



# FEDERAL REGISTER

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Vol. 84

Thursday,

No. 247

December 26, 2019

Pages 70881–71296

OFFICE OF THE FEDERAL REGISTER



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

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## DEPARTMENT OF AGRICULTURE

### Rural Housing Service

#### 7 CFR Part 3555

[Docket No. RHS-18-SFH-0020]

RIN 0575-AD09

#### Single Family Housing Guaranteed Loan Program

**AGENCY:** Rural Housing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Rural Housing Service (RHS or Agency) published a proposed rule on August 23, 2018, proposing to implement changes to the single family housing guaranteed loan program (SFHGLP) regulation to streamline the loss claim process for lenders who have acquired title to property through voluntary liquidation or foreclosure; clarify that lenders must comply with applicable laws, including those within the purview of the Consumer Financial Protection Bureau (CFPB); and better align loss mitigation policies with the mortgage industry. Through this action, RHS finalizes the rule largely as proposed with some revisions.

**DATES:** Effective April 24, 2020.

**FOR FURTHER INFORMATION CONTACT:** Kate Jensen, Finance and Loan Analyst, Single Family Housing Guaranteed Loan Division, STOP 0784, Room 2250, USDA Rural Development, South Agriculture Building, 1400 Independence Avenue SW, Washington, DC 20250-0784, telephone: (503) 894-2382, email is [kate.jensen@usda.gov](mailto:kate.jensen@usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background Information

The expansion of the SFHGLP in recent years has led the Agency to investigate opportunities to streamline the program policies and procedures, align the Agency with accepted industry practices, and balance Agency resources with program demand. To help achieve

these objectives, this rule modifies the loss claim and loss mitigation processes.

##### A. Loss Claim Process

The Agency is implementing two primary changes to the loss claim process in the areas of timing and valuation of property that has been acquired by a lender (referred to as Real Estate Owned (REO) property). The Agency will not change the loan guarantee limits under 7 CFR 3555.351.

Regarding the timing of loss claims, the Agency currently affords lenders (defined in 7 CFR 3555.10 as entities making, holding, or servicing SFHGLP loans) the opportunity to submit loss claims on REO property after foreclosure; during a nine-month marketing period; or if the property has not sold during the nine-month marketing period (twelve-month for tribal land), through the submission of an Estimated Net Recovery (ENR) loss claim. The current options create uncertainty, as it may take many months before a loss claim package is submitted and processed and impose significant administrative burden on lenders and the Agency. To streamline the process, the Agency will eliminate the options of the nine-month marketing period and ENR loss claims. Instead, all loss claims will be submitted in a timely manner (discussed further below) after lender acquisition of title without waiting for a potential sale to a third party during the marketing period. In addition, the elimination of the ENR loss claim option will eliminate the need for lenders to monitor, and the Agency to collect, Future Recovery payments. Therefore, the Agency is removing the Future Recovery requirements at 7 CFR 3555.356.

Regarding the valuation of REO property, the Agency currently requires lenders to obtain a liquidation value appraisal to determine security property value and calculate the loss claim amount. Under the final rule, the Agency will replace the liquidation value appraisal with a market value appraisal in conjunction with a model to determine the security property value as the basis to calculate the loss claim amount. The Agency presently requires the submission of receipts for actual property preservation and disposal costs. Property preservation and disposal costs will now be based on the Veterans Administration Management

and Acquisition Factor (aka the VA Net Value Factor) found at [https://www.benefits.va.gov/homeloans/servicers\\_valeri.asp](https://www.benefits.va.gov/homeloans/servicers_valeri.asp). Lenders will be required to submit the complete loss claim package within 60 days of foreclosure sale date, acquisition date, or possession of the security property. The new process will eliminate the need for REO property disposition plans.

Through the changes made by the final rule to the loss claim process, the Agency anