.

Eduardo A. Aleman,
Deputy Secretary.

[FR Doc. 2019-25867 Filed 11-27-19; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87589; File No. SR-NYSEArca-2019-60]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 2 and Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 2 Thereto, To List and Trade Shares of the KFA Global Carbon ETF Under NYSE Arca Rule 8.600-E

November 22, 2019.

On August 14, 2019, NYSE Arca, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade shares ("Shares") of the KFA Global Carbon ETF ("Fund") under NYSE Arca Rule 8.600-E, which governs the listing and trading of Managed Fund Shares on the Exchange. The proposed rule change was published for comment in the **Federal Register** on August 29, 2019.³ On September 12, 2019, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced and superseded the proposed rule change as originally filed.⁴ On October 10, 2019, pursuant to Section 19(b)(2) of the Exchange Act,⁵ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁶ On October 22, 2019, the Exchange filed Amendment No. 2 to the proposed rule change, which replaced and superseded the proposed rule change, as modified

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 86752 (Aug. 23, 2019), 84 FR 45557.

⁴ Amendment No. 1 is available on the Commission's website at: <https://www.sec.gov/comments/sr-nysearca-2019-60/srnysearca201960-6117868-192147.pdf>.

⁵ 15 U.S.C. 78s(b)(2).

⁶ See Securities Exchange Act Release No. 87277, 84 FR 55658 (Oct. 17, 2019). The Commission designated November 27, 2019, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

¹ 15 U.S.C. 80a-17(a).

² 44 U.S.C. 3501.

by Amendment No. 1.⁷ The Commission has received no comments on the proposed rule change. The Commission is publishing this notice and order to solicit comments on the proposed rule change, as modified by Amendment No. 2, from interested persons and to institute proceedings pursuant to Section 19(b)(2)(B) of the Act⁸ to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 2.

I. The Exchange's Description of the Proposed Rule Change, as Modified by Amendment No. 2

The Exchange proposes to list and trade shares of the KFA Global Carbon ETF under NYSE Arca Rule 8.600–E (“Managed Fund Shares”). This Amendment No. 2 to SR–NYSEArca–2019–60 replaces SR–NYSEArca–2019–60 as originally filed and Amendment 1 thereto and supersedes such filings in their entirety. The proposed change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (“Shares”) of the KFA Global Carbon ETF (“Fund”) under NYSE Arca Rule 8.600–E, which governs the listing and trading of Managed Fund Shares⁹ on the

⁷ Amendment No. 2 is available on the Commission’s website at: <https://www.sec.gov/comments/sr-nysearca-2019-60/srnysearca201960-6324054-194703.pdf>.

⁸ 15 U.S.C. 78s(b)(2)(B).

⁹ A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (“1940 Act”) organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by

Exchange. The Fund will be an actively managed exchange-traded fund.

The Shares will be offered by KraneShares Trust (the “Trust”), which was established as a Delaware statutory trust on February 3, 2012. The Trust is registered with the Securities and Exchange Commission (“SEC” or “Commission”) as an open-end management investment company.¹⁰

Krane Funds Advisors, LLC (“Krane” or “Adviser”) will serve as the investment adviser to the Fund. Climate Finance Partners LLC (“Sub-Adviser”) will serve as the non-discretionary investment sub-adviser to the Fund. SEI Investments Global Funds Services (“Administrator”) will serve as administrator for the Fund.

SEI Investments Distribution Co. (“Distributor”), an affiliate of the Administrator, will serve as the Fund’s distributor. Brown Brothers Harriman & Co. (“BBH”) will serve as custodian and transfer agent for the Fund.

Commentary .06 to Rule 8.600–E provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect and maintain a “fire wall” between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.¹¹ In addition,

its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Rule 5.2–E(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

¹⁰ The Trust is registered under the 1940 Act. On June 11, 2019, the Trust filed with the Commission its registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a), and under the 1940 Act relating to the Fund (File Nos. 333–180870 and 811–22698) (“Registration Statement”). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order upon which the Trust may rely, granting certain exemptive relief under the 1940 Act. See Investment Company Act Release No. 32455 (January 27, 2017) (File No. 812–14675).

¹¹ An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the “Advisers Act”). As a result, the Adviser and Sub-Adviser and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to

Commentary .06 further requires that personnel who make decisions on the open-end fund’s portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund’s portfolio. The Adviser and Sub-Adviser are not registered as broker-dealers, but the Adviser is affiliated with a broker-dealer, and has implemented and will maintain a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. The Sub-Adviser is not affiliated with a broker-dealer. In the event (a) the Adviser or Sub-Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

KFA Global Carbon ETF

According to the Registration Statement, the Fund will seek to provide a total return that, before fees and expenses, exceeds that of the IHS Markit Global Carbon Index (the “Index”) over a complete market cycle. The Index is designed to track the performance of liquid carbon credit futures contracts (“Carbon Credit Futures”) maturing within the next one to two calendar years.

Principal Investments

More specifically, the Index is designed to track, and the Fund and the Fund’s Subsidiary (as defined below), under normal market conditions,¹² intend to invest primarily in, Carbon Credit Futures issued under the European Union Allowance (EUA),

provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

¹² The term “normal market conditions” is defined in NYSE Arca Rule 8.600–E(c)(5).

California Carbon Allowance (CCA), and Regional Greenhouse Gas Initiative (RGGI) regimes, and maturing within the next one to two calendar years. EUA futures are currently traded principally on ICE Futures Europe, and CCA futures and RGGI futures are currently traded principally on ICE Futures US. ICE Futures Europe, ICE Futures US and CME are members of the Intermarket Surveillance Group (“ISG”).

According to the Registration Statement, although the Fund will seek to maintain exposure to Carbon Credit Futures that are the same as or similar to those included in the Index, the Fund and the Subsidiary will be actively managed and will not be required to replicate the performance of the Index or to invest in the specific instruments in the Index. For example, the Fund may hold Carbon Credit Futures with the same maturity and weightings as the Index, or may select Carbon Credit Futures with a different month of maturity, or weight such Carbon Credit Futures differently, than the Index, or invest in other futures contracts or options on futures contracts that are eligible for inclusion in the Index in seeking to achieve its investment objective.

As of the last annual rebalancing date, November 30, 2018, the weighting of Carbon Credit Futures in the Index was, and the weighting of Carbon Credit Futures in the Fund (including the Subsidiary (as defined below)) would have been, as follows:

- European Union Allowance (EUA)—65%
- California Carbon Allowance (CCA)—25%
- Regional Greenhouse Gas Initiative (RGGI)—10%

Although, as described in more detail below, the Carbon Credit Futures in the Index are physically settled futures contracts, the Adviser does not anticipate that the Fund will hold the Carbon Credit Futures until expiry or take or make delivery of any physical commodities. Instead, the Adviser expects to roll each Carbon Credit Future in the Fund’s (or Subsidiary’s (as defined below)) portfolio approximately two weeks prior to expiry. Thus, the Adviser expects to sell near to expiry Carbon Credit Futures and reinvest the proceeds in new Carbon Credit Futures to achieve the Fund’s investment objective.

Other Investments

While the Fund, under normal market conditions, will invest primarily in Carbon Credit Futures referenced above, the Fund may hold other securities and

financial instruments, as described below.

Other than investing in Carbon Credit Futures, the Fund, in seeking to achieve its investment objective, may invest in futures contracts or exchange-traded options on futures contracts that are eligible for inclusion in the Index.

The Fund may hold cash and cash equivalents.¹³

The Fund will seek to exceed the performance of the Index through the active management of a portfolio of debt instruments (other than cash equivalents). Such debt instruments in which the Fund intends to invest are government securities and corporate or other non-government fixed-income securities with maturities of up to 12 months.

The fixed income securities in which the Fund invests will comply with the generic listing requirements of Commentary .01(b) to Rule 8.600–E.

The Fund may invest in exchange-traded funds (“ETFs”)¹⁴ and exchange-traded notes (“ETNs”).¹⁵

The Fund may hold investment company securities (other than ETFs), consistent with the requirements of Section 12(d) of the 1940 Act.

The Fund may invest up to 25% of its assets in a wholly-owned subsidiary (the “Subsidiary”). The Fund will utilize the Subsidiary for purposes of investing in the Carbon Credit Futures and other futures contracts and options on futures contracts. The Subsidiary is a corporation operating under Cayman Islands law that is wholly-owned and controlled by the Fund. The Subsidiary is advised by the Adviser and sub-advised by the Sub-Adviser. The Subsidiary has the same investment objective as the Fund and will follow the same investment policies and restrictions as the Fund. Accordingly, the Subsidiary will only invest in the same instruments as the Fund may invest in, as discussed herein, including Carbon Credit Futures, other futures

¹³ For purposes of this filing, cash equivalents include the securities included in Commentary .01(c) to NYSE Arca Rule 8.600–E.

¹⁴ For purposes of this filing, “ETFs” are Investment Company Units (as described in NYSE Arca Rule 5.2–E(j)(3)); Portfolio Depository Receipts (as described in NYSE Arca Rule 8.100–E); and Managed Fund Shares (as described in NYSE Arca Rule 8.600–E). All ETFs will be listed and traded in the U.S. on a national securities exchange. While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged (e.g., 2X, –2X, 3X or –3X) ETFs.

¹⁵ ETNs are securities as described in NYSE Arca Rule 5.2–E(j)(6) (Equity Index-Linked Securities, Commodity-Linked Securities, Currency-Linked Securities, Fixed Income Index-Linked Securities, Futures-Linked Securities and Multifactor Index-Linked Securities). While the Fund may invest in inverse ETNs, the Fund will not invest in leveraged (e.g., 2X, –2X, 3X or –3X) ETNs.

contracts and options on futures contracts, and cash and cash equivalents as margin or collateral with respect to its Carbon Credit Futures and other futures contracts and options on futures contracts investments.

The Fund will conduct foreign currency exchange transactions to the extent necessary to purchase Carbon Credit Futures and convert proceeds of sales of Carbon Credit Futures into U.S. Dollars. The Fund will conduct such foreign currency transactions either on a spot (i.e., cash) basis at the spot rate prevailing in the foreign currency exchange market, or through forwards and U.S. exchange-traded futures on foreign currencies.

The Exchange submits this proposal in order to allow the Fund to hold listed derivatives, in particular Carbon Credit Futures included in the Index, in a manner that does not comply with Commentary .01(d)(2) to Rule 8.600–E, as described below. Otherwise, the Fund will comply with all other listing requirements of Commentary .01 to NYSE Arca Rule 8.600–E on an initial and continued listing basis.

Description of the Index

According to the Registration Statement, the Index utilizes a rules-based methodology and is designed to track a portfolio of liquid, accessible carbon credit futures contracts with “physical delivery” of emission allowances issued under “cap and trade” regimes.¹⁶

The Index is provided by Markit Indices GmbH (the “Index Provider”), a wholly-owned subsidiary of IHS Markit Ltd. The Index Provider is not affiliated with the Fund or Krane.¹⁷ The Index

¹⁶ According to the Registration Statement, in a typical “cap and trade” regime, a limit (or “cap”) is set by a regulator, such as a government entity or supranational organization, on the total amount of specific greenhouse gases (“GHG”), such as CO₂, that can be emitted by regulated entities, such as manufacturers or energy producers. The regulator then may issue or sell individual “emission allowances” to regulated entities. These emission allowances are issued by the regulator to regulated entities, which may then buy or sell (“trade”) the emission allowances on the open market. The regulator may gradually reduce the market cap on emission allowances, thereby increasing the value of such allowances and forcing regulated entities to reduce their GHG emissions. A cap on emission allowances available to the market supports the value of those allowances and is intended to incentivize regulated entities to reduce their GHG emissions, because they are permitted to sell unneeded emission allowances for profit. Commodity futures contracts linked to the value of emission allowances are known as carbon credit futures.

¹⁷ The Index Provider is not a broker-dealer or affiliated with a broker-dealer and has implemented and will maintain procedures designed to prevent the use and dissemination of material, nonpublic information regarding the Index.

Provider determines the components and the relative weightings of the components in the Index. The Index Provider may consult with the IHS Markit Global Carbon Index Advisory Committee to review potential changes to the Index rules and methodology. Any decision as to the eligibility or ineligibility of a Carbon Credit Future will be published and the Index rules will be updated accordingly. Additional information about the Index is available on the Index Provider's website, www.ihsmarkit.com.

As of July 31, 2019, eligible components of the Index include emission allowances issued under the European Union Emissions Trading System (EUA),¹⁸ California Carbon Allowance (CCA)¹⁹ and Regional Greenhouse Gas Initiative (RGGI)²⁰ "cap and trade" regimes. As the global carbon credit market grows, additional liquid contracts may enter the Index, and the Fund and the Subsidiary may invest in any additional Carbon Credit Futures that are the same as or similar to those included in the Index. However, the Fund and the Subsidiary, under normal market conditions, will invest primarily in Carbon Credit Futures issued under EUA, CCA, and RGGI regimes.

The Fund's holdings in Carbon Credit Futures and in futures contracts or options on futures contracts other than Carbon Credit Futures will comply with the requirements of Commentary .01(d)(1) to Rule 8.600–E.²¹

¹⁸ The EUA allowance is based on the ICE Futures ECX CFI Carbon Financial Instrument Futures Contract ("ECX CFI Futures"). ECX CFI Futures are standardized contracts developed by the European Climate Exchange ("ECX"). They are standardized contractual instruments for futures on deliverable carbon equivalent emissions allowances issued under the European Union Emissions Trading Scheme ("EU ETS"), which are listed and admitted to trading on ICE Futures Europe and the European Energy Exchange (EEX).

¹⁹ CCA—CBL California Carbon Allowance Futures Contracts ("California Contracts") are listed and traded on ICE Futures U.S and CME Globex (operated by CME Group, Inc. ("CME")). The California Contracts allow for trading of physically delivered greenhouse gas emissions allowances. Each California Contract is an allowance issued by the California Air Resources Board (or a linked program) to emit one metric ton of CO₂ equivalent under California Assembly Bill 32 "California Global Warming Solutions Act of 2006" and its associated regulations, rules and amendments (collectively the "California Cap and Trade Program").

²⁰ RGGI—Regional Greenhouse Gas Initiative Futures are traded on ICE Futures U.S. They are monthly physically delivered contracts on RGGI CO₂ allowances.

²¹ Commentary .01(d)(1) to Rule 8.600–E provides that, with respect to a fund's holdings in listed derivatives, in the aggregate, at least 90% of the weight of such holdings invested in futures, exchange-traded options, and listed swaps shall, on both an initial and continuing basis, consist of

The Adviser represents that, as of November 30, 2018, the initial universe and weighting of Carbon Credit Futures in the Index was as follows:

Regional Component—Europe, Middle East and Africa

- European Union Allowance (EUA)—65%

Regional Component—Americas

- California Carbon Allowance (CCA)—25%
- Regional Greenhouse Gas Initiative (RGGI)—10%

The Adviser further represents that the Index allocated each of the EUA and CCA allowances to two Carbon Credit Futures with different expiration dates. Accordingly, according to the Adviser, the Fund's allocations to EUA and CCA Carbon Credit Futures, on a continuous basis, would similarly be to at least four different contracts (e.g., two different contracts each with two different expiry dates).

The Commodities Futures Trading Commission (the "CFTC") has adopted certain requirements that subject registered investment companies and their advisers to regulation by the CFTC if a registered investment company invests more than a prescribed level of its net assets in CFTC-regulated futures, options and swaps, or if a registered investment company markets itself as providing investment exposure to such instruments. Due to the Fund's intended use of CFTC-regulated futures above the prescribed levels, it will be a "commodity pool" under the Commodity Exchange Act.

The Index is calculated on each full Securities Industry and Financial Markets Association (SIFMA) recommended U.S. trading day and the last calendar day of November. To convert the value of foreign carbon credit futures contracts to U.S. dollars, the Index utilizes foreign exchange spot rates from WM Reuters, using foreign exchange rates as of 4:00 p.m. London time for any day the Index is calculated. The Index was launched on July 25, 2019 with a base date of July 31, 2014 and a base value of 100. As of the most recent rebalancing date of November 30, 2018, the Index included five futures contracts with market capitalizations ranging from a minimum of \$506

futures, options, and swaps for which the Exchange may obtain information via the ISG from other members or affiliates of the ISG or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement. (For purposes of calculating this limitation, a portfolio's investment in listed derivatives will be calculated as the aggregate gross notional value of the listed derivatives).

million for the RGGI program to a maximum of \$29.463 billion for the EUA program. The average market capitalization of the futures of these programs was \$10.916 billion. The largest Regional Components in the Index were Europe and the Americas (EUA (65%), CCA (25%) and RGGI (10%)).²²

Other Restrictions

The Fund's and the Subsidiary's investments, including derivatives, will be consistent with the Fund's investment objective and will not be used to seek performance that is the multiple or inverse multiple (e.g., 2X or –3X) of the Index.

Use of Derivatives by the Fund

Investments in derivative instruments will be made in accordance with the Fund's investment objective and policies.

To limit the potential risk associated with such transactions, the Fund will enter into offsetting transactions or segregate or "earmark" assets determined to be liquid by the Adviser in accordance with procedures established by the Trust's Board of Trustees (the "Board"). In addition, the Fund has included appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of the Fund, including the Fund's use of derivatives, may give rise to leverage, causing the Fund to be more volatile than if it had not been leveraged.

Impact on Arbitrage Mechanism

The Adviser believes there will be minimal, if any, impact to the arbitrage mechanism as a result of the Fund's use of derivatives. The Adviser understands that market makers and participants should be able to value derivatives as long as the positions are disclosed with relevant information. The Adviser believes that the price at which Shares of the Fund trade will continue to be disciplined by arbitrage opportunities created by the ability to purchase or redeem Shares of the Fund at their net asset value ("NAV"), which should ensure that Shares of the Fund will not trade at a material discount or premium in relation to their NAV.

The Adviser does not believe there will be any significant impacts to the settlement or operational aspects of the Fund's arbitrage mechanism due to the use of derivatives.

²² Sources: Intercontinental Exchange (<https://data.theice.com>) and IHS Markit OPIS (<https://indices.ihsmarkit.com/Carbonindex>).

Creation and Redemption of Shares

According to the Registration Statement, the Trust will issue and redeem Shares of the Fund only in “Creation Units” on a continuous basis through the Distributor at the NAV next determined after receipt, on any Business Day (as defined below), of an order in proper form. A “Business Day”, as used herein, is any day on which the New York Stock Exchange (“NYSE”) is open for business. A Creation Unit is 50,000 Shares. The size of a Creation Unit is subject to change. Creation Units may be purchased and redeemed only by or through a Depository Trust Company (“DTC”) Participant that has entered into an Authorized Participant Agreement with the Distributor (an “Authorized Participant”).

Purchases of Creation Units

The consideration for the purchase of Creation Units of the Fund will consist of an in-kind deposit of a designated portfolio of securities (or cash for all or any portion of such securities (“Deposit Cash”)) (collectively, the “Deposit Securities”) and the Cash Component, which is an amount equal to the difference between the aggregate NAV of a Creation Unit and the Deposit Securities. Together, the Deposit Securities and the Cash Component constitute the “Fund Deposit.”

The Custodian or the Administrator makes available through the National Securities Clearing Corporation (“NSCC”) on each Business Day, prior to the opening of the Exchange’s Core Trading Session (normally 9:30 a.m., Eastern time (“E.T.”)), the list of names and the required number of shares of each Deposit Security and Deposit Cash, as applicable, and the estimated amount of the Cash Component to be included in the current Fund Deposit. Such Fund Deposit is applicable, subject to any adjustments as described below, in order to effect purchases of Creation Units of the Fund until such time as the next-announced Fund Deposit is made available.

The Trust reserves the right to permit or require the substitution of an amount of cash to replace any Deposit Security under specified circumstances.

Cash purchases of Creation Units will be effected in essentially the same manner as in-kind purchases. The Authorized Participant will pay the cash equivalent of the Deposit Securities as Deposit Cash plus or minus the same Cash Component.

Placement of Purchase Orders

To initiate an order for a Creation Unit, an Authorized Participant must

submit to the Distributor an irrevocable order in proper form to purchase Shares of the Fund on a Business Day generally before the time as of which that day’s NAV is calculated. For a purchase order to be processed based on the NAV calculated on a particular Business Day, the purchase order must be received in proper form and accepted by the Trust prior to the time as of which the NAV is calculated (“Cutoff Time”).

Redemptions of Creation Units

The consideration paid by the Fund for the redemption of Creation Units consists of an in-kind basket of a designated portfolio of securities (or cash for all or any portion of such securities (“Redemption Cash”)) (collectively, the “Fund Securities”) and the Cash Component, which is an amount equal to the difference between the aggregate NAV of a Creation Unit and the Fund Securities. Together, the Fund Securities and the Cash Component constitute the “Fund Redemption.”

The Custodian or the Administrator will make available through NSCC on each Business Day, prior to the opening of the Exchange’s Core Trading Session, the list of names and the number of shares of each Fund Security and Redemption Cash, as applicable, and the estimated amount of the Cash Component to be included in the current Fund Redemption. Such Fund Redemption will be applicable, subject to any adjustments as described below, for redemptions of Creation Units of the Fund until such time as the next-announced Fund Redemption is made available. The delivery of Fund Shares will be settled through the DTC system.

The identity and number of shares of the Fund Securities change pursuant to, among other matters, changes in the composition of the Fund’s portfolio and as rebalancing adjustments and corporate action events are reflected from time to time. The composition of the Fund Securities may not be the same as the Deposit Securities.

The Trust reserves the right to permit or require the substitution of an amount of cash to replace any Redemption Security under circumstances specified in the Registration Statement.

Cash redemptions of Creation Units will be effected in essentially the same manner as in-kind redemptions. The Authorized Participant will receive the cash equivalent of the Fund Securities as Redemption Cash plus or minus the same Cash Component.²³

²³ The Adviser represents that, to the extent the Trust effects the creation or redemption of Shares wholly or partially in cash, such transactions will

Placement of Redemption Orders

To initiate a redemption order for a Creation Unit, an Authorized Participant must submit to the Distributor an irrevocable order in proper form to redeem Shares of the Fund on a Business Day generally before the time as of which that day’s NAV is calculated. For a redemption order to be processed based on the NAV calculated on a particular Business Day, the order must be received in proper form and accepted by the Trust prior to the time as of which the NAV is calculated (“Cutoff Time”). A redemption request, if accepted by the Trust, will be processed based on the NAV as of the next Cutoff Time.

Application of Generic Listing Requirements

The Exchange is submitting this proposed rule change because the portfolio for the Fund will not meet all of the “generic” listing requirements of Commentary .01 to NYSE Arca Rule 8.600–E applicable to the listing of Managed Fund Shares. Specifically, the Fund’s portfolio will meet all such requirements except for those set forth in Commentary .01(a)(1) with respect to the Fund’s investments in non-exchange-traded investment company securities and Commentary .01(d)(2) with respect to the Fund’s and the Subsidiary’s investments in listed derivatives.²⁴

In order to achieve its investment objective, under normal market conditions, the aggregate gross notional value of Carbon Credit Futures may, in certain circumstances, approach 100% of the Fund (including gross notional values). As noted above, Commentary .01(d)(2) to Rule 8.600–E prohibits the Fund from holding listed derivatives based on any five or fewer underlying reference assets in excess of 65% of the weight of the portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the portfolio (including gross notional exposures). The Exchange is proposing to allow the Fund to hold up to 100% of the weight of its portfolio (including gross notional exposures) in

be effected in the same manner for all Authorized Participants.

²⁴ Commentary .01(d)(2) to Rule 8.600–E provides that, with respect to a fund’s portfolio, the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the portfolio (including gross notional exposures).

listed derivatives based on three underlying reference assets (EUA, CCA and RGGI) through its investment in Carbon Credit Futures, and futures contracts or exchange-traded options on futures contracts that are eligible for inclusion in the Index.

As discussed below, although the Fund will concentrate its holdings in listed derivatives that are based on a smaller number of reference assets than allowed under Commentary .01(d)(2), the Exchange believes that sufficient protections are in place to protect against market manipulation of the Shares and Carbon Credit Futures and otherwise satisfy the purposes of Rule 8.600–E. The Exchange believes that Carbon Credit Futures are not subject to the concentration risk that the rule is intended to address because of the liquidity of such futures.²⁵ The Exchange notes that the exchange markets for Carbon Credit Futures are highly liquid, and therefore believes that trading in such futures is not readily susceptible to manipulation. In addition, at least 90% of the weight of listed derivatives utilized by the Fund would be traded on exchanges that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement, and Carbon Credit Futures are currently traded on ISG markets.²⁶

²⁵ The Adviser represents that these are currently the largest and most liquid futures markets on carbon offset credits: (1) Carbon Credit Futures on EUA: 1,269,401,000 contracts with open interest at a price of \$23.21 as of November 30, 2018 translating to a \$29.463 billion market capitalization. In addition, the average annual trading volume as of that date was \$98.856 billion (with approximately \$89 billion consisting of Carbon Credit Futures with December expirations); (2) Carbon Credit Futures on CCA: 178,800,000 contracts with open interest at a price of \$15.55 as of November 30, 2018 translates to a \$2.780 billion market capitalization. In addition, the average annual trading volume as of that date was \$2.39 billion (with approximately \$1.25 billion consisting of Carbon Credit Futures with December expirations); and (3) Carbon Credit Futures on RGGIs: 94,000,000 contracts with open interest at a price of \$5.38 as of November 30, 2018 translates to a \$506 million market capitalization. In addition, the average annual trading volume as of that date was \$250 million (with approximately \$182.9 million consisting of Carbon Credit Futures with December expirations). Source: (<https://www.theice.com/microsite/usenvironmental/monthlymarketreport>).

²⁶ The Exchange notes that the Commission has approved proposed rule changes by a national securities exchange to list and trade series of Managed Fund Shares that may hold listed derivatives on underlying reference assets that may not comply with provisions similar to those in Commentary .01(d)(2) to Rule 8.600–E. See, e.g., Securities Exchange Act Release Nos. 80529 (April 26, 2017), 82 FR 20506 (May 2, 2017) (SR–BatsBZX–2017–14) (Order Granting Approval of a Proposed Rule Change to List and Trade Shares of the Amplify YieldShares Oil Hedged MLP Fund under BZX Rule 14.11(i)); 82906 (March 20, 2018),

The Exchange notes that the Commission has previously approved listing and trading on the Exchange under NYSE Arca Rule 8.204–E (Commodity Futures Trust Shares) of a trust with the investment objective of providing investment results that correspond generally to the performance of a basket of exchange-traded futures contracts for carbon equivalent emissions allowances issued under the European Union Emissions Trading Scheme (“EU ETS”).²⁷

The Fund may invest in shares of investment company securities (other than ETFs), which are equity securities. Therefore, to the extent the Fund invests in shares of other non-exchange-traded open-end management investment company securities, the Fund will not comply with the requirements of Commentary .01(a)(1)(A) through (E) to NYSE Arca Rule 8.600–E (U.S. Component Stocks) with respect to its equity securities holdings.²⁸

83 FR 12992 (March 26, 2018) (SR–CboeBZX–2017–012) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 2, to List and Trade Shares of the LHA Market State[®] Tactical U.S. Equity ETF under Rule 14.11(i)); 83014 (April 9, 2018), 83 FR 16150 (April 13, 2018) (SR–CboeBZX–2017–023) (Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, to List and Trade Shares of the iShares Gold Strategy ETF Under Exchange Rule 14.11(i)); 83146 (May 1, 2018), 83 FR 20103 (May 7, 2018) (SR–CboeBZX–2018–029) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Allow the Horizons Cadence Hedged US Dividend Yield ETF, a Series of the Horizons ETF Trust I, to Hold Listed Options Contracts in a Manner that Does Not Comply with Rule 14.11(i), Managed Fund Shares). See also, Securities Exchange Act Release No. 85701 (April 22, 2019), 84 FR 17902 (April 26, 2019) (SR–CboeBZX–2019–016) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Allow the JPMorgan Core Plus Bond ETF of the J.P. Morgan Exchange-Traded Fund Trust to Hold Certain Instruments in a Manner that May Not Comply with Rule 14.11(i), Managed Fund Shares).

²⁷ See Securities Exchange Act Release No. 57838, (May 20, 2008), 73 FR 30649 (May 28, 2008) (SR–NYSEArca–2008–09) (Order Granting Approval of Proposed Rule Change, as Modified by Amendment Nos. 1 and 2 Thereto, Relating to the Listing and Trading of Shares of the AirShares EU Carbon Allowances Fund) (“AirShares Order”). The EU ETS is a “cap and trade” emissions trading program instituted by the European Union, in furtherance of the joint commitment of its member states under the Kyoto Protocol to achieve certain reductions in their emissions of greenhouse gases. The net assets of the AirShares EU Carbon Allowances Fund were to consist of long positions in ICE Futures ECX Carbon Financial Instrument Futures Contracts consisting of standardized contractual instruments for futures on deliverable EUAs issued under the EU ETS and developed by the European Climate Exchange. The Adviser represents that the European Union Emissions Trading System (EUA) referenced above is the same as the EU ETS referenced in the AirShares Order.

²⁸ Commentary .01(a) to Rule 8.600–E specifies the equity securities accommodated by the generic criteria in Commentary .01(a), namely, U.S.

However, it is appropriate and in the public interest to approve listing and trading of Shares of the Fund notwithstanding that the Fund’s holdings in such securities would not meet the requirements of Commentary .01(a)(1)(A) through (E) to Rule 8.600–E. Investments in other non-exchange-traded open-end management investment company securities will not exceed 20% of the total assets of the Fund. Such investments, which may include mutual funds that invest, for example, principally in fixed income securities, would be utilized to help the Fund meet its investment objective and to equitize cash in the short term. The Fund will invest in such securities only to the extent that those investments would be consistent with the requirements of Section 12(d)(1) of the 1940 Act and the rules thereunder.²⁹

Component Stocks (as described in Rule 5.2–E(j)(3)) and Non-U.S. Component Stocks (as described in Rule 5.2–E(j)(3)). Commentary .01(a)(1) to Rule 8.600–E (U.S. Component Stocks) provides that the component stocks of the equity portion of a portfolio that are U.S. Component Stocks shall meet the following criteria initially and on a continuing basis:

(A) Component stocks (excluding Derivative Securities Products and Index-Linked Securities) that in the aggregate account for at least 90% of the equity weight of the portfolio (excluding such Derivative Securities Products and Index-Linked Securities) each shall have a minimum market value of at least \$75 million;

(B) Component stocks (excluding Derivative Securities Products and Index-Linked Securities) that in the aggregate account for at least 70% of the equity weight of the portfolio (excluding such Derivative Securities Products and Index-Linked Securities) each shall have a minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of \$25,000,000, averaged over the last six months;

(C) The most heavily weighted component stock (excluding Derivative Securities Products and Index-Linked Securities) shall not exceed 30% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted component stocks (excluding Derivative Securities Products and Index-Linked Securities) shall not exceed 65% of the equity weight of the portfolio;

(D) Where the equity portion of the portfolio does not include Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 13 component stocks; provided, however, that there shall be no minimum number of component stocks if (i) one or more series of Derivative Securities Products or Index-Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares, or (ii) one or more series of Derivative Securities Products or Index-Linked Securities account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares;

(E) Except as provided herein, equity securities in the portfolio shall be U.S. Component Stocks listed on a national securities exchange and shall be NMS Stocks as defined in Rule 600 of Regulation NMS under the Securities Exchange Act of 1934; and

(F) American Depositary Receipts (“ADRs”) in a portfolio may be exchange-traded or nonexchange-traded. However, no more than 10% of the equity weight of a portfolio shall consist of non-exchange-traded ADRs.

²⁹ The Commission has previously approved proposed rule changes under Section 19(b) of the

Continued

Because such securities must satisfy applicable 1940 Act diversification requirements, and have a net asset value based on the value of securities and financial assets the investment company holds, it is both unnecessary and inappropriate to apply to such investment company securities the criteria in Commentary .01(a)(1).

The Exchange notes that Commentary .01(a)(1)(A) through (D) to Rule 8.600–E exclude certain “Derivative Securities Products” that are exchange-traded investment company securities, including Investment Company Units (as described in NYSE Arca Rule 5.2–E(j)(3)), Portfolio Depositary Receipts (as described in NYSE Arca Rule 8.100–E)) and Managed Fund Shares (as described in NYSE Arca Rule 8.600–E)).³⁰ In its 2008 Approval Order approving amendments to Commentary .01(a) to Rule 5.2(j)(3) to exclude Derivative Securities Products from certain provisions of Commentary .01(a) (which exclusions are similar to those in Commentary .01(a)(1) to Rule 8.600–E), the Commission stated that “based on the trading characteristics of Derivative Securities Products, it may be difficult for component Derivative Securities

Act for series of Managed Fund Shares that may invest in non-exchange traded investment company securities to the extent permitted by Section 12(d)(1) of the 1940 Act and the rules thereunder. See, e.g., Securities Exchange Act Release No. 86362 (July 12, 2019), 84 FR 34457 (July 18, 2019) (SR–NYSEArca–2019–36 (Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 3, to List and Trade Shares of JPMorgan Income Builder Blend ETF under NYSE Arca Rule 8.600–E).

³⁰The Commission initially approved the Exchange’s proposed rule change to exclude “Derivative Securities Products” (i.e., Investment Company Units and securities described in Section 2 of Rule 8) and “Index-Linked Securities (as described in Rule 5.2–E(j)(6)) from Commentary .01(a)(1) through (4) to Rule 5.2–E(j)(3) in Securities Exchange Act Release No. 57751 (May 1, 2008), 73 FR 25818 (May 7, 2008) (SR–NYSEArca–2008–29) (Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, to Amend the Eligibility Criteria for Components of an Index Underlying Investment Company Units) (“2008 Approval Order”). See also Securities Exchange Act Release No. 57561 (March 26, 2008), 73 FR 17390 (April 1, 2008) (Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto to Amend the Eligibility Criteria for Components of an Index Underlying Investment Company Units). The Commission subsequently approved generic criteria applicable to listing and trading of Managed Fund Shares, including exclusions for Derivative Securities Products and Index-Linked Securities in Commentary .01(a)(1)(A) through (D), in Securities Exchange Act Release No. 78397 (July 22, 2016), 81 FR 49320 (July 27, 2016) (Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 7 Thereto, Amending NYSE Arca Rule 8.600–E To Adopt Generic Listing Standards for Managed Fund Shares). See also Amendment No. 7 to SR–NYSEArca–2015–110, available at <https://www.sec.gov/comments/sr-nysearca-2015-110/nysearca2015110-9.pdf>.

Products to satisfy certain quantitative index criteria, such as the minimum market value and trading volume limitations.” The Exchange notes that it would be difficult or impossible to apply to mutual fund shares certain of the generic quantitative criteria (e.g., market capitalization, trading volume, or portfolio criteria) in Commentary .01(a)(1) (A) through (D) applicable to U.S. Component Stocks. For example, the requirements for U.S. Component Stocks in Commentary .01(a)(1)(B) that there be minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of \$25,000,000, averaged over the last six months are tailored to exchange-traded securities (i.e., U.S. Component Stocks) and not to mutual fund shares, which do not trade in the secondary market and for which no such volume information is reported. In addition, Commentary .01(a)(1)(A) relating to minimum market value of portfolio component stocks, Commentary .01(a)(1)(C) relating to weighting of portfolio component stocks, and Commentary .01(a)(1)(D) relating to minimum number of portfolio components are not appropriately applied to open-end management investment company securities; open-end investment companies hold multiple individual securities as disclosed publicly in accordance with the 1940 Act, and application of Commentary .01(a)(1)(A) through (D) would not serve the purposes served with respect to U.S. Component Stocks, namely, to establish minimum liquidity and diversification criteria for U.S. Component Stocks held by series of Managed Fund Shares.

Other than Commentary .01(a)(1) and (d)(2) to Rule 8.600–E, as described above, the Fund’s portfolio will meet all other requirements of Rule 8.600–E.

Availability of Information

The Fund’s website (www.kraneshares.com) will include the prospectus for the Fund that may be downloaded. The Fund’s website will include additional quantitative information updated on a daily basis including, for the Fund, (1) daily trading volume, the prior business day’s reported closing price, NAV and midpoint of the bid/ask spread at the time of calculation of such NAV (the “Bid/Ask Price”),³¹ and a calculation of the premium and discount of the Bid/

³¹The Bid/Ask Price of the Fund’s Shares will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund’s NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its website the Disclosed Portfolio as defined in NYSE Arca Rule 8.600–E(c)(2) that forms the basis for the Fund’s calculation of NAV at the end of the business day.³²

On a daily basis, the Fund will disclose the information required under NYSE Arca Rule 8.600–E(c)(2) to the extent applicable. The website information will be publicly available at no charge.

In addition, a basket composition file, which includes the security names and share quantities, if applicable, required to be delivered in exchange for the Fund’s Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the Exchange via the NSCC. The basket represents one Creation Unit of the Fund. Authorized Participants may refer to the basket composition file for information regarding financial instruments that may comprise the Fund’s basket on a given day.

Investors can also obtain the Trust’s Statement of Additional Information (“SAI”), the Fund’s Shareholder Reports, and the Fund’s Forms N–CSR and N–CEN and Forms N–PORT, filed twice a year. The Fund’s SAI and Shareholder Reports will be available free upon request from the Trust, and those documents and the Form N–PX, Form N–CEN and Form N–PORT (formerly Forms N–Q and N–SAR) may be viewed on-screen or downloaded from the Commission’s website at www.sec.gov.

Intra-day and the closing settlement price information regarding Carbon Credit Futures and U.S. exchange-traded futures on currencies will be available from the exchange on which such instruments are traded and from major market data vendors. Spot currency prices and price information regarding currency forwards, debt instruments (other than cash equivalents) and cash equivalents also will be available from major market data vendors. Additionally, the Trade Reporting and

³²Under accounting procedures followed by the Fund, trades made on the prior business day (“T”) will be booked and reflected in NAV on the current business day (“T+1”). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

Compliance Engine (“TRACE”) of the Financial Industry Regulatory Authority (“FINRA”) will be a source of price information for certain fixed income securities to the extent transactions in such securities are reported to TRACE.³³ Price information regarding U.S. government securities and other cash equivalents generally may be obtained from brokers and dealers who make markets in such securities or through nationally recognized pricing services through subscription agreements. The Index price is available via Bloomberg and Reuters. The Index methodology and constituent list is available via IHS Markit’s website (<https://indices.ihsmarkit.com>).

Quote and last-sale information for ECX CFI Futures, California Futures and RGGI-Regional Greenhouse Gas Initiative Futures, other futures contracts and options on futures are widely disseminated through major market data vendors. ICE Futures US, ICE Futures Europe and CME also provide delayed futures information on current and past trading sessions and market news on their respective websites.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers’ computer screens and other electronic services. Information regarding the previous day’s closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Price information regarding non-exchange-traded investment company securities is available from major market data vendors.

Quotation and last sale information for the Shares, ETFs and ETNs will be available via the Consolidated Tape Association (“CTA”) high-speed line. In addition, the Portfolio Indicative Value (“PIV”), as defined in NYSE Arca Rule 8.600–E(c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of

³³ For fixed income securities that are not reported to TRACE, (i) intraday price quotations will generally be available from broker-dealers and trading platforms (as applicable) and (ii) price information will be available from feeds from market data vendors, published or other public sources, or online information services, as described above.

the Fund.³⁴ Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Trading in the Fund’s Shares also will be subject to Rule 8.600–E(d)(2)(D) (“Trading Halts”).

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange’s existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m., E.T. in accordance with NYSE Arca Rule 7.34–E (Early, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6–E, the minimum price variation (“MPV”) for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is \$0.01, with the exception of securities that are priced less than \$1.00 for which the MPV for order entry is \$0.0001.

With the exception of the requirements of Commentary .01(a)(1) with respect to the Fund’s investments in non-exchange-traded investment company securities and Commentary .01(d)(2) (with respect to listed derivatives) to Rule 8.600–E as described above in “Application of Generic Listing Requirements,” the Shares of the Fund will conform to the initial and continued listing criteria under NYSE Arca Rule 8.600–E. Consistent with NYSE Arca Rule 8.600–E(d)(2)(B)(ii), the Adviser will implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the Fund’s portfolio. The Exchange represents that, for initial and continued listing, the Fund will be in compliance with Rule 10A–3³⁵ under the Act, as provided by NYSE Arca Rule 5.3–E. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. The Fund’s investments will be consistent with its investment goal and will not be used to provide

³⁴ See NYSE Arca Rule 7.12–E.

³⁵ 17 CFR 240.10A–3.

multiple returns of a benchmark or to produce leveraged returns.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by FINRA on behalf of the Exchange, or by regulatory staff of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.³⁶

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, ETFs, ETNs, certain futures and options on futures with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in such securities and financial instruments from such markets and other entities.³⁷ In addition, the Exchange may obtain information regarding trading in such securities and financial instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA’s TRACE.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the

³⁶ FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA’s performance under this regulatory services agreement.

³⁷ For a list of the current members of ISG, see www.isgportal.org. The Exchange notes that certain Index components and holdings of the Fund may not be listed or traded on ISG exchanges.

description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares of the Fund on the Exchange.

The issuer must notify the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin (“Bulletin”) of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Rule 9.2–E(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Early and Late Trading Sessions when an updated PIV will not be calculated or publicly disseminated; (4) how information regarding the PIV and the Disclosed Portfolio is disseminated; (5) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m., E.T. each trading day.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)³⁸ that an exchange have rules that are designed to

prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.600–E notwithstanding that the Fund will not comply with the requirement in Commentary .01(a)(1) and Commentary .01(d)(2) to Rule 8.600–E, as described herein.

The Exchange believes that sufficient protections are in place to protect against market manipulation of the Shares and Carbon Credit Futures included in the Index due to, among other matters (a) the liquidity and market capitalization of EUA futures, CCA futures and RGGI futures,³⁹ and (b) surveillance by the Exchange and FINRA of the Shares and futures designed to detect violations of the federal securities laws and self-regulatory organization rules. The Carbon Credit Futures included in the Index—*i.e.*, EUA futures, CCA futures, RGGI futures—and, as applicable, futures contracts or options on futures contracts other than Carbon Credit Futures in the Index trade in competitive auction markets with price, quote transparency and arbitrage opportunities. Further, the Exchange believes that because the assets in the Fund’s portfolio will be acquired in extremely liquid and highly regulated markets, the Shares are less readily susceptible to manipulation. EUA futures, CCA futures and RGGI futures are traded on ISG markets.

The Exchange believes that these factors, coupled with the highly regulated EUA, CCA and RGGI markets, are sufficiently great to deter fraudulent and market manipulation. The Exchange also believes that such liquidity is sufficient to support the creation and redemption mechanism.

The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, ETFs, ETNs, U.S. exchange-traded futures on foreign

currency and Carbon Credit Futures with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in such securities and financial instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in such securities and financial instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA’s TRACE. The Adviser and Sub-Adviser are not registered as broker-dealers, but the Adviser is affiliated with a broker-dealer, and has implemented and will maintain a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. The Sub-Adviser is not affiliated with a broker-dealer.

The Exchange notes that the Commission has previously approved listing and trading on the Exchange under NYSE Arca Rule 8.204–E (Commodity Futures Trust Shares) of a trust with the investment objective of providing investment results that correspond generally to the performance of Carbon Credit Futures on EUAs.⁴⁰ Other than cash and cash equivalents, the AirShares Trust sought investment exposure exclusively to Carbon Credit Futures on EUAs. Thus, the Commission has already considered and approved for listing a product with the same types of assets in which the Fund will invest.

The Exchange notes that the Commission has approved proposed rule changes by a national securities exchange to list and trade series of Managed Fund Shares that may hold listed derivatives on underlying reference assets that may not comply with provisions similar to those in Commentary .01(d)(2) to Rule 8.600–E.⁴¹ In addition, the Exchange believes that the listing and trading of Shares of the Fund would further an interest in the U.S. maintaining a competitive position in the global securities markets, which requires that U.S. participants respond to new developments and encourage the development of new products. Innovative financial vehicles such as the Fund will provide investors

³⁸ 15 U.S.C. 78f(b)(5).

³⁹ See note 25, *supra*.

⁴⁰ See note 27, *supra*.

⁴¹ See note 26, *supra*.

greater access to U.S. markets. By providing a wide range of investors with a U.S. exchange-traded security that invests in Carbon Credit Futures, the Exchange believes that the listing of the Fund will benefit both investors and the markets.

As noted above, the Fund may invest in shares of non-exchange-traded investment company securities, which are equity securities. Therefore, to the extent the Fund invests in shares of non-exchange-traded open-end management investment company securities, the Fund will not comply with the requirements of Commentary .01(a)(1)(A) through (E) to NYSE Arca Rule 8.600–E (U.S. Component Stocks) with respect to its equity securities holdings.⁴² The Exchange believes it is appropriate and in the public interest to approve listing and trading of Shares of the Fund notwithstanding that the Fund's holdings in such securities would not meet the requirements of Commentary .01(a)(1)(A) through (E) to Rule 8.600–E. Investments in non-exchange-traded open-end management investment company securities will not exceed 20% of the total assets of the Fund. Such investments, which may include mutual funds that invest, for example, principally in fixed income securities, would be utilized to help the Fund meet its investment objective and to equitize cash in the short term. The Fund will invest in such securities only to the extent that those investments would be consistent with the requirements of Section 12(d)(1) of the 1940 Act and the rules thereunder. Because such securities must satisfy applicable 1940 Act diversification requirements, and have a net asset value based on the value of securities and financial assets the investment company holds, it is both unnecessary and inappropriate to apply to such investment company securities the criteria in Commentary .01(a)(1). The Commission has previously approved proposed rule changes under Section 19(b) of the Act for series of Managed Fund Shares that may invest in non-exchange traded investment company securities to the extent permitted by Section 12(d)(1) of the 1940 Act and the rules thereunder.⁴³

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be

made available to all market participants at the same time. In addition, a large amount of information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency. Intra-day and the closing settlement price information regarding Carbon Credit Futures and U.S. exchange-traded futures on currencies will be available from the exchange on which such instruments are traded and from major market data vendors. Spot currency prices and price information regarding currency forwards, debt instruments (other than cash equivalents) and cash equivalents also will be available from major market data vendors. Additionally, FINRA's TRACE will be a source of price information for certain fixed income securities to the extent transactions in such securities are reported to TRACE. Price information regarding U.S. government securities and other cash equivalents generally may be obtained from brokers and dealers who make markets in such securities or through nationally recognized pricing services through subscription agreements. The Index price is available via Bloomberg and Reuters. The Index methodology and constituent list is available via IHS Markit's website.

Quote and last-sale information for ECX CFI Futures, California Futures and RGGI-Regional Greenhouse Gas Initiative Futures, other futures contracts and options on futures are widely disseminated through major market data vendors. ICE Futures US, ICE Futures Europe and CME also provide delayed futures information on current and past trading sessions and market news on their respective websites.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Price information regarding non-exchange-traded investment company securities is available from major market data vendors.

Quotation and last sale information for the Shares, ETFs and ETNs will be available via the CTA. In addition, the PIV, as defined in NYSE Arca Rule 8.600–E(c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session.

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Trading in the Shares will be subject to NYSE Arca Rule 8.600–E(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, NAV, the PIV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an actively-managed exchange-traded product that, through permitted use of an increased level of listed derivatives above that currently permitted by the generic listing requirements of Commentary .01(d)(2) to NYSE Arca Rule 8.600–E, and through investment in non-exchange-traded investment company securities (notwithstanding the requirements of Commentary .01(a)(1) to NYSE Arca Rule 8.600–E), will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other ISG exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors have ready access to information regarding the Fund's holdings, the PIV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

⁴² See note 28, *supra*.

⁴³ See note 29, *supra*.

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. Proceedings To Determine Whether To Approve or Disapprove SR–NYSEArca–2019–60, as Modified by Amendment No. 2, and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act⁴⁴ to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,⁴⁵ the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be "designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade," and "to protect investors and the public interest."⁴⁶

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of

views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.⁴⁷

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change, as modified by Amendment No. 2, should be approved or disapproved by December 20, 2019. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by January 3, 2020.

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in Amendment No. 2,⁴⁸ in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks commenters' views regarding whether the Exchange has adequately described and provided clear information relating to the Fund's proposed investments in derivatives for the Commission to make a determination under Section 6(b)(5) of the Act.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR–NYSEArca–2019–60 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2019–60. 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

⁴⁷ Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

⁴⁸ See *supra* note 7.

change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2019–60 and should be submitted by December 20, 2019. Rebuttal comments should be submitted by January 3, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁹

Eduardo A. Aleman,
Deputy Secretary.

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BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87600; File No. SR–CboeBZX–2019–098]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Paragraph (a) of Rule 11.1 To Allow the Exchange To Accept Stop Orders Entered Between 6:00 and 7:00 a.m. Eastern Time

November 22, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b–4 thereunder,² notice is hereby given that on November 19, 2019, Cboe BZX Exchange, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared

⁴⁹ 17 CFR 200.30–3(a)(12) & 17 CFR 200.30–3(a)(57).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

⁴⁴ 15 U.S.C. 78s(b)(2)(B).

⁴⁵ *Id.*

⁴⁶ 15 U.S.C. 78f(b)(5).

by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. ("BZX" or the "Exchange") is filing with the Securities and Exchange Commission (the "Commission") a proposed rule change to amend paragraph (a) of Rule 11.1 to allow the Exchange to accept Stop Orders entered between 6:00 and 7:00 a.m. Eastern Time. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend paragraph (a) of Rule 11.1 to allow the Exchange to accept Stop Orders³ entered between 6:00 and 7:00 a.m. Eastern Time.

Paragraph (a) of Rule 11.1 provides that orders entered between 6:00 a.m. and 7:00 a.m. Eastern Time are not eligible for execution until the start of the Early Trading Session,⁴ Pre-Opening

³ A Stop Order is an order that becomes a BZX market order when the stop price is elected. A Stop Order to buy is elected when the consolidated last sale in the security occurs at, or above, the specified stop price. A Stop Order to sell is elected when the consolidated last sale in the security occurs at, or below, the specified stop price. See Exchange Rule 11.9(c)(16).

⁴ See Exchange Rule 1.5(ee).

Session⁵ or Regular Trading Hours,⁶ depending on the Time in Force selected by the User.⁷ Paragraph (a) also provides that the Exchange will not accept certain orders⁸ entered prior to 7:00 a.m. Eastern Time including BZX Market Orders⁹ that are not Eligible Auction Orders as defined in Rule 11.23(a)(8).¹⁰ BZX Market Orders that are not Eligible Auction Orders are rejected by the Exchange prior to 7:00 a.m. Eastern Time because BZX Market Orders are not eligible to trade prior to the start of Regular Trading Hours and such orders are generally not designated to queue for later entry onto the Exchange's order book. Rather, BZX Market Orders that are not Eligible Auction Orders are designed to immediately execute at the NBBO when the order reaches the Exchange, and thus are generally intended for entry during a trading session where continuous trading is occurring. Alternatively, other order types and modifiers, such as BZX Market Orders with a Time in Force of RHO and Limit Orders,¹¹ including Stop Limit Orders,¹²

⁵ See Exchange Rule 1.5(r).

⁶ See Exchange Rule 1.5(w).

⁷ See Exchange Rule 1.5(cc).

⁸ Specifically, Exchange Rule 11.1(a) provides that BZX Post Only Orders, Partial Post Only at Limit Orders, Intermarket Sweep Orders ("ISOs"), BZX Market Orders that are not Eligible Auction Orders as defined in Rule 11.23(a)(8), Minimum Quantity Orders that also include a Time in Force of Regular Hours Only, and all orders with a Time in Force of Immediate-or-Cancel ("IOC") or Fill-or-Kill ("FOK") are not accepted if entered prior to 7:00 a.m. Eastern Time.

⁹ A BZX Market Order is an "order to buy or sell a stated amount of a security that is to be executed at the NBBO when the order reaches the Exchange. BZX market orders shall not trade through Protected Quotations. . . BZX Market Orders are not eligible for execution during the Early Trading Session, Pre-Opening Session or the After Hours Trading Session." See Exchange Rule 11.9(a)(2).

¹⁰ Exchange Rule 11.23(a)(8) provides that the term "Eligible Auction Order" means any Market on Open ("MOO"), Limit on Open ("LOO"), Late Limit on Open ("LLOO"), Market on Close ("MOC"), Limit on Close ("LOC"), or Late Limit on Close ("LLOC") order that is entered in compliance with its respective cutoff for an Opening or Closing Auction, any Regular Hours Only ("RHO") order prior to the Opening Auction, any limit or market order not designated to exclusively participate in the Closing Auction entered during the Quote-Only Period of an IPO Auction subject to the below restrictions, and any limit or market order not designated to exclusively participate in the Opening or Closing Auction entered during the Quote-Only Period of a Halt Auction."

¹¹ A Limit Order is an "order to buy or sell a stated amount of a security at a specified price or better." See Exchange Rule 11.9(a)(1).

¹² A Stop Limit Order is "an order that becomes a limit order when the stop price is elected. A Stop Limit Order to buy is elected when the consolidated last sale in the security occurs at, or above, the specified stop price. A Stop Limit Order to sell becomes a sell limit order when the consolidated last sale in the security occurs at, or below, the specified stop price." See Exchange Rule 11.9(c)(17).

are allowed for entry on the Exchange between 6:00 and 7:00 a.m. Eastern Time as those order types and modifiers are consistent with an order designated to queue for later entry on to the Exchange's order book. Specifically, any RHO order entered prior to the Opening Auction meets the definition of an Eligible Auction Order,¹³ and BZX Market Orders with a Time in Force of RHO are effectively for use in the Opening Auction and are cancelled if not executed in the Opening Auction.¹⁴ Therefore, BZX Market Orders with a Time in Force of RHO would be queued until the start of the regular trading session for participation in the Opening Auction. Similarly, the stop price of a Stop Limit Order can only be triggered by a consolidated last sale eligible trade.¹⁵ Therefore, a Stop Limit Order would be queued until the time the stop price of the order is triggered by a consolidated last sale eligible trade occurring Regular Trading Hours.

As proposed, the amendment would allow the Exchange to accept Stop Orders entered between 6:00 and 7:00 a.m. Eastern Time, which is consistent with an order designated to queue for later entry on to the Exchange's order book. Similar to a Stop Limit Order, the stop price of a Stop Order can only be triggered by a consolidated last sale eligible trade.¹⁶ Therefore, a Stop Order can only become a BZX Market Order after at least the start of Regular Trading Hours. Further, Stop Orders entered on the Exchange between 6:00 and 7:00 a.m. Eastern Time would behave similar to Stop Limit Orders between the time of entry up to at least the start of Regular Trading Hours.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁸ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating,

¹³ See supra note 12.

¹⁴ An order with a Time in Force of RHO is a limit or market order that is designated for execution only during Regular Trading Hours, which includes the Opening Auction and Closing Auction. See Exchange Rule 11.9(b)(7).

¹⁵ See supra note 11.

¹⁶ See supra note 3.

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(5).

clearing, settling, processing information with respect to, and 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.

As discussed above, all Stop Orders are designed to queue until at least the start of Regular Trading Hours as such orders are only eligible to be elected based on the consolidated last sale set during Regular Trading Hours. Therefore, the proposed amendment to allow the entry of Stop Orders between 6:00 and 7:00 a.m. Eastern Time would not allow such Stop Orders to be elected and execute prior to the start of Regular Trading Hours. Prior to the start of Regular Trading Hours, Stop Orders entered between 6:00 and 7:00 a.m. Eastern Time would behave similar to Stop Limit Orders entered during that time. Therefore, the Exchange believes the proposed amendment would consistently allow order types and modifiers that are consistent with orders designated to queue to be entered on the Exchange between 6:00 and 7:00 a.m. Eastern Time.

Additionally, the Exchange believes the proposed amendment would allow Members the convenience to enter all Stop Orders and Stop Limit Orders between 6:00 and 7:00 a.m. Eastern Time without those orders being eligible for election, and consequently execution, until at least the start of the Regular Trading Hours. Thus, the proposed amendment would provide Members with both greater convenience and flexibility in managing their Stop Orders and Stop Limit Orders without impacting how those orders trade.

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. Rather, the proposed rule change would consistently allow for the entry of order types and modifiers that are designated to queue between 6:00 and 7:00 a.m. Eastern Time. Stop Limit Orders are currently allowed for entry on the Exchange between 6:00 and 7:00 a.m. Eastern Time and behave similar to the manner in which a Stop Order would behave prior to the start of Regular Trading Hours if allowed entry during

that time. The Exchange therefore believes that the proposed rule change would increase consistency around the operation of the Exchange to the benefit of Members and investors as well as provide greater flexibility to Members in managing their Stop Orders, without imposing any significant burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on 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 Act¹⁹ and Rule 19b-4(f)(6)²⁰ thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will 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

¹⁹ 15 U.S.C. 78s(b)(3)(A).

²⁰ 17 CFR 240.19b-4(f)(6).

- Send an email to rule-comments@sec.gov. Please include File Number SR-CboeBZX-2019-098 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CboeBZX-2019-098. 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-CboeBZX-2019-098, and should be submitted on or before December 20, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019-25839 Filed 11-27-19; 8:45 am]

BILLING CODE 8011-01-P

²¹ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87588; File No. SR-NYSE-2019-62]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Amend Article II, Section 2.03 of the Twelfth Amended and Restated Operating Agreement of the Exchange To Remove the Independence Requirement for the Director Elected by Exchange Membership Organizations

November 22, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 15, 2019, New York Stock Exchange LLC (“NYSE” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Article II, Section 2.03 of the Twelfth Amended and Restated Operating Agreement of the Exchange (“Operating Agreement”), to remove the independence requirement for the director elected by Exchange membership organizations, and make additional conforming and non-substantive edits. 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 amend Article II, Section 2.03 (Board) of the Exchange’s Operating Agreement to remove the independence requirement for the director elected by Exchange membership organizations, and make additional conforming and non-substantive edits.

Proposed Amendments to Section 2.03

Pursuant to the Operating Agreement, at least twenty percent of the Board shall be persons who are not members of the board of directors of Intercontinental Exchange, Inc. (“ICE”), the Exchange’s ultimate parent company, but qualify as independent under the Exchange’s director independence policy (such policy, the “Independence Policy” and such directors, the “Non-Affiliated Directors”).³ The Non-Affiliated Directors are nominated by the member organizations of the Exchange (“Member Organizations”),⁴ through a process set forth in the Operating Agreement.⁵

Background

The requirement that Non-Affiliated Directors qualify as independent dates to the de-mutualization of the Exchange, when the Exchange filed with the Commission a proposed new organizational structure, including that all Board members would be required to be independent.⁶ Some commentators

³ See Operating Agreement, Article II, Section 2.03(a)(iii). See also Securities Exchange Act Release Nos. 84635 (November 20, 2018), 83 FR 60924 (November 27, 2018) (SR-NYSE-2018-56) (notice of filing and immediate effectiveness of proposed rule change to amend Article II, Section 2.03(h)(ii) and Article VI of the Operating Agreement), and 85913 (May 22, 2019), 84 FR 24853 (May 29, 2019) (SR-NYSE-2019-27) (notice of filing and immediate effectiveness of proposed rule change to amend the Independence Policy of the Board of Directors of the Exchange).

⁴ “Member Organizations” includes “members, allied members and member organizations of the [Exchange].” Operating Agreement, Article II, Section 2.02 (Rules; Supervision of Member Organizations). As discussed below, the Exchange proposes to amend the definition to delete the obsolete reference to “allied members.”

⁵ See *id.*, Section 2.03(a)(iii)-(v). Other than to remove the independence requirement, the Exchange does not propose to amend the process for nominating the Non-Affiliated Directors.

⁶ See Securities Exchange Act Release No. 53382 (February 27, 2006), 71 FR 11251 (March 6, 2006) (SR-NYSE-2005-77) (order granting approval of

on that proposal questioned whether the independence requirement comported with the “fair representation” requirement of the Exchange Act,⁷ asking whether “such a structure is desirable from a policy perspective because it will exclude nearly all persons with significant and recent industry experience, which will result in inferior regulatory oversight.”⁸ The Commission approved the Exchange’s proposal, concluding that the fair representation requirement was met by the proposed structure. The Commission recognized that other demutualized self-regulatory organizations allowed for direct member representation on their boards of directors, and stated that there was not only one method to satisfy the fair representation requirement of the Exchange Act.⁹

The requirement that Non-Affiliated Directors qualify as independent precludes the Member Organizations from nominating a candidate from among their own numbers or who was recently employed by a Member or Member Organization. In this way, it limits members’ ability to nominate the individual of their choice. Accordingly, the Exchange proposes to remove the requirement that Non-Affiliated Directors qualify as independent. After the proposed change, as required by the Operating Agreement¹⁰ and as is true now, (a) the majority of the members of the Board shall be U.S. persons that satisfy the requirements of the Independence Policy, and (b) at least twenty percent of the members of the Board shall be Non-Affiliated Directors.¹¹

Proposed Change

proposed rule change and Amendment Nos. 1, 3, and 5 thereto and notice of filing and order granting accelerated approval to Amendment Nos. 6 and 8 relating to the NYSE’s business combination with Archipelago Holdings, Inc.).

⁷ Section 6(b)(3) of the Exchange Act requires that the rules of a national securities exchange assure the fair representation of its members in the selection of its directors and administration of its affairs. 15 U.S.C. 78f(b)(3).

⁸ 71 FR 11251, *supra* note 6, at 11260 (citing letter from Marc E. Lackritz, President, Securities Industry Association and Micah S. Green, President and CEO, The Bond Market Association, to Nancy M. Morris, Secretary, Commission, dated February 2, 2006).

⁹ *Id.* at note 104.

¹⁰ See Operating Agreement, Article II, Section 2.03(a)(i).

¹¹ The balance of the Board membership is not required to be independent or a Non-Affiliated Director. Presently, a senior officer of ICE is a member of the Board.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Pursuant to the Independence Policy,¹² a director is not independent—and therefore cannot be a Non-Affiliated Director—if, among other things, the director:

- Or one of his or her immediate family members is, or within the last year was, a Member¹³ of the Exchange;
- Is, or within the last year was, employed by a Member Organization;¹⁴
- Has within the last year received from any Member Organization more than \$100,000 per year in direct compensation, or received from Member Organizations in the aggregate an amount of direct compensation which in any one year is more than 10 percent of the director's annual gross income for such year;¹⁵ or
- Is affiliated, directly or indirectly, with a Member Organization.

The proposed amendments would remove these limitations by:

- Amending Section 2.03(a)(i) to delete the requirement that Non-Affiliated Directors qualify as independent under the Independence Policy and adding a sentence stating that “[t]he Non-Affiliated Directors need not be independent, and must meet any status or constituent affiliation qualifications prescribed by the Company and filed with and approved by the U.S. Securities and Exchange Commission (the ‘SEC’).”
- Amending the third sentence of the second paragraph of Section 2.03(a)(iv) and fourth sentence of Section 2.03(l) to remove the references to potential petition candidates and current directors qualifying as independent under the Independence Policy.

In addition to allowing Member Organizations to nominate the Non-Affiliated Directors of their choice, the proposed amendments would have the benefit of bringing Section 2.03 into greater conformity with Section 2.03 of the operating agreement of the Exchange's affiliate NYSE American LLC (“NYSE American”), which does not require that the NYSE American Non-Affiliated Directors qualify as independent under the NYSE American

¹² The Independence Policy can be found at https://www.nyse.com/publicdocs/nyse/regulation/nyse/Director_Independence_Policy_of_New_York_Stock_Exchange_LLC.pdf. See also 84 FR 24853, *supra* note 3.

¹³ The term “Member” is used in the Independence Policy as defined in Section 3(a)(3)(A)(i) of the Exchange Act. See 15 U.S.C. 78c(a)(3)(A)(i).

¹⁴ The term “Member Organization” is used in the Independence Policy as defined in Section 3(a)(3)(A)(ii), 3(a)(3)(A)(iii) and 3(a)(3)(A)(iv) of the Exchange Act. See 15 U.S.C. 78c(a)(3)(A)(ii)–(iv).

¹⁵ Such limitations exclude director and committee fees and pension or other forms of deferred compensation for prior service (provided such compensation is not contingent in any way on continued service).

Director Independence Policy.¹⁶ The proposed additional sentence in Section 2.03(a)(i) would be the same as the second sentence in Section 2.03(a)(i) of the NYSE American Operating Agreement.

In addition, the proposed amendments would bring the Operating Agreement into greater conformity with the bylaws of the Exchange's affiliates NYSE Arca, Inc., NYSE Chicago, Inc. and NYSE National, Inc., none of which require that the directors nominated by their trading permit holders be qualified as independent.¹⁷

The Exchange notes that the proposed changes also would be consistent with the governing documents of other self-regulatory organizations, such as the Nasdaq Stock Market LLC¹⁸ and CBOE BYX Exchange, Inc.,¹⁹ which do not require that the directors nominated by the membership of the exchange be independent.

Additional Proposed Amendments

The Exchange proposes to delete the reference to “allied members” from the definition of “Member Organizations” in Section 2.02 because the Exchange no longer has allied members and therefore the reference is obsolete.²⁰

The Exchange proposes to make a non-substantive amendment to the first sentence of Article III, Section 3.03 (No Transfers) to replace the definition of the Commission with “SEC.” Because proposed Section 2.03(a)(i) would

¹⁶ See Twelfth Amended and Restated Operating Agreement of NYSE American LLC (“NYSE American Operating Agreement”), Section 2.03(a) and (l). The NYSE American Director Independence Policy is the same as the Exchange's Independence Policy. See Securities Exchange Act Release No. 85919 (May 22, 2019), 84 FR 24842 (May 29, 2019) (SR-NYSEAMER-2019-20) (notice of filing and immediate effectiveness of proposed rule change to amend the Independence Policy of the Board of Directors of NYSE American).

¹⁷ See Bylaws of NYSE Arca, Inc., Article III, Section 3.02(a) and NYSE Arca Rule 3.2(b)(3)(C)(ii) (Directors Nominated by the Trading Permit Holders); Second Amended and Restated Bylaws of NYSE Chicago, Inc., Article II, Section 2 (General Composition and Term of Office); and Sixth Amended and Restated By-Laws of NYSE National, Inc., Article III, Sections 3.2(a) (General Composition).

¹⁸ See Bylaws of the Nasdaq Stock Market LLC, Article I (noting that a “Member Representative Director may, but is not required to be, an officer, director, employee, or agent of a Nasdaq Member”).

¹⁹ See Ninth Amended and Restated Bylaws of CBOE BYX Exchange, Inc., Article III, Sections 3.1 and 3.2.

²⁰ See Securities Exchange Act Release Nos. 43720 (August 21, 2018), 83 FR 43720 (August 27, 2018) (SR-NYSE-2018-38) (notice of filing and immediate effectiveness of proposed rule change to amend the Independence Policy of the Board of Directors of the Exchange); and 58549 (September 15, 2008), 73 FR 54444 (September 19, 2008) (SR-NYSE-2008-80) (notice of filing and immediate effectiveness of proposed rule change and Amendment No. 1 thereto conforming certain NYSE Rules to changes to NYSE incorporated rules recently filed by the Financial Industry Regulatory Authority, Inc.).

include a definition of the Commission, a definition would no longer be required in Section 3.03.

Finally, the Exchange proposes to make non-substantive conforming changes to the title, recitals and signature page of the Operating Agreement, which would become the Thirteenth Amended and Restated Operating Agreement of the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act²¹ in general, and Section 6(b)(3)²² in particular, in that it is intended to give members a voice in the selection of an exchange's directors and the administration of its affairs. The Exchange believes that the proposed rule change is consistent with Section 6(b)(1)²³ of the Act, in that it would enable the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

As noted above, the requirement that Non-Affiliated Directors qualify as independent under the Independence Policy precludes the Member Organizations from nominating a candidate from among their own numbers or who was recently employed by a Member or Member Organization. Yet those are the very persons who, by virtue of their work as, with, or in affiliation with a Member Organization, are the most informed about the Member Organizations, their operations, and their concerns. Accordingly, the Exchange believes that the proposed rule change would be consistent with Section 6(b)(3) because it would give the Member Organizations more flexibility and greater options in selecting their preferred nominees for the Non-Affiliated Directors and, therefore, the administration of the Exchange's affairs. In so doing, the proposed rule change would enable the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act. At the same time, the Exchange would continue to have a majority of the members of the Board qualify as independent under the Independence Policy.

The Exchange notes that the proposed changes to Section 2.03 would have the

²¹ 15 U.S.C. 78f(b).

²² See 15 U.S.C. 78f(b)(3).

²³ 15 U.S.C. 78f(b)(1).

additional benefit of bringing the Operating Agreement into greater conformity with the NYSE American Operating Agreement, which does not require that the NYSE American Non-Affiliated Directors qualify as independent under the NYSE American Director Independence Policy, and the bylaws of the Exchange's affiliates NYSE Arca, Inc., NYSE Chicago, Inc. and NYSE National, Inc., none of which require that the directors nominated by their trading permit holders be qualified as independent. In addition, the proposed amendments would make Section 2.03 more consistent with the governing documents of other self-regulatory organizations that do not require that the directors nominated by the membership of the exchange be independent.

The Exchange believes that the proposed amendment to Section 2.02 of the Operating Agreement would enable the Exchange to be so organized as to have the capacity to carry out the purposes of the Exchange Act and comply with the provisions of the Exchange Act by its members and persons associated with members because it would remove an obsolete reference to allied members, thereby adding clarity and transparency to the Operating Agreement by removing any confusion that may result if it retained such obsolete reference. The Exchange further believes that market participants would benefit from the increased clarity, reducing potential confusion.

The proposed amendments to effect non-substantive technical and conforming changes would enable the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange because the changes would ensure that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Operating Agreement.

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 Exchange Act. The proposed rule change is not intended to address competitive issues but rather is concerned solely with the administration and functioning of 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

Within 45 days of the date of publication of this notice in the **Federal Register** or up [sic] to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSE-2019-62 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2019-62. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the

provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2019-62, and should be submitted on or before December 20, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

Eduardo A. Aleman,
Deputy Secretary.

[FR Doc. 2019-25834 Filed 11-27-19; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736.

Extension:

Rule 17f-7; SEC File No. 270-470; OMB Control No. 3235-0529.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521) ("Paperwork Reduction Act"), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget ("OMB") for extension and approval.

Rule 17f-7 (17 CFR 270.17f-7) permits a fund under certain conditions to maintain its foreign assets with an eligible securities depository, which has to meet minimum standards for a depository. The fund or its investment adviser generally determines whether the depository complies with those requirements based on information

²⁴ 17 CFR 200.30-3(a)(12).

provided by the fund's primary custodian (a bank that acts as global custodian). The depository custody arrangement also must meet certain conditions. The fund or its adviser must receive from the primary custodian (or its agent) an initial risk analysis of the depository arrangements, and the fund's contract with its primary custodian must state that the custodian will monitor risks and promptly notify the fund or its adviser of material changes in risks. The primary custodian and other custodians also are required to agree to exercise at least reasonable care, prudence, and diligence.

The collection of information requirements in rule 17f-7 are intended to provide workable standards that protect funds from the risks of using foreign securities depositories while assigning appropriate responsibilities to the fund's primary custodian and investment adviser based on their capabilities. The requirement that the foreign securities depository meet specified minimum standards is intended to ensure that the depository is subject to basic safeguards deemed appropriate for all depositories. The requirement that the fund or its adviser must receive from the primary custodian (or its agent) an initial risk analysis of the depository arrangements, and that the fund's contract with its primary custodian must state that the custodian will monitor risks and promptly notify the fund or its adviser of material changes in risks, is intended to provide essential information about custody risks to the fund's investment adviser as necessary for it to approve the continued use of the depository. The requirement that the primary custodian agree to exercise reasonable care is intended to provide assurances that its services and the information it provides will meet an appropriate standard of care.

The staff estimates that each of approximately 960 investment advisers¹ will make an average of 8 responses annually under the rule to address depository compliance with minimum requirements, any indemnification or insurance arrangements, and reviews of risk analyses or notifications. The staff estimates each response will take 6 hours, requiring a total of approximately 48 hours for each adviser.² Thus the total annual burden associated with these requirements of the rule is

¹ In October 2019, Commission staff estimated that 960 investment advisers managed or sponsored open-end registered funds (including exchange-traded funds) and closed-end registered funds.

² 8 responses per adviser × 6 hours per response = 48 hours per adviser.

approximately 46,080.³ The staff further estimates that during each year, each of approximately 40 global custodians will make an average of 4 responses to analyze custody risks and provide notice of any material changes to custody risk under the rule. The staff estimates that each response will take 260 hours, requiring approximately 1,040 hours annually per global custodian.⁴ Thus the total annual burden associated with these requirements is approximately 41,600 hours.⁵ The staff estimates that the total annual hour burden associated with all collection of information requirements of the rule is therefore 87,680 hours.⁶

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule's permission for funds to maintain their assets in foreign custodians. The information provided under rule 17f-7 will not be kept confidential. 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.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has 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 collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, C/O Cynthia Roscoe, 100 F Street NE, Washington, DC 20549; or send an email to: PRA_Mailbox@sec.gov.

³ 960 advisers × 48 hours per adviser = 46,080 hours.

⁴ 260 hours per response × 4 responses per global custodian = 1,040 hours per global custodian.

⁵ 40 global custodians × 1,040 hours per global custodian = 41,600 hours.

⁶ 46,080 hours + 41,600 hours = 87,680 hours.

Dated: November 25, 2019.

Eduardo A. Aleman,
Deputy Secretary.

[FR Doc. 2019-25866 Filed 11-27-19; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87587; File No. SR-CboeBZX-2019-100]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Remove its Partial Post Only at Limit Order Type

November 22, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 21, 2019, Cboe BZX Exchange, Inc. filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") proposes to remove its Partial Post Only at Limit Order type. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to remove its Partial Post Only at Limit Order functionality and amend its rules in connection with the removal of this functionality. Currently, Rule 21.1(d)(9) provides that Partial Post Only at Limit Orders are orders that are to be ranked and executed on the Exchange pursuant to Rule 21.8 (Order Display and Book Processing) or cancelled, as appropriate, without routing away to another options exchange except that the order will only remove liquidity from the BZX Options Book under the circumstances contemplated in subparagraphs (9)(A) and (9)(B). Specifically, subparagraph (9)(A) provides that a Partial Post Only at Limit Order will remove liquidity from the BZX Options Book up to the full size of the order if, at the time of receipt, it can be executed at prices better than its limit price (*i.e.*, price improvement). Subparagraph (9)(B) provides that, regardless of any liquidity removed from the BZX Options Book under the circumstances described in subparagraph (9)(A), a User may enter a Partial Post Only at Limit Order instructing the Exchange to also remove liquidity from the BZX Options Book at the order's limit price up to a designated percentage of the remaining size of the order after any execution pursuant to subparagraph (9)(A) ("Maximum Remove Percentage") if, after removing such liquidity at the order's limit price, the remainder of such order can then post to the BZX Options Book. If no Maximum Remove Percentage is entered, such order will only remove liquidity to the extent such order will obtain price improvement as described in subparagraph (9)(A). Rule 21.1(h)(4) and (i)(4) also provide for display-price slide functionality and price adjust functionality, respectively, specific to Partial Post Only at Limit Orders.

The Exchange proposes to remove the Partial Post Only at Limit Order type in Rule 21.1(d)(9), and the relevant provisions (in Rules 21.1(h)(4) and 21.1(i)(4)) in connection with the order type.³ User submission of this order type is infrequent. To illustrate, only one User submitted Partial Post Only at Limit Orders in the last month. Because so few Users submit Partial Post Only at Limit Orders, the Exchange believes the current demand does not warrant the Exchange resources necessary for

³ As a result, the proposed change also updates the subsequent paragraph numbering.

ongoing System support of the order type (*e.g.*, the System must maintain and apply a more complex matching algorithm for Partial Post Only at Limit orders than for most other order types). Finally, the Exchange notes that the use of Partial Post Only at Limit Orders is voluntary and that Price Improving Order types,⁴ as well as functionality that allows Post Only Orders subject to the display-price sliding process to execute against resting orders at improved prices,⁵ will continue to be available to Users.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.⁶ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁷ requirements that the rules of an exchange be 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 regulating, clearing, settling, processing information with respect to, and 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁸ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system and benefit investors, because it would delete from the Rules an order type the Exchange will no longer offer. Rule 21.1(d), which was previously filed with the Commission, permits the Exchange to determine which order types, including the Partial Post Only at Limit Order, are available. Therefore, it

⁴ See Rule 21.1(d)(6), which provides that Price Improving Orders are orders to buy or sell an option at a specified price at an increment smaller than the minimum price variation in the security. Price Improving Orders may be entered in increments as small as (1) one cent. Price Improving Orders shall be displayed at the minimum price variation in that security and shall be rounded up for sell orders and rounded down for buy orders.

⁵ See Rule 21.1(d)(8).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ *Id.*

is consistent with Act to not offer this order type. The Exchange believes it will promote transparency in its Rules to delete order types that the Exchange does not make available, and will not make available, in any class. The Exchange notes other options exchanges do not offer this order type.⁹ Moreover, the Exchange does not believe that the proposed rule change will affect the protection of investors or the maintenance of a fair and orderly market because this order type is so infrequently implemented. In addition to this, the Exchange notes that use of this order type is voluntary and the Exchange will continue to offer other price improving functionality. Also, the Exchange believes the low usage rate for Partial Post Only at Limit Orders does not warrant the continued resources necessary for System support of such orders (including the application of a particularly complex matching algorithm required for Partial Post Only at Limit Orders). As a result, the Exchange believes the proposed rule change will also remove impediments to and perfect the mechanism of a free and open market and national market system by allowing the Exchange to reallocate System capacity and resources to more frequently elected functionality.

In addition to this, the Exchange also believes the proposed rule change is consistent with Section 6(b)(1) of the Act,¹⁰ which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by the Exchange's Members and persons associated with its Members with the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange believes that removing a rarely used order type, and in turn, reallocating system capacity and resources would allow for the Exchange to be better organized and able to carry out the purposes of the Act and enforce compliance.

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 to remove Partial Post Only at Limit Order types is not designed to address any competitive issues but rather to remove an order type rarely used on the Exchange, which

⁹ See Cboe C2 Exchange, Inc. Rule 6.10(b); Cboe EDGX Exchange, Inc. Rule 21.1(d); Cboe BZX Exchange, Inc. Rule 21.1(d); and Nasdaq BX, Inc. Options 3, Sec. 7(a).

¹⁰ 15 U.S.C. 78f(b)(1).

is also consistent with the availability of order types in the rules of other option exchanges, which have been previously filed with the Commission.

Additionally, the current Rule permits the Exchange to not make this order type available, which Rule was previously filed with the Commission. As noted above, the use of this order type is voluntary and the Exchange will continue to offer other price improving functionality.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on 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 Act¹¹ and Rule 19b-4(f)(6) thereunder.¹²

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act¹³ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹⁴ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the order type being eliminated is infrequently employed,¹⁵ and the Exchange will continue to offer other price improving functionality.¹⁶ Therefore, the Commission hereby

waives the operative delay and designates the proposal as operative upon filing.¹⁷

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-CboeBZX-2019-100 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CboeBZX-2019-100. 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-CboeBZX-2019-100 and should be submitted on or before December 20, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019-25833 Filed 11-27-19; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16139 and #16140; SOUTH DAKOTA Disaster Number SD-00095]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of South Dakota

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of South Dakota (FEMA-4463-DR), dated 09/23/2019.

Incident: Severe Storms and Flooding.
Incident Period: 05/21/2019 through 06/07/2019.

DATES: Issued on 11/20/2019.

Physical Loan Application Deadline Date: 11/22/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 06/23/2020.

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: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of SOUTH

¹⁸ 17 CFR 200.30-3(a)(12).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 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.

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ 17 CFR 240.19b-4(f)(6)(iii).

¹⁵ According to the Exchange, only one User submitted Partial Post Only at Limit Orders in the last month.

¹⁶ See *supra* notes 4 and 5 and accompanying text.

¹⁷ 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).

DAKOTA, dated 09/23/2019, is hereby amended to re-establish the incident period for this disaster as beginning 05/21/2019 and continuing through 06/07/2019.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Cynthia Pitts,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2019-25855 Filed 11-27-19; 8:45 am]

BILLING CODE 8026-013-P

SURFACE TRANSPORTATION BOARD

30-Day Notice of Intent To Seek Extension of Approval: Class I Railroad Annual Report

ACTION: Notice and request for comments.

AGENCY: Surface Transportation Board.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (PRA), the Surface Transportation Board (STB or Board) gives notice of its intent to seek approval from the Office of Management and Budget (OMB) for an extension of the collection of Class I Railroad Annual Reports, described below. The Board previously published a notice about this collection in the **Federal Register** on September 12, 2019. That notice allowed for a 60-day public review and comment period. No comments were received.

DATES: Comments on this information collection should be submitted by December 30, 2019.

ADDRESSES: Written comments should be identified as “Paperwork Reduction Act Comments, Surface Transportation Board: Class I Railroad Annual Report.” These comments should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Michael J. McManus, Surface Transportation Board Desk Officer; by email at oir_submission@omb.eop.gov; by fax at (202) 395-1743; or by mail to Room 10235, 725 17th Street NW, Washington, DC 20503. Please also direct comments to Chris Oehrle, PRA Officer, Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001, or to PRA@stb.gov. For further information regarding this collection, contact Pedro Ramirez at (202) 245-0333 or pedro.ramirez@stb.gov. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION: Comments are requested concerning: (1) The accuracy of the Board’s burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) 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, when appropriate; and (4) whether the collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility.

Description of Collection

Title: Class I Railroad Annual Report.

OMB Control Number: 2140-0009.

Form Number: R-1.

Type of Review: Extension without change.

Respondents: Class I railroads.

Number of Respondents: Seven.

Estimated Time per Response: No more than 250 hours per response. This estimate includes time spent reviewing instructions; searching existing data sources; gathering and maintaining the data needed; completing and reviewing the collection of information; and converting the data from the carrier’s individual accounting system to the Board’s Uniform System of Accounts, which ensures that the information will be presented in a consistent format across all reporting railroads. In prior years, the estimate was higher, but many of these functions have become automated and more routine through the respondents’ software programming. Thus, the time per response has been reduced, with additional technological efficiencies anticipated in the future.

Frequency of Response: Annual.

Total Annual Hour Burden: No more than 1,750 hours annually.

*Total Annual “Non-Hour Burden” Cost:*¹ The respondent carriers are required by statute to submit a copy of the annual report, signed under oath. See 49 U.S.C. 11145. A hard copy of the report is mailed to the agency at an estimated cost of \$4.00 per respondent, resulting in a total annual non-burden-hour cost of \$28.00 for all seven respondents. No other non-hour costs for operation, maintenance, or purchase of services associated with this collection have been identified, as: (a) This collection will not impose start-up costs on respondents; and (b) an

additional copy of the report in Excel format is submitted to the agency electronically.

Needs and Uses: Annual reports are required to be filed by Class I railroads under 49 U.S.C. 11145. The reports show operating expenses and operating statistics of the carriers. Operating expenses include costs for right-of-way and structures, equipment, train and yard operations, and general and administrative expenses. Operating statistics include such items as car-miles, revenue-ton-miles, and gross ton-miles. These reports are used by the Board, other Federal agencies, and industry groups to monitor and assess railroad industry growth, financial stability, traffic, and operations, and to identify industry changes that may affect national transportation policy. Information from these reports is also entered into the Uniform Railroad Costing System (URCS), which is the Board’s general-purpose costing methodology. URCS, which was developed by the Board pursuant to 49 U.S.C. 11161, is used as a tool in rail rate proceedings (in accordance with 49 U.S.C. 10707(d)) to calculate the variable costs associated with providing a particular service. The Board also uses information from this collection to more effectively carry out other regulatory responsibilities, including: Acting on railroad requests for authority to engage in Board-regulated financial transactions such as mergers, acquisitions of control, and consolidations, see 49 U.S.C. 11323-24; analyzing the information that the Board obtains through the annual railroad industry waybill sample, see 49 CFR 1244; measuring off-branch costs in railroad abandonment proceedings, in accordance with 49 CFR 1152.32(n); developing the “rail cost adjustment factors,” in accordance with 49 U.S.C. 10708; and conducting investigations and rulemakings.

Under the PRA, a federal agency that conducts or sponsors a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Section 3507(b) of the PRA requires, concurrent with an agency’s submitting a collection to OMB for approval, a 30-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information.

¹ In this notice, the Board is adding the “non-hour burden” costs that were inadvertently left out of the 60-day notice related to this collection in the total annual amount of \$28.

Dated: November 25, 2019.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2019-25879 Filed 11-27-19; 8:45 am]

BILLING CODE 4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36363]

CSX Transportation, Inc.—Corporate Family Merger Exemption—The Home Avenue Rail-Road Company

CSX Transportation, Inc. (CSXT), a Class I carrier, and The Home Avenue Rail-Road Company (HARR) (collectively, the Parties) have filed a verified notice of exemption for an intra-corporate family transaction under 49 CFR 1180.2(d)(3). CSXT directly controls and operates HARR. HARR owns approximately 2.9 miles of railroad and 3.99 miles of yard switching track in the State of Ohio. Under the proposed transaction, HARR will be merged into CSXT with CSXT as the surviving corporate entity.¹

The Parties state that the purpose of the transaction is to simplify the corporate structure and reduce overhead costs. According to the Parties, the transaction will reduce corporate overhead and duplication by eliminating one corporation, while retaining the same assets to serve customers, and will allow CSXT to obtain various savings.

Unless stayed, the exemption will be effective on December 15, 2019 (30 days after the verified notice was filed). The Parties state that they intend to consummate the proposed transaction on or after that date.

The Parties state that the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(3).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. As a condition to the use of this exemption, any employees adversely affected by this transaction will be protected by the conditions set forth in *New York Dock Railway—Control—Brooklyn Eastern District Terminal*, 360 I.C.C. 60 (1979).

¹ An executed copy of the agreement and plan of merger was filed on November 15, 2019, to replace the draft agreement attached to the verified notice of exemption.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than December 6, 2019 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36363, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Louis E. Gitomer, Esq., Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

According to the Parties, this action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available at www.stb.gov.

Decided: November 25, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Eden Besera,

Clearance Clerk.

[FR Doc. 2019-25869 Filed 11-27-19; 8:45 am]

BILLING CODE 4915-01-P

TENNESSEE VALLEY AUTHORITY

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: 30-Day notice of submission of information collection approval and request for comments.

SUMMARY: The information collection described below will be submitted to the Office of Management and Budget (OMB) at, oira_submission@omb.eop.gov, for review, as required by the Paperwork Reduction Act of 1995. The Tennessee Valley Authority is soliciting public comments on this proposed collection.

DATES: Comments should be sent to the TVA Senior Privacy Program Manager, and the OMB Office of Information & Regulatory Affairs, Attention: Desk Officer for Tennessee Valley Authority, Washington, DC 20503, or email: oira_submission@omb.eop.gov, no later than December 30, 2019.

ADDRESSES: Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to

the Senior Privacy Program Manager: Christopher A. Marsalis, Tennessee Valley Authority, 400 W Summit Hill Dr. (WT 5D), Knoxville, Tennessee 37902-1401; telephone (865) 632-2467 (this is not a toll-free number) or by email at camarsalis@tva.gov.

SUPPLEMENTARY INFORMATION:

Type of Request: Extension without change of a currently approved collection.

Title of Information Collection: Employment Application.

OMB Approval Number: 3316-0063.

Frequency of Use: On Occasion.

Type of Affected Public: Individuals.

Small Businesses or Organizations

Affected: No.

Federal Budget Functional Category Code: 999.

Estimated Number of Annual Responses: 2,683.

Estimated Total Annual Burden Hours: 2,298.

Estimated Average Burden Hours per Response: .85.

Need for and Use of Information:

Applications for employment are needed to collect information on qualifications, suitability for employment, and eligibility for veteran's preference. The information is used to make comparative appraisals and to assist in selections. The affected public consists of individuals who apply for TVA employment.

Andrea S. Brackett,

Director, TVA Cybersecurity.

[FR Doc. 2019-25823 Filed 11-27-19; 8:45 am]

BILLING CODE 8120-08-P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Product Exclusions: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of product exclusions.

SUMMARY: In September 2018, the U.S. Trade Representative imposed additional duties on goods of China with an annual trade value of approximately \$200 billion as part of the action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. The U.S. Trade Representative initiated a product exclusion process in June 2019, and interested persons have submitted requests for the exclusion of specific

products. This notice announces the U.S. Trade Representative's determination to grant certain exclusion requests specified in the Annex to this notice.

DATES: The product exclusions announced in this notice will apply as of the September 24, 2018, effective date of the \$200 billion action, to August 7, 2020.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Assistant General Counsels Philip Butler or Megan Grimball, or Director of Industrial Goods Justin Hoffmann at (202) 395-5725. For specific questions on customs classification or implementation of the product exclusions identified in the annex to this notice, contact traderemedy@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see the prior notices issued in the investigation, including 82 FR 40213 (August 23, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 33608 (July 17, 2018), 83 FR 38760 (August 7, 2018), 83 FR 47974 (September 21, 2018), 83 FR 49153 (September 28, 2018), 83 FR 65198 (December 19, 2018), 84 FR 7966 (March 5, 2019), 84 FR 20459 (May 9, 2019), 84 FR 29576 (June 24, 2019), 84 FR 38717 (August 7, 2019), 84 FR 46212 (September 3, 2019), 84 FR 49591 (September 20, 2019), 84 FR 57803 (October 28, 2019), and 84 FR 61674 (November 13, 2019).

Effective September 24, 2018, the U.S. Trade Representative imposed additional 10 percent duties on goods of China classified in 5,757 full and partial subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of \$200 billion. See 83 FR 47974, as modified by 83 FR 49153. In May 2019, the U.S. Trade Representative increased the additional duty to 25 percent. See 84 FR 20459. On June 24, 2019, the U.S. Trade Representative established a process by which U.S. stakeholders can request exclusion of particular products classified within an 8-digit HTSUS subheading covered by the \$200 billion action from the additional duties. See 84 FR 29576 (the June 24 notice).

Under the June 24 notice, requests for exclusion had to identify the product subject to the request in terms of the physical characteristics that distinguish it from other products within the relevant 8-digit subheading covered by the \$200 billion action. Requestors also had to provide the 10-digit subheading

of the HTSUS most applicable to the particular product requested for exclusion, and could submit information on the ability of U.S. Customs and Border Protection to administer the requested exclusion. Requestors were asked to provide the quantity and value of the Chinese-origin product that the requestor purchased in the last three years. With regard to the rationale for the requested exclusion, requests had to address the following factors:

- Whether the particular product is available only from China and specifically whether the particular product and/or a comparable product is available from sources in the United States and/or third countries.
- Whether the imposition of additional duties on the particular product would cause severe economic harm to the requestor or other U.S. interests.
- Whether the particular product is strategically important or related to "Made in China 2025" or other Chinese industrial programs.

The June 24 notice stated that the U.S. Trade Representative would take into account whether an exclusion would undermine the objective of the Section 301 investigation.

The June 24 notice required submission of requests for exclusion from the \$200 billion action no later than September 30, 2019, and noted that the U.S. Trade Representative periodically would announce decisions. In August 2019, the U.S. Trade Representative granted an initial set of exclusion requests. See 84 FR 38717. The U.S. Trade Representative granted additional exclusions in September, October, and November 2019. See 84 FR 49591, 84 FR 57803, and 84 FR 61674. The Office of the United States Trade Representative (USTR) regularly updates the status of each pending request on the USTR Exclusions Portal at <https://exclusions.ustr.gov/s/docket?docketNumber=USTR-2019-0005>.

B. Determination To Grant Certain Exclusions

Based on the evaluation of the factors set out in the June 24 notice, which are summarized above, pursuant to sections 301(b), 301(c), and 307(a) of the Trade Act of 1974, as amended, and in accordance with the advice of the interagency Section 301 Committee, the U.S. Trade Representative has determined to grant the product exclusions set out in the Annex to this notice. The U.S. Trade Representative's determination also takes into account advice from advisory committees and

any public comments on the pertinent exclusion requests.

As set out in the Annex, the exclusions are reflected in 32 specially prepared product descriptions, which cover 39 separate exclusion requests.

In accordance with the June 24 notice, the exclusions are available for any product that meets the description in the Annex, regardless of whether the importer filed an exclusion request. Further, the scope of each exclusion is governed by the scope of the product descriptions in the Annex, and not by the product descriptions set out in any particular request for exclusion.

Paragraph A, subparagraphs (3)–(5) are conforming amendments to the HTSUS reflecting the modification made by the Annex.

Paragraph B, subparagraph (1) is a typographical correction of U.S. note 20(l)(23) to subchapter III of chapter 99 of the HTSUS that modifies the unit of measurement published in the annex to the notice published at 84 FR 57803 (October 28, 2019). Paragraph B, subparagraphs (2)–(5), make conforming amendments to note 20(g) published at 83 FR 47974 (September 21, 2019), note 20(l) published at 84 FR 57803 (October 28, 2019), note 20(mm) published at 84 FR 61674 (November 13, 2019), and heading 9903.88.04 of the HTSUS published at 83 FR 47974 (September 21, 2019).

As stated in the September 20, 2019 notice, the exclusions will apply from September 24, 2018, to August 7, 2020. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

The U.S. Trade Representative will continue to issue determinations on pending requests on a periodic basis.

Joseph Barloon,

General Counsel, Office of the U.S. Trade Representative.

Annex

A. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on September 24, 2018, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified:

1. By inserting the following new heading 9903.88.35 in numerical sequence, with the material in the new heading inserted in the columns of the HTSUS labeled "Heading/Subheading", "Article Description", and "Rates of Duty 1-General", respectively:

Heading/ subheading	Article description	Rates of duty		
		1		2
		General	Special	
"9903.88.35	Articles the product of China, as provided for in U.S. note 20(nn) to this subchapter, each covered by an exclusion granted by the U.S. Trade Representative.	The duty provided in the applicable sub-heading".		

2. by inserting the following new U.S. note 20(nn) to subchapter III of chapter 99 in numerical sequence:

“(nn) The U.S. Trade Representative determined to establish a process by which particular products classified in heading 9903.88.03 and provided for in U.S. notes 20(e) and (f) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.03, and by which particular products classified in heading 9903.88.04 and provided for in U.S. note 20(g) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.04. See 83 FR 47974 (September 21, 2018) and 84 FR 29576 (June 24, 2019). Pursuant to the product exclusion process, the U.S. Trade Representative has determined that the additional duties provided for in heading 9903.88.03 shall not apply to the following particular products, which are provided for in the enumerated statistical reporting numbers:

- (1) Candy lollipops, not containing cocoa, such goods put up for retail sale in packings in the form of a larger plastic lollipop, each comprising a spheroid container with a major axis of 14 cm and a minor axis of 11 cm, with and a plastic stick measuring 22 cm in length inserted in the bottom of the container, with the container portion wrapped in printed plastic film cinched at the container's bottom by a printed hang tag (described in statistical reporting number 1704.90.3550)
- (2) Sodium metal (CAS No. 7440-23-5), in bulk solid form (described in statistical reporting number 2805.11.0000)
- (3) Plastic trays, of a kind used for retail packaging, custom vacuum formed from polyvinyl chloride or polystyrene sheets (0.45 to 0.9 mm in thickness), each measuring 7.62 cm or more but not over 53.34 cm in length, 17.15 cm or more but not over 42.55 cm in width, and 3.18 cm or more but not over 15.24 cm in depth (described in statistical reporting number 3923.10.9000)
- (4) Nonelectrical graphite sheets, flexible, measuring 1,000 mm in length, 1,000 mm in width, and 0.8

- mm or more but not exceeding 1.5 mm in thickness (described in statistical reporting number 6815.10.0100)
- (5) Grinding beads of yttria-stabilized zirconia (described in statistical reporting number 6909.11.2000)
- (6) Tube or pipe sleeves (couplings) of alloy steel (except stainless steel), threaded, each weighing 0.19 kg or more but not over 18.2 kg, measuring 305 cm in length, measuring 1.2 cm or more but not over 10.2 cm in diameter, UL listed (described in statistical reporting number 7307.92.3030)
- (7) Butt welding tube or pipe elbows of galvanized steel, each weighing 0.19 kg or more but not over 17 kg, measuring 12 mm or more but not over 102 mm in inside diameter, UL listed (described in statistical reporting number 7307.93.6000)
- (8) Foldable stepladders of steel, each with 2, 3 or 4 steps and safety latch, with load capacity of 90 kg or more but not over 140 kg (described in statistical reporting number 7326.90.8660)
- (9) Flat panel display mounting adapters of base metal (described in statistical reporting number 8302.50.0000)
- (10) Telescoping curtain rod sets put up for retail sale, each set including two or more cylindrical telescoping rods, two or more wall brackets capable of affixing the rods to building components, all the foregoing of steel, and two or more rod finials of resins or other plastics, the foregoing not including mechanisms for opening or closing curtains (described in statistical reporting number 8302.41.6050)
- (11) Electric display cases incorporating refrigerating equipment designed for commercial use, each with a glass front to display the food or drink being stored (described in statistical reporting number 8418.50.0080)
- (12) Wireline bridge plug assemblies for use in oil and gas fields, compliant with Specification 11D1 of the American Petroleum Institute (API), each composed of cylindrically shaped, sand cast, cast iron

- components with a nitrile rubber sealing element and brass element backup rings, measuring 3.7 cm or more but not over 52 cm in diameter and 30 cm or more but not over 72 cm in length (described in statistical reporting number 8479.89.9450)
- (13) Vacuum cleaners, bagless, upright, capable of operating in wet mode or dry mode, each with self-contained electric motor of a power not exceeding 1,500 W and having a tank capacity not over 4 liters (described in statistical reporting number 8508.11.0000)
- (14) Vacuum cleaners, bagless, upright, each with self-contained electric motor of a power not exceeding 1,500 W and having a dust receptacle capacity not exceeding 1 liter (described in statistical reporting number 8508.11.0000)
- (15) Starter motors for internal combustion gasoline engines designed for use in the lawn, automotive, watercraft, motorcycle, industrial and garden industries (described in statistical reporting number 8511.40.0000)
- (16) EGR coolant tube assemblies of stainless steel for diesel powered vehicles of headings 8701 to 8705 (described in statistical reporting number 8708.99.8180)
- (17) Bicycles, not motorized, each having aluminum- or magnesium-alloy wheels both measuring more than 69 cm but not more than 71 cm in diameter, tires of cross-sectional diameter of 3.5 cm, aluminum frame, a polyurethane/carbon fiber cord drive belt, 3-, 7- or 12-speed rear hub and twist shifter (described in statistical reporting number 8712.00.2500)
- (18) Single-speed bicycles meeting the criteria of HTS subheading 8712.00.44, each having steel frame, with aluminum stems, rims and crankset and with rider contact area of plastics, each bicycle weighing not over 11.5 kg (described in statistical reporting number 8712.00.4400)
- (19) Carts (other than industrial hand trucks and portable luggage carts) that convert into ladders, each

- weighing not more than 15 kg, measuring not more than 105 cm by 56 cm by 11 cm (described in statistical reporting number 8716.80.5090)
- (20) Dump carts, each with a steel frame, a plastic bed and four pneumatic tires on wheels, with a capacity not exceeding 550 kg (described in statistical reporting number 8716.80.5090)
- (21) Canoes (other than of wood or of metal) each valued over \$800, not of a type designed to be principally used with motors or sails (described in statistical reporting number 8903.99.0500)
- (22) Folding chairs with aluminum frames, each comprising a seat of polyester ripstop fabric and polyester netting and an aluminum frame, weighing not more than 600 g (described in statistical reporting number 9401.79.0015)
- (23) Folding tables designed for camping, each composed of a polyester ripstop fabric top designed to assemble onto an aluminum frame, the foregoing when opened for use measures 53.34 cm x 41.91 cm x 36.83 and weighs under 0.9 kg (described in statistical reporting number 9403.20.0050)
- (24) Outdoor tables of steel and aluminum, each measuring no more than 93 cm by 93 cm by 63 cm, incorporating a built-in gas-burning fire pit (described in statistical reporting number 9403.20.0050)
- (25) Foldable cots with frames of steel and/or aluminum, each with sleeping surface of polyester or nylon fabric, each cot measuring 185 cm or more but not over 230 cm in length, 70 cm or more but not over 105 cm in width and 7 cm or more but not over 58 cm in height (described in statistical reporting number 9403.20.0090)
- (26) Foldable tables with frames of steel and/or aluminum, each measuring 25 cm or more but not over 156 cm in length, 30 cm or more but not over 80 cm in width and 37 cm or more but not over 113 cm in height, with a tabletop surface of aluminum (described in statistical reporting number 9403.20.0090)
- (27) Electric household floor-standing lamps, of base metal other than brass, each measuring 1.22 m or more but not over 2.59 m in height, with an E26 socket (described in statistical reporting number 9405.20.6010)
- (28) Electric household floor-standing lamps, of base metal other than brass, each measuring 77 cm or more but not over 232 cm in height with light-emitting diode (LED) lamp as light source (described in statistical reporting number 9405.20.6010)
- (29) Electric household table or desk lamps, of base metal other than brass, each measuring 25 cm or more but not over 92 cm in height with an E26 socket (described in statistical reporting number 9405.20.6010)
- (30) Electric household table or desk lamps, of base metal other than brass, each measuring 38 cm or more but not over 87 cm in height, with light-emitting diode (LED) lamp as light source and featuring an AC outlet, a charging pad and USB port designed for the charging of electronic devices (described in statistical reporting number 9405.20.6010)
- (31) Electric household floor-standing lamps, of wood, each measuring 115 cm or more but not over 210 cm in height, with an E26 socket (described in statistical reporting number 9405.20.8010)
- (32) Electric household table or desk lamps, of wood, each measuring 25 cm or more but not over 80 cm in height, with an E26 socket (described in statistical reporting number 9405.20.8010)
3. by amending the last sentence of the first paragraph of U.S. note 20(e) to subchapter III of chapter 99:
- a. By deleting the word “or” where it appears after the phrase “U.S. note 20(l) to subchapter III of chapter 99;” and
- b. by inserting the phrase “; or (5) heading 9903.88.35 and U.S. note 20(nn) to subchapter III of chapter 99” after the phrase “U.S. note 20(mm) to subchapter III of chapter 99”.
4. by amending U.S. note 20(f) to subchapter III of chapter 99:
- a. By deleting the word “or” where it appears after the phrase “U.S. note 20(l) to subchapter III of chapter 99;” and
- b. by inserting the phrase “; or (5) heading 9903.88.35 and U.S. note 20(nn) to subchapter III of chapter 99” after the phrase “U.S. note 20(mm) to subchapter III of chapter 99”.
5. by amending the Article Description of heading 9903.88.03:
- a. By deleting “9903.88.33 or” and inserting “9903.88.33,” in lieu thereof; and
- b. by inserting “or 9903.88.35,” after “9903.88.34.”
- B. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on September 24, 2018:
1. U.S. note 20(l)(23) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified by deleting “Articulated chains of iron, not over 8 mm in thickness and valued not over \$2 per kg (described in statistical reporting number 7315.12.0080)” and inserting “Articulated chains of iron, not over 8 mm in thickness and valued not over \$2 per m (described in statistical reporting number 7315.12.0080)” in lieu thereof.
2. U.S. note 20(g) to subchapter III of chapter 99 of the HTSUS is amended by inserting the following phrase at the end of the first sentence after the phrase “the following products of China”:
- “, except products of China granted an exclusion by the U.S. Trade Representative and provided for in: (1) heading 9903.88.33 and U.S. note 20(l) to subchapter III of chapter 99; or (2) heading 9903.88.34 and U.S. note 20(mm) to subchapter III of chapter 99”.
3. U.S. note 20(l) to subchapter III of chapter 99 of the HTSUS is amended by inserting the following phrase at the end of the first sentence after the phrase “imposed by heading 9903.88.03”:
- “, and by which particular products classified in heading 9903.88.04 and provided for in U.S. note 20(g) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.04”.
4. U.S. note 20(mm) to subchapter III of chapter 99 of the HTSUS is amended by inserting the following phrase at the end of the first sentence after the phrase “imposed by heading 9903.88.03”:
- “, and by which particular products classified in heading 9903.88.04 and provided for in U.S. note 20(g) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.04”.
5. The article description of heading 9903.88.04 of the HTSUS is amended by deleting “Articles” and inserting in lieu thereof the phrase “Except as provided in headings 9903.88.33 or 9903.88.34, articles”.

[FR Doc. 2019-25820 Filed 11-27-19; 8:45 am]

BILLING CODE 3290-F0-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on a Request To Release Surplus Property at the Daniel Field Airport, Augusta, Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comment.

SUMMARY: This notice is being given that the Federal Aviation Administration (FAA) is considering a request from the City of Augusta to waive the requirement that 0.13 acres of surplus property located at the Daniel Field Airport be used for aeronautical purposes. Currently, the ownership of the property provides for the protection of FAR Part 77 surfaces and compatible land use which would continue to be protected with deed restrictions required in the transfer of land ownership.

DATES: Comments must be received on or before December 30, 2019.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Rob Rau, Federal Aviation Administration, Atlanta Airports District Office, 1701 Columbia Ave., Ste. 220, College Park, GA 30337.

In addition, one copy of any comments submitted to the FAA must be mailed to: David Fields, Chairman, General Aviation Commission, City of Augusta, 1775 Highland Avenue, Augusta, GA 30904.

FOR FURTHER INFORMATION CONTACT: Rob Rau, Federal Aviation Administration, Atlanta Airports District Office, 1701 Columbia Ave., Ste. 220, College Park, GA 30337, robert.rau@faa.gov. The request to release property may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request to release 0.13 acres of surplus property at the Daniel Field Airport (DNL) under the provisions of 49 U.S.C. 47151(d). On October 11, 2019, the City of Augusta (with concurrence from Georgia Department of Transportation) requested the FAA release 0.13 acres of surplus property for a permanent utility easement. The FAA has determined that the proposed property release at the Daniel Field Airport, as submitted by the City of Augusta, meets the procedural requirements of the FAA and release of the property does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this notice. In accordance with 49 U.S.C. 47107(c)(2)(B)(i) and (iii), the airport will receive fair market value for the easement, which will be subsequently reinvested in another eligible airport improvement project for aviation facilities at the Daniel Field Airport.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR**

FURTHER INFORMATION CONTACT. In addition, any person may, upon appointment and request, inspect the application, notice and other documents determined by the FAA to be related to the application in person at the Daniel Field Airport.

Issued in Atlanta, GA, on November 19, 2019.

Larry F. Clark,

Manager, Atlanta Airports District Office.

[FR Doc. 2019-25920 Filed 11-27-19; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2019-0961; Notice of Availability Docket No. 19-AEA-20]

FAA Notice of Preparation of an Environmental Assessment for the Proposed Teterboro (TEB) Area Navigation (RNAV) Global Positioning System (GPS) Runway (RWY) 19 Offset Procedure at Teterboro Airport, NJ

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

ACTION: Notice of Preparation of an Environmental Assessment (EA) and associated public workshop.

SUMMARY: The FAA, Eastern Service Area, is issuing this notice to advise the public that the FAA has initiated preparation of an environmental assessment (EA) that will analyze and discuss the potential environmental impacts resulting from publishing and implementing a new approach procedure to TEB, the TEB RNAV (GPS) RWY 19 Offset (Proposed Project).

FOR FURTHER INFORMATION CONTACT: Mr. Ryan W. Almasy, Federal Aviation Administration, Operations Support Group, Eastern Service Center, 1701 Columbia Avenue, College Park, Georgia 30337, (404) 305-5601 or https://www.faa.gov/air_traffic/community_involvement/.

SUPPLEMENTARY INFORMATION: The EA will include the requisite analyses to evaluate the potential environmental impacts of the Proposed Project within the defined study area. During development of a draft and final EA, FAA will be coordinating with federal, state and local agencies, as well as the public, to obtain comments and input regarding the EA for the Proposed Project. The EA will assess potential impacts of the proposed alternative and a no action alternative pursuant to the National Environmental Policy Act (NEPA); FAA Order 1050.1F, *Policies*

and Procedures for Considering Environmental Impacts; and, the President's Council on Environmental Quality (CEQ) Regulations, implementing the provisions of NEPA, applicable special purpose and all other applicable laws, regulations, and requirements.

The FAA intends to conduct a public workshop subsequent to the publication of the Draft EA. The FAA will provide the public with a Notice of Availability of the Draft EA, the locations where the Draft EA will be available, as well as the date, time and location of the public workshop. The Notice of Availability will also provide the dates comprising the 30-day public comment period on the Draft EA and the FAA point of contact to whom comments should be submitted. For more information regarding the public workshop meeting see the project website at: https://www.faa.gov/air_traffic/community_involvement/.

Issued in College Park, Georgia, on November 21, 2019.

Ryan Almasy,

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

[FR Doc. 2019-25899 Filed 11-27-19; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2019-0630]

Agency Information Collection Activities: Requests for Comments; Clearance of New Approval of Information Collection: Privacy International Civil Aviation Organization (ICAO) Address Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for a new information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on August 22, 2019. The collection involves an aircraft operator's request for a Privacy ICAO Address through a web-based application process. The collected information is necessary to qualify for the authorized use of the Privacy ICAO Address(es) and for monitoring

airworthiness and enforcement activities.

DATES: Written comments should be submitted by December 30, 2019.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA and sent via email to oirs_submission@omb.eop.gov, or faxed to (202) 395-6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For further questions concerning this action, contact Syed Tahmid by email at: syed.tahmid@faa.gov or phone at (202) 267-8784.

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-XXXX.

Title: Privacy International Civil Aviation Organization (ICAO) Address Program.

Form Numbers: Information is collected via a website specific to the Privacy International Civil Aviation Organization (ICAO) Address Program.

Type of Review: New information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on August 22, 2019 (84 FR 43860). On May 28, 2010, the FAA issued the final rule, "Automatic Dependent Surveillance-Broadcast (ADS-B) Out Performance Requirements to Support Air Traffic Control (ATC) Service" (75 FR 30160). In the final rule, the FAA mandated equipment requirements and performance standards for ADS-B Out avionics on aircraft operating in most controlled airspace after January 1, 2020. The regulation requires persons operating in the specified airspace to equip with ADS-B Out avionics that

meet the requirements in 14 CFR 91.225 and 91.227. Under § 91.227(d)(11), an aircraft must broadcast the aircraft's assigned ICAO 24-bit address. Each registered aircraft is assigned an aircraft registration number which has a corresponding ICAO 24-bit aircraft address. The aircraft registration number and ICAO 24-bit aircraft address are also referred to as a "Mode S Code" in some FAA documents and websites, including the FAA Aircraft Registry.

Pursuant to § 91.227, 1090-MHz Extended Squitter (1090ES) is required above Flight Level (FL) 180 and ICAO 24-bit aircraft addresses are used within the transponder standards to identify aircraft. The ICAO 24-bit aircraft address is openly broadcasted on the 1090-MHz frequency via the transponder and ADS-B messages, resulting in availability of aircraft identity to the public.

Industry stakeholders have advocated that FAA develop a process to provide aircraft operators an option to be anonymous with their aircraft movements and identity. Stakeholders emphasized the importance of not being traced or seen by privately owned sensors that monitor the 1090-MHz frequency along with other downlinked ADS-B and Mode S data being disseminated using the internet.

FAA acknowledges the desire of some owners and operators to limit the availability of real-time ADS-B position and identification information for a specific aircraft. To address privacy concerns, the FAA has initiated the Privacy ICAO Address Program to improve the privacy of eligible aircraft. The Privacy ICAO Address Program will enable interested aircraft owners and operators to request an alternate, temporary ICAO Aircraft Address, which will not be assigned to another owner or operator in the Civil Aviation Registry. To participate in the program, each operator's aircraft must meet the following requirements:

- Qualify as a United States registered aircraft;
- Be equipped with 1090-MHz ADS-B avionics;
- Use a third-party call sign; and,
- Operate in domestic United States airspace.

The Privacy ICAO Address Program will be available in two phases:

Phase 1: During Phase 1, the FAA will implement an interim solution. The FAA will assign operate, monitor, and maintain all temporary ICAO 24-bit aircraft addresses. The FAA plans to have the Privacy ICAO Address Program application website, <https://www.faa.gov/nextgen/equipadsb/privacy/>, in place by January 1, 2020, to

meet industry concerns, until Phase 2 is finalized.

Phase 2: During Phase 2, a third-party service provider(s) will succeed FAA in the assignment, operation, monitoring, and maintenance of all temporary ICAO 24-bit aircraft addresses. The FAA will continue to have oversight of assignments. The Privacy ICAO Address Program, which will continue to be available from <https://www.faa.gov/nextgen/equipadsb/privacy/>.

Participation in the Privacy ICAO Addresses Program is voluntary. However, the FAA must collect the operator's information in order to assign a Privacy ICAO Address(es). In order to receive a Privacy ICAO Address assignment, during either Phase 1 or Phase 2, the requestor will be required to submit the following information:

1. Acknowledgement of the FAA notification of collection and management of personally identifiable information (PII) for the management of Privacy ICAO Address assignment and their use in the National Airspace System (NAS);
2. Acknowledgement of the Privacy ICAO Address Rules of Use in the NAS;
3. Valid aircraft registration (which includes a permanent ICAO 24-bit aircraft address) for the aircraft that will be assigned the Privacy ICAO Address;
4. Proof of authorization to use a third-party flight identification (Flight ID) along with the identity of the provider;
5. Aircraft owner's contact information (phone number, email address, and business or home address);
6. Aircraft owner's individual/company/organization information;
7. Requester's contact information (phone number, email address, and business or home address);
8. Validation that the aircraft's ADS-B emitter (avionics) performance is qualified for ADS-B operations (*i.e.*, a completed Public ADS-B Performance Report (PAPR) within the past 180 days); and,
9. Aircraft operator's justification for Freedom of Information Act (FOIA) exemption, if applicable.

The FAA, during Phase 1 and Phase 2, will verify the information provided by the requester prior to the Privacy ICAO Address being assigned by the FAA or third-party provider to ensure that the aircraft does not have any open FAA enforcement actions. Any outstanding issues would preclude the use of Privacy ICAO Address(es) until the current action is resolved.

Only U.S. registered aircraft can participate in the FAA's Privacy ICAO Address Program. Additionally, operators cannot use a Privacy ICAO

Address(es) for a U.S. registered aircraft, unless that operator is also using a third-party flight identification for that same aircraft. Only one unique Privacy ICAO Address will be assigned to a U.S. registered aircraft at any given time. Once approved, the aircraft owner or operator will be assigned a Privacy ICAO Address. An operator can change a Privacy ICAO Address for an aircraft, but no more often than once during:

Phase 1: A 60-calendar day period from the previous Privacy ICAO Address assignment; and

Phase 2: A 20-business day period from the previous Privacy ICAO Address assignment.

Upon receiving the assigned temporary Privacy ICAO Address the requester has 30 calendar days to program the aircraft's ADS-B transponder to the assigned Privacy ICAO Address, fly in ADS-B coverage airspace, and complete the verification process via the website (e.g., PAPR). Once the FAA acknowledges that the verification process is complete and validates that the reprogrammed ADS-B transponder is emitting the correct Privacy ICAO Address, the requester will receive a final confirmation via email. However, if the requester does not submit a PAPR within 30 calendar days of the Privacy ICAO Address assignment, the assigned Privacy ICAO Address will be rescinded, and the requester will need to start the application process again. For more information on the Public ADS-B Performance Report (PAPR) see: <https://adsbperformance.faa.gov/paprrequest.aspx>.

The FAA received six responses to FAA's Privacy ICAO Address Program's **Federal Register** Notice published on August 22, 2019 (84 FR 43860). All six responses strongly supported FAA's effort to facilitate privacy for aircraft operators who have aircraft equipped with 1090ES (1090-MHz Extended Squitter Automatic Dependent Surveillance—Broadcast (ADS-B)).

Of the six responses, two respondents provided comments for FAA's consideration:

1. One commenter suggested that FAA allow operators to verify that the new temporary Privacy ICAO Address code is entered correctly without requiring a test flight as they are onerous and expensive.

FAA's Response: FAA supports a cost efficient process to ensure operators participating in the Privacy ICAO Address Program have entered the temporary Privacy ICAO Address correctly without imposing onerous requirements for obtaining a PAPR. For the purpose of the Privacy ICAO

Address Program, a flight in any ADS-B coverage airspace will suffice for the sake of a Privacy ICAO Address verification flight. Moreover, the verification flight does not need to be a dedicated flight. Aircraft owners may elect to complete the verification flight as part of any routine flight following the installation of a Privacy ICAO Address. If an operator(s) cannot perform a verification flight within 30 days of receiving a Privacy ICAO Address assignment, the operator(s) should contact the Privacy ICAO Address helpdesk at adsbprivacyicao@faa.gov. The FAA may grant an extension if additional time is needed for valid reasons.

2. Two similar comments, from two separate respondents, suggested that FAA not make Privacy ICAO Address Program eligibility contingent on the aircraft owner or operator having a third-party call sign.

FAA's Response: FAA continues to support the use of third-party Flight IDs (third-party call signs) as a critical component of the Privacy ICAO Address Program. The term "aircraft call sign" (Aircraft ID) means the radiotelephony call sign assigned to an aircraft for voice communications purposes. For general and business aviation aircraft, the aircraft call sign is normally associated with the aircraft registration number (tail number) and may be preset. Aircraft ID must match what is in the air traffic control flight plan. Mode S transponder functionality includes automatic transmission of aircraft call sign and Mode S 24-bit aircraft address(es). Both can be readily used with searching aircraft ownership information via FAA's Civil Aviation Registry (CAR). Without the use of third-party Flight IDs, the broadcasting of an aircraft call sign (i.e., N-number or aircraft registration number) would still expose aircraft in FAA's CAR and no longer make aircraft operations anonymous. FAA Privacy ICAO Addresses associated with temporary or alternate N-numbers associated with the CAR would also not be a suitable alternative because of operational safety concerns. The use of the temporary call sign through a third-party call sign provider matched to a temporary Privacy ICAO Address(es) is a much better and more effective approach to the privacy issue.

Third-party call signs are available from a "Third-party Call Sign Provider", a commercial service which has a security agreement with FAA. The aircraft operator is responsible for inputting the Privacy ICAO Address(es) and designated third-party Flight ID in avionics exactly as filed in the ICAO

flight plan. The aircraft operator will not be permitted to change the Privacy ICAO Address or the third-party call sign in-flight.

An aircraft operator may use the original aircraft's Flight ID (i.e., N-number or aircraft registration number) and permanent ICAO aircraft address originally assigned and recorded in the Civil Aviation Registry at any time for operations, including any time while having an active Privacy ICAO Address assignment. However, the FAA requires that the user submit documented validation that an ICAO code has been correctly installed into the aircraft's ADS-B avionics after each change. Use of the assigned ICAO aircraft address recorded in the CAR is required for all flights leaving U.S. sovereign airspace, and it may be used for any other flights at any time, as desired by the aircraft operator.

For monitoring use of Privacy ICAO Addresses, the information supplied by the operator will be downloaded by the FAA and entered into the FAA's ADS-B Performance Monitor (82 FR 60302, December 20, 2017).

The FAA is seeking comments from the public regarding the information that is collected for the Privacy ICAO Address program and its process. The information provided in this notice is solely to identify and collect information from the public on the potential burden to an individual that may result from this program.

Respondents: Intended for operators who seek anonymous aircraft operations to avoid monitoring via open broadcast of aircraft data on 1090-MHz frequency receivers. FAA estimates that up to 15,000 respondents may utilize the Privacy ICAO Address Program.

Frequency: Unless an operator seeks a new Privacy ICAO Address or terminates the use of its existing Privacy ICAO Address, an operator can continue to use the temporary Privacy ICAO Address assignment as long as desired. However, aircraft operators may request regular Privacy ICAO Address reassignments within the agreed timeframe.

Estimated Average Burden per Response: Approximately 15 minutes per application.

Estimated Total Annual Burden: Total estimate of burden hours for 15,000 users (individual aircraft owners and operators) is approximately 12,562.5 hours. (this is an approximation based on some individual aircraft owners and operators requesting new Privacy ICAO Address(es) reassignments on a regular or semi-regular schedule; e.g., 20-days, monthly, quarterly or semi-annually.)

Issued in Washington, DC.

David E. Gray,

Acting Deputy Director, Surveillance Services (AJM-4), Program Management Organization, Air Traffic Organization, Federal Aviation Administration.

[FR Doc. 2019-25922 Filed 11-27-19; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2019-0631]

Agency Information Collection Activities: Requests for Comments; Clearance of New Approval of Information Collection: Service Availability Prediction Tool (SAPT)

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 for a new information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on August 22, 2019. The collection involves aircraft operators using pre-flight availability predictions for navigation and surveillance and submitting a request for an authorization from air traffic control (ATC) via a web-based tool and application process. The collected information is necessary to:

(1) Predict whether an aircraft flying the proposed route of flight will have sufficient position accuracy and integrity for:

- (a) Navigation, via the Receiver Autonomous Integrity Monitoring (RAIM) SAPT
- (b) Surveillance, via the Automatic Dependent Surveillance—Broadcast (ADS-B) SAPT

(2) Allow operators to request authorization, via ADS-B Deviation Authorization Preflight Tool (ADAPT), from ATC to operate aircraft that do not fully meet ADS-B Out equipment or performance requirements, in airspace that requires ADS-B Out.

DATES: Written comments should be submitted by December 30, 2019.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and

Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA and sent via email to oira_submission@omb.eop.gov, or faxed to (202) 395-6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For further questions concerning this action, contact Mr. David Gray, Deputy Director (Acting), Surveillance Directorate, AJM-4, Air Traffic Organization, Federal Aviation Administration, by email at: David.E.Gray@faa.gov or +1-202-267-0513.

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-XXXX.

Title: Service Availability Prediction Tool (SAPT).

Form Numbers: Information is collected via a website specific to SAPT at <https://sapt.faa.gov>.

Type of Review: New information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on August 22, 2019. 84 FR 43861. Service Availability Prediction Tool (SAPT) was developed by the United States (U.S.) Department of Transportation (DOT), John A. Volpe National Transportation Systems Center (Volpe Center) for the Surveillance and Broadcast Services (SBS) organization within the FAA.

The SAPT is intended for pilots, dispatchers, and commercial operators to check their predicted navigation and surveillance availability before a flight. The SAPT has three main components: Receiver Autonomous Integrity Monitoring (RAIM) SAPT, Automatic Dependent Surveillance-Broadcast (ADS-B) SAPT, and ADS-B Deviation Authorization Pre-Flight Tool (ADAPT).

RAIM SAPT use is voluntary and intended for pilots, dispatchers, and commercial service providers using

Technical Standard Order (TSO)-C129 equipment to check the availability of Global Positioning System (GPS) RAIM for a proposed route of flight, satisfying the area navigation (RNAV) guidance as outlined in AC 90-100A Change 2, Paragraph 10(5). RAIM SAPT users can view RAIM outage predictions on RAIM Summary Displays to graphically view RAIM outage predictions for specific equipment configurations. RAIM SAPT predictions are only available through an XML-based web service. RAIM SAPT users can use the XML-based web service, most commonly used by flight planning software, to enter specific route of flight information by the operator checking RAIM outage predictions. RAIM SAPT does not collect personally identifiable information details about the operator(s).

The ADS-B SAPT is provided to help operators comply with 14 CFR 91.225 and 91.227 by predicting whether operators will meet regulatory requirements and to advise holders of FAA Exemption No. 12555 whether back-up surveillance will be available where installed aircraft avionics are not predicted to meet the requirements of 14 CFR 91.227(c)(1)(i) and (iii). For operators of aircraft equipped with TSO-C129 (Selective Availability (SA)-On) GPS receivers, the operator may run a preflight prediction using ADS-B SAPT as one option to help meet their requirements. Information collected via ADS-B SAPT is comparable to that already provided in flight plans, with the addition of some information about the aircraft position source's TSO and related capabilities. Operators using the ADS-B SAPT must enter aircraft identification. The ADS-B SAPT does not collect other personally identifiable information details about the operator. When an operator performs a preflight availability prediction using the FAA's SAPT, the SAPT retains a record of each transaction enabling the FAA to confirm that an operator took preflight action. The FAA recommends that operators using an alternate tool retain documentation that verifies the completion of the satisfactory preflight availability prediction for each intended route of flight. 84 FR 31713 (July 3, 2019).

ADAPT is provided to make limited accommodations for those operators desiring to fly without meeting the ADS-B equipment or performance requirements, in certain circumstances. ADAPT allows operators to create an air traffic authorization request to operate, as allowed in 14 CFR 91.225(g). As a requirement for using ADAPT, operators must first complete the ADS-B SAPT

“Flight Information Entry” form to determine if there is sufficient backup surveillance coverage throughout their planned flight. Operators must enter their personal contact information to enable the FAA to reply with either an approval, rejection, or pending decision. ADAPT does collect personal identifying information to include name, telephone number, and email. RAIM SAPT website offers a Grid Display Tool and Summary Displays which can be used to graphically view RAIM outage predictions for specific equipment configurations. It also supports an XML-based web service for automated checking of RAIM compliance (relative to the AC 90–100A rule) by flight planning software. The following information is required:

- (1) Aircraft Identification (as filed on the Flight Plan; optional)
- (2) Route of Flight, including:
 - (a) Waypoint Name (optional)
 - (b) Lat/Long
 - (c) Estimated time over (ETO)
 - (d) Requested Horizontal Alert Limit (HAL) (optional; default = 555.6(NPA))
- (3) Request Identifier (user-defined ID string; optional)
- (4) Mask Angle (optional; default 5.0)
- (5) Baro Aiding (true/false; optional; default = false)

ADS–B SAPT predictions may be made using XML or using the SAPT “Flight Information Entry” form, which has been modeled after a standard FAA Flight Plan form for ease of use. All the active fields of the “Flight Information Entry” form require an operator to enter relevant data. Operators may save and load active field information as well as cut and paste from an International Civil Aviation Organization (ICAO) Flight Plan. The following information is required:

- (1) Aircraft Identification (or “Call Sign”)
- (2) Aircraft Type
- (3) ADS–B Position Source TSO (or unequipped)
- (4) ADS–B link TSO (or unequipped)
- (5) Proposed Departure Time (UTC)
- (6) Planned Altitude
- (7) Departure Airport
- (8) Destination Airport
- (9) Route of Flight

If the operator desires to fly an aircraft that is not equipped with ADS–B or that is predicted to not meet the required position performance, the operator may request an authorization from ATC to deviate from the equipment or performance requirements of 14 CFR 91.225 or 91.227, under certain circumstances. To relieve the potential burden on ATC facilities, the FAA

developed the ADAPT to manage aircraft operator requests for an ATC authorization. In addition to the information required for ADS–B SAPT, the following information is required for ADAPT:

- (1) Pilot in Command (PIC)
- (2) PIC Telephone Number
- (3) PIC Email Address
- (4) U.S. Civil Aircraft Registry Number or ICAO Address (hex, octal or decimal)
- (5) ADS–B Equipment Status (unequipped, inoperative, insufficient)
- (6) Working Transponder with Altitude Reporting? Yes/No
- (7) Affected en route ATC facilities
- (8) Flight Classification: Part 91, 121, 129, or 135
- (9) Reason for Request
- (10) Certification of Truthfulness

The SAPT or ADAPT “Flight Information Entry” form (the form is the same and either can be selected) is used by the aircraft operator to enter the specific flight details. SAPT will analyze the flight, and if the aircraft is not predicted to the position accuracy requirements of 14 CFR 91.227, the operator may submit a request to the FAA for an ATC authorization using ADAPT. A non-equipped aircraft will automatically fail the ADS–B performance requirements but the operator is still required to first use ADS–B SAPT, because the SAPT analysis provides alternate surveillance information that is necessary for evaluating an ATC authorization request.

Although forms used on the SAPT/ADAPT web pages are similar to forms used for VFR/IFR flight plan filing, SAPT/ADAPT web forms are for gathering operator information needed for prediction and application process purposes only. Operator information submitted via SAPT/ADAPT will not generate, nor should they be considered, formal IFR/VFR flight plan submissions.

For more information on the SAPT, see SAPT User Guide at: <https://www.sapt.faa.gov/default.php>.

The FAA published a **Federal Register** Notice on SAPT on August 22, 2019. 84 FR 43861. The FAA received one response within the comment period. The commenter expressed concern with regard to the requirement to conduct subsequent predictions using SAPT when there are changes in satellite constellation. The commenter is concerned that an ongoing duty to execute an updated SAPT would be economically burdensome and disruptive to operations. The commenter recommended that a change

to the satellite constellation not trigger an updated SAPT prediction after a flight plan has been filed with ATC.

After an operator receives a satisfactory preflight availability prediction for an intended operation, there may be certain conditions that warrant a subsequent prediction. There is no requirement to continuously monitor Notices to Airmen (NOTAMs); rather, the requirement to execute an updated SAPT is triggered only if the operator becomes aware of the condition. A change in the GPS satellite constellation, as indicated by a NOTAM, may have an effect on the predicted GPS performance for the intended operation. If an operator becomes aware of a change that could result in degraded GPS performance for the intended route prior to receiving an initial ATC clearance, the operator should conduct a subsequent preflight availability prediction consistent with 14 CFR 91.103. The duty to conduct a subsequent preflight availability prediction for an intended route of flight ceases once an operator receives an ATC route clearance for the intended operation.

The FAA is seeking comments from the public regarding the information that is collected for SAPT and its three main components: RAIM SAPT, ADS–B SAPT, and ADAPT. The information provided in this notice is solely to identify and collect information from the public on the potential burden to an individual that may result from this program.

Respondents: These prediction tools are primarily intended for pilots and dispatchers; anyone who is planning a flight which passes through U.S. sovereign airspace using an aircraft whose GPS receiver(s) is/are not guaranteed to meet certain performance requirements or whose aircraft is not equipped to meet requirements of 14 CFR 91.225.

Frequency: On occasion as part of flight planning and as required by FAA policy.

RAIM SAPT—3 minutes or less.

ADS–B SAPT—3 minutes or less.

(It is anticipated that RAIM SAPT and ADS–B SAPT requests will be automated into the eXtensible Markup Language (XML) that operators may use to plan flights, eliminating manual data-entry)

ADAPT—7 minutes or less (includes up to 2 minutes for FAA email response).

Estimated Total Annual Burden: Total estimate of burden hours:

RAIM SAPT—estimating 224,475 annual responses (Part 121/129

Operators) is approximately 11,224 hours.

ADS-B SAPT—estimating 271,099 annual responses (Part 121/129 and General Aviation (GA) Operators) is approximately 13,555 hours.

ADAPT—estimating 203,822.5 annual responses (General Aviation (GA) Operators) is approximately 23,847 hours.

Issued in Washington, DC.

David E. Gray,

Acting Deputy Director, Surveillance Services (AJM-4), Program Management Organization, Air Traffic Organization, Federal Aviation Administration.

[FR Doc. 2019-25923 Filed 11-27-19; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Surplus Property Release at the Wetumpka Municipal Airport, Wetumpka, Alabama

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent to rule on land release request.

SUMMARY: The FAA is considering a request from the City of Wetumpka, Alabama to waive the requirement that 15.81± acres of airport property located at the Wetumpka Municipal Airport in Wetumpka, Alabama, be used for aeronautical purposes.

DATES: Comments must be received on or before December 30, 2019.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA to the following address: Jackson Airports District Office Attn: Luke Flowers, Program Manager, 100 West Cross Street, Suite B Jackson, MS 39208-2307.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Wetumpka Municipal Airport, Attn: Ms. Lynn Weldon, Airport Manager, City of Wetumpka, Post Office Box 1180, Wetumpka, AL 36092.

FOR FURTHER INFORMATION CONTACT: Luke Flowers, Program Manager, Jackson Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 39208-2307, (601) 664-9898. The land release request may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by the City of Wetumpka to release approximately 15.81± acres of airport property at Wetumpka Municipal Airport (08A)

under the provisions of Title 49, U.S.C. Section 47153(c). The FAA determined that the request to release property at Wetumpka Municipal Airport (08A) submitted by the Sponsor meets the procedural requirements of the Federal Aviation Administration and the release of the property does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this notice. The property will be purchased by Arrowhead Plastics Engineering, which currently leases the land for a plastics fabrication facility. The property is located on the north quadrant of airport property adjacent to Highway 14. The airport will receive fair market value for the property, and the net proceeds from the sale of this property will be used for maintenance and improvements at the Wetumpka Municipal Airport.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Wetumpka Municipal Airport (08A).

Issued in Jackson, Mississippi on November 1, 2019.

Rans D. Black,

Manager, Jackson Airports District Office, Southern Region.

[FR Doc. 2019-25856 Filed 11-27-19; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA-2019-0012]

Surface Transportation Project Delivery Program; Florida DOT Audit #2 Report

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).
ACTION: Notice.

SUMMARY: The Surface Transportation Project Delivery Program allows a State to assume FHWA's environmental responsibilities for review, consultation, and compliance for Federal highway projects. When a State assumes these Federal responsibilities, the State becomes solely responsible and liable for the responsibilities it has assumed, in lieu of FHWA. This program mandates annual audits during each of the first 4 years to ensure the State's compliance with program requirements.

This notice makes available the final report of the Florida Department of Transportation's (FDOT) second audit under the program.

FOR FURTHER INFORMATION CONTACT: Ms. Marisel Lopez Cruz, Office of Project Development and Environmental Review, (407) 867-6402, marisel.lopez-cruz@dot.gov, Federal Highway Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, or Mr. David Sett, Office of the Chief Counsel, (404) 562-3676, david.sett@dot.gov, Federal Highway Administration, U.S. Department of Transportation, 60 Forsyth Street 8M5, Atlanta, GA 30303. Office hours are from 8:00 a.m. to 4:30 p.m., *E.T.*, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this notice may be downloaded from the specific docket page at www.regulations.gov.

Background

The Surface Transportation Project Delivery Program, codified at 23 U.S.C. 327, commonly known as the NEPA Assignment Program, allows a State to assume FHWA's responsibilities for environmental review, consultation, and compliance for Federal highway projects. When a State assumes these Federal responsibilities, the State becomes solely liable for carrying out the responsibilities it has assumed, in lieu of FHWA. Effective December 14, 2016, FDOT assumed FHWA's responsibilities for environmental review and the responsibilities for reviews under other Federal environmental requirements.

Section 327(g) of Title 23, U.S.C., requires the Secretary to conduct annual audits to ensure compliance with the memorandum of understanding during each of the first 4 years of State participation and, after the fourth year, monitor compliance. The results of each audit must be made available for public comment. This notice finalizes the findings of the second audit report on FDOT participation in the program. A draft version of this report was published in the **Federal Register** on August 22, 2019, at 84 FR 43863, and was available for public review and comments. The FHWA received one response to the **Federal Register** Notice during the public comment period for this draft report, which voiced the American Road and Transportation Builders Association's support for this program.

Authority: Section 1313 of Public Law 112–141; Section 6005 of Public Law 109–59; Public Law 114–94; 23 U.S.C. 327; 49 CFR 1.85; 23 CFR 773.

Issued on: November 21, 2019.

Nicole R. Nason,

Administrator, Federal Highway Administration.

FINAL

Surface Transportation Project Delivery Program

FHWA Audit #2 of the Florida Department of Transportation

May 2017 to April 2018

Executive Summary

This is the second audit of the Florida Department of Transportation's (FDOT) assumption of National Environmental Policy Act (NEPA) responsibilities under the Surface Transportation Project Delivery Program. Under the authority of 23 U.S.C. 327, FDOT and the Federal Highway Administration (FHWA) executed a memorandum of understanding (MOU) on December 14, 2016, whereby FHWA assigned, and FDOT assumed, FHWA's NEPA responsibilities and liabilities for Federal-aid highway projects and other related environmental reviews for transportation projects in Florida.

The FHWA formed a team in January 2018 to conduct an audit of FDOT's performance according to the terms of the MOU. The team held internal meetings to prepare for an on-site visit to the Florida Division and FDOT offices. Prior to the on-site visit, the team reviewed FDOT's NEPA project files, FDOT's response to FHWA's pre-audit information request (PAIR), and FDOT's NEPA Assignment Self-Assessment Summary Report. The team conducted interviews with FDOT and resource Agency staff and prepared preliminary audit results from September 24–28, 2018. The team presented these preliminary observations to FDOT Office of Environmental Management (OEM) leadership on September 28, 2018.

The FDOT continues to develop, revise, and implement procedures and processes required to carry out the NEPA Assignment Program. Overall, the team found that FDOT is committed to delivering a successful NEPA Program. This report describes numerous successful practices, two observations, and one non-compliance observation. The FDOT has carried out the responsibilities it has assumed in keeping with the intent of the MOU and FDOT's application. Through this report, FHWA is notifying FDOT of the one non-compliance observation that

requires FDOT to take corrective action. By addressing the observations in this report, FDOT will continue to assure a successful program. The report concludes with the status of FHWA's non-compliance observation from the first audit review (Audit #1), including any FDOT self-imposed corrective actions.

Background

The purpose of the audits performed under the authority of 23 U.S.C. 327 is to assess a State's compliance with the provisions of the MOU as well as all applicable Federal statutes, regulations, policies, and guidance. The FHWA's review and oversight obligation entails the need to collect information to evaluate the success of the NEPA Assignment Program; to evaluate a State's progress toward achieving its performance measures as specified in the MOU; and to collect information for the administration of the NEPA Assignment Program. This report summarizes the results of the second audit in Florida. Following this audit, FHWA will conduct two annual audits. This second audit report includes a summary discussion that describes progress since the last audit.

Scope and Methodology

The overall scope of this audit review is defined both in statute (23 U.S.C. 327) and the MOU (Part 11). An audit generally is defined as an official and careful examination and verification of accounts and records, especially of financial accounts, by an independent unbiased body. With regard to accounts or financial records, audits may follow a prescribed process or methodology and be conducted by "auditors" who have special training in those processes or methods. The FHWA considers this review to meet the definition of an audit because it is an unbiased, independent, official, and careful examination and verification of records and information about FDOT's assumption of environmental responsibilities.

The team consisted of NEPA subject matter experts from FHWA offices in Arizona, Nebraska, Ohio, Texas, Georgia, and the District of Columbia, as well as staff from FHWA's Florida Division. The diverse composition of the team, as well as the process of developing the review report and publishing it in the **Federal Register**, are intended to make this audit an unbiased official action taken by FHWA.

The team conducted a careful examination of FDOT policies, guidance, and manuals pertaining to NEPA responsibilities, as well as a representative sample of FDOT's project

files. Other documents, such as the August 2018 PAIR responses, and FDOT's August 2018 Self-Assessment Summary Report, informed this review. The team interviewed FDOT staff and resource agency staff. This review is organized around six NEPA Assignment Program elements: Program management; documentation and records management; quality assurance/quality control (QA/QC); legal sufficiency; performance measurement; and training program. In addition, the team considered two cross-cutting focus areas: (1) Consistency between the NEPA documents and planning documents; and (2) Section 4(f) implementation and documentation.

The team defined the timeframe for highway project environmental approvals subject to this second audit to be between May 2017 and April 2018, when 898 projects were approved. The team drew both representative and judgmental samples totaling 105 projects from data in FDOT's online file system, Statewide Environmental Project Tracker (SWEPT). In the context of this report, descriptions of Type 1 Categorical Exclusions (CE) and Type 2 CEs are consistent with FDOT's Project Development and Environment Manual. The FHWA judgmentally selected all Type 2 CEs (11 projects), all Environmental Assessments (EA) with Findings of No Significant Impacts (1 project), and all Environmental Impact Statements (EIS) with Records of Decision (no projects fell into this category). The FHWA determined the sample size applying a 90 percent confidence level, a 10 percent margin of error to the Type 1 CEs, and then separately to the re-evaluations. For the Type 1 CEs (64 projects), FHWA applied a judgmental distribution of the sample based on the percentage of each type of Type 1 CE in the sample universe. For the re-evaluations (29 projects), FHWA applied a judgmental distribution of the sample based on the percentage of each class of action in the sample universe. The FHWA also ensured each district office was reasonably represented for both Type 1 CEs and re-evaluations. The team reviewed projects in all of FDOT's seven districts.

The team submitted a PAIR to FDOT that contained 35 questions covering all 6 NEPA Assignment Program elements. The FDOT responses to the PAIR were used to develop specific follow-up questions for the on-site interviews with FDOT staff.

The team conducted a total of 31 interviews. Interview participants included staff from three of FDOT's seven district offices that were not interviewed in the first audit, District 3

(Chipley), District 4 (Ft. Lauderdale), and District 6 (Miami), and FDOT Central Office. The team interviewed FDOT environmental staff, middle management and executive management, regional representatives from the National Oceanic and Atmospheric Administration (NOAA)—National Marine Fisheries Service (NMFS), the U.S. Coast Guard (USCG), the U.S. Fish and Wildlife Service (USFWS), and the State Historic Preservation Officer (SHPO) from the Florida Department of State, Division of Historic Resources.

The team compared FDOT policies and procedures (including the published 2017 Project Development & Environment (PD&E) Manual) to the information obtained during interviews and project file reviews to determine if FDOT's performance of its MOU responsibilities are in accordance with FDOT policies and procedures and Federal requirements. Individual observations were documented during interviews and reviews and combined under the six NEPA Assignment Program elements. The audit results are described below by program element.

Overall Audit Opinion

The team recognizes that FDOT's efforts have been focused on implementing the requirements of the MOU by: Processing and approving projects; refining policies, procedures, and guidance documents; refining the SWEPT tracking system for "official project files"; training staff; implementing a QA/QC Plan; and conducting a self-assessment for monitoring compliance with the assumed responsibilities. The team found evidence of FDOT's continuing efforts to train staff in clarifying the roles and responsibilities of FDOT staff, and in educating staff in an effort to assure compliance with all of the assigned responsibilities.

During the second audit, the team identified numerous successful practices, two observations, and one non-compliance observation that FDOT will need to address through corrective actions. These results came from a review of FDOT procedures, project file documentation, and interviews with FDOT and resource agencies.

The FDOT has carried out the responsibilities it has assumed consistent with the intent of the MOU and FDOT's application. By addressing the observations in this report, FDOT will continue to assure a successful program.

Successful Practices and Observations

Successful practices are practices that the team believes are positive, and encourages FDOT to consider continuing or expanding those programs in the future. The team identified numerous successful practices in this report. Observations are items the team would like to draw FDOT's attention to, which may improve processes, procedures, and/or outcomes. The team identified two observations in this report.

A non-compliance observation is an instance where the team finds the State is not in compliance or is deficient with regard to a Federal regulation, statute, guidance, policy, State procedure, or the MOU. Non-compliance may also include instances where the State has failed to secure or maintain adequate personnel and/or financial resources to carry out the responsibilities they have assumed. The FHWA expects the State to develop and implement corrective actions to address all non-compliance observations. The team identified one non-compliance observation during this second audit.

The team acknowledges that sharing initial results during the site visit closeout and sharing the draft audit report with FDOT provides them the opportunity to begin implementing corrective actions to improve the program. The FHWA will also consider actions taken by FDOT to address these observations as part of the scope of Audit #3.

The Audit Report addresses all six MOU program elements as separate discussions.

Program Management

Successful Practices

The team learned that FDOT has maintained its good working relationship with the two new resource agency staff interviewed—USCG and NOAA—NMFS. They stated that FDOT coordinated any changes in their program with the Agency to ensure satisfaction with their regulatory requirements and were very pleased with the coordination by FDOT at the district and OEM level. The USCG stated that the Florida Efficient Transportation Decision Making System facilitates their early involvement and coordination. The FHWA applauds this practice.

During interviews, FHWA learned of good internal communication between OEM and the districts regarding SWEPT assistance. This includes the assistance provided by OEM with the SWEPT hotline and one district uses a successful single SWEPT point of

contact for internal consistency purposes. In addition, OEM continues to promote training on environmental and NEPA Assignment topics, and annual PD&E Manual updates on all topics, as needed.

The FDOT/OEM uses a spreadsheet for internal purposes to track policy updates and procedures received from FHWA and the actions they took to address. This practice reflects transparency and awareness by FDOT on changes to keep current with FHWA requirements under the MOU.

The team learned through interviews, in some instances, that the District Director and/or Environmental Manager review NEPA documents as an additional level of QA/QC on projects of interest. This practice shows local ownership and pride in districts wanting to do the best job they can do under NEPA Assignment, beyond what OEM may require.

Observation #1: FDOT's identification and documentation of commitments may result in mitigation required by Federal regulation.

There are several program elements that lead to this observation. The provisions on "Commitment" in the FDOT PD&E Manual (e.g., Section 22.1.1) do not fully implement FHWA requirements to include in the environmental document all mitigation measures stated as commitments (23 CFR 771.105(a) and 771.109(b)). The identification of project impacts and the documentation of commitments must demonstrate that FDOT has reasonably considered the significance of a project's impacts within a NEPA approval appropriate to the project's class of action.

The team also found some of the NEPA documents reviewed make a general commitment regarding intent to obtain a permit, but do not address the project impacts associated with the permit or the commitments to avoid, mitigate, or minimize the impacts. Citing the need for a permit does not fully meet the requirement to document commitments to address project impacts at the time of a NEPA approval. In addition, some FDOT project files referenced standard specifications in lieu of identifying project specific commitments to address project impacts in the NEPA document, which does not align with FHWA policy. The FHWA Audit interviews and project file review confirm these findings (8 projects).

Observation #2: Endangered Species Act (ESA) finding was unsupported on certain projects.

The team identified 18 project files with a "no effect" ESA finding based solely on a description of the project's

scope. The FHWA policy and guidance (February 2002 FHWA Management of the Endangered Species Act (ESA) Environmental Analysis and Consultation Process guidance memorandum (https://www.environment.fhwa.dot.gov/legislation/other_legislation/natural/laws_esaguide.aspx)) states that the ESA evaluation of impacts is dependent on the scope of the project, as well as ecological importance and distribution of the affected species, and intensity of potential impacts of the project.

The team identified four project files with a “no effect” ESA finding which referenced a Programmatic Biological Opinion between USFWS and other entities, to which FDOT is not a signatory, including some that provide species-specific consultation “keys” to support a “no effect” finding. The team learned from an interview with USFWS staff that FDOT should not specifically reference such “keys” as part of its informal and/or formal Section 7 ESA processes unless and until FDOT becomes a party to those programmatic agreements. Also, the team found that FDOT used “keys” as support for project impact decisions for species which do not have “keys.” Finally, FDOT’s PD&E Manual does not include a procedure providing for use of the “keys” and does not address how the “keys” should be applied when making ESA findings.

Since receiving the draft audit report, FDOT reported to FHWA that it has coordinated with USFWS in order to address this observation, developed training and updated its guidance addressing this observation.

Quality Assurance/Quality Control

Successful Practices

From the PAIR and during the interviews, FDOT staff provided evidence of many new QA/QC tools using directions, forms, and procedures that will improve documentation and record keeping and may address many of the projects contained within the non-compliance observation of the 2017 Audit and FDOT’s 2017 Self-Assessment. These new tools are likely to reduce the risk of future non-compliant projects through enhanced QA/QC. Examples of these QA/QC improved tools include a Consultant QC Plan, a Natural Resource Evaluation template, and a Section 106 Memorandum of Agreement for Adverse Impacts.

The FDOT has continued to update its PD&E Manual to ensure that it encompasses all new applicable laws, regulations, and guidance. The FDOT

has a dedicated person responsible for coordinating an annual PD&E Manual update. The FDOT has an intense vetting process for the PD&E Manual update. The draft changes are shared with subject matter experts and then undergo peer, district, and management reviews. Resource agencies may also review changes as needed. The update will include new direction to document preparers that specifies when additional project documentation is needed. Many of these additions stem from the 2017 Audit findings and FDOT’s 2017 Self-Assessment. The PD&E Manual update process is likely to eliminate many of the documentation issues found by FHWA in the 2017 and 2018 audits.

Legal Sufficiency

The team’s review of FDOT’s legal sufficiency program found that FDOT has structured the legal sufficiency process for the NEPA Assignment Program by having in-house counsel, as well as outside counsel with NEPA experience, available. The team appreciates that FDOT has chosen to house its Special Counsel for Environmental Affairs and two staff attorneys under the direct supervision of the FDOT Deputy General Counsel.

While no legal sufficiency determinations have been made by FDOT during the audit time frame, FDOT’s Office of General Counsel (OGC) participates in monthly coordination meetings and topic-specific meetings with OEM and the districts. The OGC also reviews other documents when requested for legal input. There is close collaboration throughout the process amongst and between OGC, OEM, and the district attorneys.

Training Program

Through interviews with the OEM leadership the team learned that rather than preparing an annual training plan, OEM has a training program that is constantly being assessed, revised, and updated as an on-line program. The program includes training on a wide variety of subjects, and training is delivered both face-to-face and virtually. The FDOT staff said that training is a common topic of discussion of leadership as well as staff, including frequently asking about needed training.

Successful Practices

The team learned through interviews FDOT closely tracks training rosters and registrations that evidence a broad number of training events to a high number of people. Over the past 12–14 months, FDOT trained over 2,000 people through 36 courses.

The team learned that OEM is always looking at the training program to find ways to augment it. For example, FDOT is now working with the SHPO staff to develop topic-specific Webinars on how information for the SHPO is to be organized and projects documented. The FDOT also has worked with NOAA–NMFS on their concerns in developing training. These trainings, along with a new short Web-based training module on producing environmental documents, are waiting to be uploaded to the OEM website.

The OEM leadership indicated in an interview that they have a number of staff that are new to FDOT, and, in general, have less than 5 years of experience. These new staff members were mentored by seasoned staff to serve as a resource to help understand FDOT’s procedures and the key issues in NEPA. By monitoring the performance measures on compliance, OEM leadership indicated the mentoring is a successful practice.

Performance Measures

The FDOT Self-Assessment Summary Report contained the results of FDOT’s second report of its assessment of the NEPA Assignment Program and FDOT procedures compliance. This assessment, for the period between May 1, 2017, and April 30, 2018, entailed review of project files as well as results from a survey of Agency satisfaction. The report also included a discussion of FDOT’s progress in meeting the performance measures. During the report period, there were no qualifying projects for Legal Sufficiency, NEPA Issue Resolution, and NEPA Approval Time Savings measures.

Successful Practices

The FDOT has 14 performance metrics to monitor and assess accomplishment of the 4 performance measures in the MOU, Section 10.2.1. The FDOT is actively monitoring these performance measures. Data for the performance metrics are generated and reported quarterly and annually in SWEPT. If FDOT identifies indicators that could affect its performance measures, it can promptly take actions to address the issues.

The OEM leadership stated in interviews that the FDOT timeliness measure is used both as a way to streamline the review process and to understand it better. For example, OEM leadership told the team that FDOT has changed some of the time reporting measures for environmental review staff. Project review duration includes a need for every project to go through the electronic review comments (ERC)

process first and then a formal review and approval period in SWEPT. When in SWEPT, there is a review process with a number of days assigned. The FDOT realized for certain projects, ones that have minor impacts, no ERC review was necessary which further streamlined the project review process. The OEM leadership also stated in an interview that the 30-day review period is being constantly monitored in order to ensure if a modification to procedure is needed, it can be made. The OEM leadership also stated that during the first two rating periods no modification to the review period has been needed.

Documentation and Records Management

The FDOT continues to use SWEPT as the NEPA file of record for federally funded projects. The FDOT has implemented several process improvements within SWEPT. Communication during the second audit cycle allowed staff to clarify many project level observations within the Audit process. The FDOT and FHWA have committed to continue communications to resolve issues identified within the audit process.

Non-Compliance Observation #1: Some FDOT project files contain insufficient documentation to support the environmental analysis or decision.

Both the MOU (subpart 10.2.1) and FDOT's PD&E Manual specify that documentation is needed to support compliance. The SWEPT has been identified as FDOT's project file of record, in which FDOT maintains approved reevaluations, CEs, EAs, and EISs. The team reviewed 105 projects for the 2018 Audit #2 that constituted a statistically valid sample. As part of the initial project file review, the team observed that 54 of the 105 project files reviewed lacked documentation in SWEPT to support the environmental analysis or the basis for an FDOT decision. In some cases, there were multiple observations for one project.

For example, one project file did not contain documentation of coordination with FHWA or USCG for the required (23 CFR 650.805 and 23 CFR 650.807) navigability assessment in order to support a permit determination. Additional examples, where the team observed documentation deficiencies included commitments, planning consistency, and mitigation. The team also observed that some commitments to address project impacts through mitigation, avoidance, and minimization were not documented at the time of NEPA approval. When the environmental document lacks commitments for important project

impacts, the project record does not reflect a complete consideration of the significance of a project's impacts. Another consequence is that some commitments are added after the NEPA decision, are not tracked, or get dropped, which is not in accordance with Federal regulations. (23 CFR 771.105(a), 23 CFR 771.105(d), and 23 CFR 771.109(d)). Finally, project files were observed that did not include the Project Commitment Record for documenting commitments as required by the 2017 PD&E Manual.

The team's comments on these projects were shared with FDOT for its consideration and the team received responses from FDOT. The FHWA and FDOT have productively worked together to successfully resolve insufficient documentation for 23 projects and uploaded existing documentation in SWEPT for 18 projects. The FDOT indicated that it has implemented or committed to implementing process improvements to address the deficiencies. The FDOT is expected to continue implementation of corrective actions that would address these issues.

Update from 2017 Audit #1 Non-Compliance Observation #1: Some FDOT project files contain insufficient documentation to support the environmental analysis or decision.

The FHWA reported a non-compliance observation related to some FDOT project files that lacked documentation to support the environmental analysis or decision as part of Audit #1. This non-compliance observation is based on a review that resulted in observations on 47 projects, several of which had deficient documentation for more than one issue. The FDOT and FHWA have met over the past year and have productively worked together to resolve documentation issues from the previous audit. The FHWA shared comments on these projects with FDOT and they provided written responses. Based on these responses, FHWA and FDOT were able to successfully address many documentation issues through resolving a project observation (22 projects), FDOT uploading missing documentation in SWEPT (5 projects), or FDOT implementing or committed to implementing process improvements to address procedural deficiencies (39 projects). For example, FDOT updated its electronic Type 1 CE form in SWEPT to require certain supporting documentation be uploaded, which was confirmed through the Audit #2 FDOT staff interviews and project file reviews. The FDOT also included a direct link to the State Transportation Improvement

Plan or Transportation Improvement Plan to ensure adequate documentation of planning consistency for all classes of action. The FDOT has made considerable strides to document planning consistency at NEPA approval. However, documentation of consistency with the metropolitan long-range transportation plans was missing for several projects and for a variety of classes of action. In addition, the 2018 FDOT Self-Assessment Summary states that FDOT initiated and completed a number of SWEPT system and programmatic enhancements to address the missing documentation noted during Audit #1. The FDOT is expected to continue implementation of corrective actions that would address these issues.

Finalizing This Report

The FHWA received one response to the **Federal Register** Notice during the public comment period for this draft report, which voiced the American Road and Transportation Builders Association's support for this program and did not relate specifically to Audit #2. This report is a finalized version of the draft report without substantive changes.

[FR Doc. 2019-25976 Filed 11-27-19; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in West Virginia

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA.

SUMMARY: This notice announces action taken by FHWA and that are final. This final agency action relates to a proposed highway project, improvements to US 340, from the Charles Town Bypass in Jefferson County, West Virginia to just south of the state boundary in Clarke County, Virginia. This decision will be used by Federal agencies in subsequent proceedings, including decisions to grant licenses, permits, and approvals for the proposed highway project. The FHWA's Record of Decision (ROD) provides details on the Selected Alternative for the proposed improvements.

DATES: By this notice, FHWA 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 27, 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 FHWA: Jason Workman, Director of Program Development, Federal Highway Administration, West Virginia Division, 154 Court Street, Charleston, WV 25301; (304)–347–5271; Jason.Workman@dot.gov. The FHWA West Virginia Division Office's normal business hours are 8 a.m. to 5 p.m. (Eastern Time). For the West Virginia Division of Highways (WVDOH): Ben Hark, Environmental Section Head in the Engineering Division of West Virginia Division of Highways, 1334 Smith Street, Charleston, WV 25301; (304) 558–9670, Ben.L.Hark@wv.gov. The WVDOH Office's normal business hours are 8 a.m. to 5 p.m. (Eastern Time).

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA has taken a final agency action by issuing its ROD for the following highway project in the State of West Virginia: Widening of US 340 from two lanes to four lanes, from the Charles Town Bypass in Jefferson County, West Virginia to just south of the state boundary in Clarke County, Virginia. The length of the project is approximately 4.5 miles.

The project proposes to widen US 340 from two lanes to four lanes. The project is included in WVDOH's adopted 2016–2021 State Transportation Improvement Plan (STIP) as project number U3 1 934000000 and is scheduled for right of way acquisition and construction to begin in fiscal year 2020, being let as a design-build contract. The project is also included in the Hagerstown/Eastern Panhandle Metropolitan Planning Organization (HEPMPO) Transportation Improvement Program (TIP) (FY 2019–2022) and *Direction 2045 Long Range Transportation Plane Update* (April 11, 2018).

The FHWA's action, related actions by other Federal agencies, and the laws under which such actions were taken, are described in the Environmental Impact Statement (EIS) approved on April 16, 2019, the ROD approved on August 22, 2019, and other documents in the project file. The EIS and ROD are available for review by contacting FHWA or WVDOH at the addresses provided above. In addition, these documents can be viewed and downloaded from the project website at: <https://transportation.wv.gov/highways/engineering/comment/closed/us340/Pages/default.aspx>. 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. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].

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 and 23 U.S.C. 138]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. *Wildlife:* Endangered Species Act (ESA) [16 U.S.C. 1531–1544 and Section 1536], Anadromous Fish Conservation Act [16 U.S.C. 757(a)–757(g)], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712], Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801 *et seq.*].

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(11)]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(l)]; 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:* Safe Drinking Water Act (SOWA) [42 U.S.C. 300(t)–300(i)(6)]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].

8. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 (SARA); Resource Conservation and Recovery Act (RCRA) [42 U.S.C. 6901–6992(k)].

9. *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. 13007 Indian Sacred Sites; 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.

(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).

Jason Workman,

Director, Program Development, Charleston, West Virginia.

[FR Doc. 2019–25555 Filed 11–27–19; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Proposed Collection of Information: Special Bond of Indemnity By Purchaser of United States Savings Bonds/Notes Involved in a Chain Letter Scheme

ACTION: Notice and request for comments.

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 take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning Special Bond of Indemnity by Purchaser of United States Savings Bonds/Notes Involved in a Chain Letter Scheme

DATES: Written comments should be received on or before January 28, 2020 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, P.O. Box 1328, Parkersburg, WV 26106–1328, or bruce.sharp@fiscal.treasury.gov.

SUPPLEMENTARY INFORMATION:

Title: Special Bond of Indemnity By Purchaser of United States Savings Bonds/Notes Involved in a Chain Letter Scheme.

OMB Number: 1530–0030.

Form Number: FS Form 2966.

Abstract: The information is requested to support a request for refund of the purchase price of savings bonds purchased in a chain letter scheme.

Current Actions: Revision of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 240.

Estimated Time per Respondent: 8 minutes.

Estimated Total Annual Burden Hours: 32.

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: 1. 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; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. 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 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: November 25, 2019.

Bruce A. Sharp,

Bureau Clearance Officer.

[FR Doc. 2019-25894 Filed 11-27-19; 8:45 am]

BILLING CODE 4810-AS-P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Agreement and Request for Disposition of a Decedent's Treasury Securities

ACTION: Notice and request for comments.

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 take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Agreement and Request for Disposition of a Decedent's Treasury Securities.

DATES: Written comments should be received on or before January 28, 2020 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006-A, PO Box 1328, Parkersburg, WV 26106-1328, or bruce.sharp@fiscal.treasury.gov.

SUPPLEMENTARY INFORMATION:

Title: Agreement and Request for Disposition of a Decedent's Treasury Securities.

OMB Number: 1530-0046.

Form Number: FS Form 5394.

Abstract: The information is necessary for the disposition of Treasury securities and/or payments to the entitled person(s) when the decedent's estate was formally administered through the court and has been closed, or the estate is being settled in accordance with State statute without the necessity of the court appointing a legal representative.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 18,500.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden

Hours: 9,250.

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: 1. 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; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. 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 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: November 18, 2019.

Bruce A. Sharp,

Bureau Clearance Officer.

[FR Doc. 2019-25895 Filed 11-27-19; 8:45 am]

BILLING CODE 4810-AS-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

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 Gasohol; Compressed Natural Gas; and Gasoline Excise Tax.

DATES: Written comments should be received on or before January 28, 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 regulation 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: Gasohol; Compressed Natural Gas; and Gasoline Excise Tax.

OMB Number: 1545-1270.

Regulation Project Number: TD 8609.

Abstract: This regulation relates to gasohol blending and the tax on compressed natural gas (CNG). The sections relating to gasohol blending affect certain blenders, enterers, refiners, and throughputters. The sections relating to CMG affect persons that sell or buy CNG for use as a fuel in a motor vehicle or motorboat. PS-120-90: This regulation relates to the federal excise tax on gasoline. It affects refiners, importers, and distributors of gasoline and provides guidance relating to taxable transactions, persons liable for tax, gasoline blendstocks, and gasohol.

Current Actions: There are no changes being made to this regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for profit organizations, Not-for-profit institutions, Farms and State, Local or Tribal Governments.

Estimated Number of Respondents: 3,410.

Estimated Time per Respondent: 7 minutes.

Estimated Total Annual Burden

Hours: 366.

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. Comments will be 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 has 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 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 25, 2019.

Philippe Thomas,

Supervisory Tax Analyst.

[FR Doc. 2019-25882 Filed 11-27-19; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 14242 and 14242(SP)

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 Form 14242, Reporting Abusive Tax Promotions or Preparers, and Form 14242(SP), Informe las Presuntas Promociones de Planes Abusivos Tributarios o de Preparadores.

DATES: Written comments should be received on or before January 28, 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: Reporting Abusive Tax Promotions or Preparers.

OMB Number: 1545-2219.

Form Number: Form 14242 and Form 14242(SP).

Abstract: Form 14242 and Form 14242(SP) are used to document the information necessary to report an abusive tax avoidance scheme. Form 14242 (SP) is the Spanish version of Form 14242. Respondents can be individuals, businesses and tax return preparers.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or Households, Farms, Businesses and other for-profit or not-for-profit organizations.

Estimated Number of Respondents: 460.

Estimated Time per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 77 hours.

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 25, 2019.

Philippe Thomas,

Supervisory Tax Analyst.

[FR Doc. 2019-25883 Filed 11-27-19; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request on Returns Regarding Payments of Interest

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the 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. Currently, the IRS is soliciting comments concerning the collection of information related to the requirements for reporting on returns regarding payments of interest.

DATES: Written comments should be received on or before January 28, 2020 to be assured of consideration.

ADDRESSES: Direct all written comments to Philippe Thomas, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224. Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at RJoseph.Durbala@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Returns regarding payments of interest.

OMB Number: 1545-0112.

Regulatory Number: TD 7873.

Form Number: 1099-INT.

Abstract: IRC section 6049 requires payers of interest of \$10 or more to file

a return showing the aggregate amount of interest paid to a payee. Regulations sections 1.6049-4 and 1.6049-7 require Form 1099-INT to be used to report this information. IRC section 6041 and Regulations section 1.6041-1 require persons paying interest (that is not covered under section 6049) of \$600 or more in the course of their trades or businesses to report that interest on Form 1099-INT. IRS uses Form 1099-INT to verify compliance with the reporting rules and to verify that the recipient has included the proper amount of interest on his or her income tax return.

Current Actions: There is no change to the burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, Federal Government, individuals or households, and not-for-profit institutions.

Estimated Number of Responses: 141,555,000.

Estimated Time per Respondent: 13 min.

Estimated Total Annual Burden Hours: 46,403,150.

The following paragraph applies to all 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 if 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.

Desired Focus of Comments: The Internal Revenue Service (IRS) 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 using

appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: November 22, 2019.

R. Joseph Durbala,

IRS Tax Analyst.

[FR Doc. 2019-25881 Filed 11-27-19; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Imposition of Special Measure Against North Korea as a Jurisdiction of Primary Money Laundering Concern

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before December 30, 2019 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at OIRA_Submission@OMB.EOP.gov and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8100, Washington, DC 20220, or email at PRA@treasury.gov.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained 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:

Financial Crimes Enforcement Network (FinCEN)

Title: Imposition of Special Measure Against North Korea as a Jurisdiction of Primary Money Laundering Concern.

OMB Control Number: 1506-0071.

Type of Review: Extension without change of a currently approved collection.

Description: The Director of FinCEN found that the Democratic People's Republic of Korea ("North Korea") is a jurisdiction of primary money laundering concern. FinCEN issued regulations that prohibit covered financial institutions from opening or maintaining a correspondent account in the United States for or on behalf of a North Korean banking institution and which prohibit the use of foreign banking institutions' correspondent accounts at covered U.S. financial institutions to process transactions involving North Korean financial institutions.

Form: None.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 23,615.

Frequency of Response: On Occasion.

Estimated Total Number of Annual Responses: 23,615.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden

Hours: 23,615.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: November 25, 2019.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2019-25876 Filed 11-27-19; 8:45 am]

BILLING CODE 4810-02-P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Hizballah Financial Sanctions Regulations—Report on Closure by U.S. Financial Institutions of Correspondent Accounts and Payable-Through Accounts

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before December 30, 2019 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at OIRA_Submission@OMB.EOP.gov and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8100, Washington, DC 20220, or email at PRA@treasury.gov.

FOR FURTHER INFORMATION CONTACT:

Copies of the submissions may be obtained 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:

Office of Foreign Assets Control (OFAC)

Title: Hizballah Financial Sanctions Regulations—Report on Closure by U.S. Financial Institutions of Correspondent Accounts and Payable-Through Accounts.

OMB Control Number: 1505-0255.

Type of Review: Extension without change of a currently approved collection.

Description: The Department of the Treasury's Office of Foreign Assets Control (OFAC) added the Hizballah Financial Sanctions Regulations to 31 CFR chapter V, in order to implement the Hizballah International Financing Prevention Act of 2015, Public Law 114-102 (HIFPA). The Regulations require a U.S. financial institution that maintained a correspondent account or a payable-through account for a foreign financial institution for which the maintaining of such an account has

been prohibited to file a report with OFAC that provides full details on the closing of each such account within 30 days of the closure of the account. The report must include complete information on all transactions processed or executed in winding down and closing the account. This collection of information is required by OFAC to monitor compliance with regulatory requirements regarding the closure of correspondent accounts and payable-through accounts maintained by a U.S. financial institution for a foreign financial institution when the maintaining of such accounts for a foreign financial institution has been prohibited pursuant to the Regulations.

Form: None.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 1.

Frequency of Response: Once.

Estimated Total Number of Annual Responses: 1.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 2.

Authority: 44 U.S.C. 3501 et seq.

Dated: November 25, 2019.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2019-25875 Filed 11-27-19; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Women Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that the Advisory Committee on Women Veterans will meet on December 17-19, 2019, at the VA Central Office, 810

Vermont Avenue NW, Sonny Montgomery Conference Room 230, Washington, DC The meeting sessions will begin at 8:30 a.m. and end 12:00 p.m. each day. The meeting sessions are open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs regarding the needs of women Veterans with respect to health care, rehabilitation, compensation, outreach, and other programs and activities administered by VA designed to meet such needs. The Committee makes recommendations to the Secretary regarding such programs and activities.

The agenda will include updates from the Veterans Health Administration, the Veterans Benefits Administration, and Staff Offices, as well as briefings on other issues impacting women Veterans.

No time will be allocated at this meeting for receiving oral presentations from the public. Interested parties should provide written comments for review by the Committee to Ms. Shannon L. Middleton, VA Center for Women Veterans (00W), 810 Vermont Avenue NW, Washington, DC 20420, or email at 00W@mail.va.gov, or fax to (202) 273-7092. Because the meeting is being held in a government building, a photo I.D. must be presented at the Guard's Desk as a part of the screening process. Due to an increase in security protocols, you should allow an additional 30 minutes before the meeting begins. Any member of the public who wishes to attend the meeting or wants additional information should contact Ms. Middleton at (202) 461-6193.

Dated: November 25, 2019.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2019-25874 Filed 11-27-19; 8:45 am]

BILLING CODE 8320-01-P



FEDERAL REGISTER

Vol. 84

Friday,

No. 230

November 29, 2019

Part II

The President

Presidential Determination No. 2020-04 of November 1, 2019—Presidential Determination on Refugee Admissions for Fiscal Year 2020

Presidential Documents

Title 3—

Presidential Determination No. 2020–04 of November 1, 2019

The President

Presidential Determination on Refugee Admissions for Fiscal Year 2020

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States, in accordance with section 207 of the Immigration and Nationality Act (the “Act”) (8 U.S.C. 1157), after appropriate consultations with the Congress, and consistent with the Report on Proposed Refugee Admissions for Fiscal Year 2020 submitted to the Congress on September 26, 2019, I hereby determine and authorize as follows:

The admission of up to 18,000 refugees to the United States during Fiscal Year 2020 is justified by humanitarian concerns or is otherwise in the national interest. These admissions shall be allocated among refugees of special humanitarian concern to the United States in accordance with the following allocations:

1. Refugees who:	
• have been persecuted or have a well-founded fear of persecution on account of religion;	
or	
• who are within a category of aliens established under subsections (b) and (c) of section 599D of Title V, Public Law 101-167, as amended (the Lautenberg and Specter Amendments)	5,000
2. Refugees who are within a category of aliens listed in section 1243(a) of the Refugee Crisis in Iraq Act of 2007, Title XII, Div. A, Public Law 110-181, as amended	4,000
3. Refugees who are nationals or habitual residents of El Salvador, Guatemala, or Honduras	1,500
4. Other refugees, including, in particular:	
• those referred to the United States Refugee Admissions Program by a United States Embassy in any location;	
• those who gain access to the United States Refugee Admissions Program for family reunification through the "Priority 3" process or through a Form I-730 following to join petition;	
• those currently located in Australia, Nauru, or Papua New Guinea who gain access to the United States Refugee Admissions Program pursuant to an arrangement between the United States and Australia; and	
• those in the United States Refugee Admissions Program who were in "Ready for Departure" status as of September 30, 2019.	7,500
Total refugee admissions ceiling	18,000

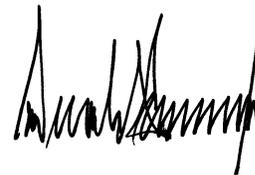
Additionally, after consultation with the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Attorney General, and upon notification to the appropriate committees of the Congress, you are further authorized to transfer unused admissions from a particular allocation above to one or more other allocations, if such transfer would be in the national interest and there is a need for greater admissions for the allocation to which the admissions will be transferred.

Consistent with section 2(b)(2) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(b)), I hereby determine that assistance to or on behalf of persons applying for admission to the United States as part of the overseas refugee admissions program will contribute to the foreign policy interests of the United States, and I accordingly designate such persons for this purpose.

Consistent with section 101(a)(42) of the Act (8 U.S.C. 1101(a)(42)), and after appropriate consultation with the Congress, I also specify that, for Fiscal Year 2020, the following persons may, if otherwise qualified, be considered refugees for the purpose of admission to the United States within their countries of nationality or habitual residence:

- a. persons in Cuba;
- b. persons in Eurasia and the Baltics;
- c. persons in Iraq;
- d. persons in Honduras, Guatemala, and El Salvador; and
- e. in exceptional circumstances, persons identified by a United States Embassy in any location.

You are authorized and directed to publish this determination in the *Federal Register*.



THE WHITE HOUSE,
Washington, November 1, 2019

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Friday, November 29, 2019

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H.R. 2423/P.L. 116-71
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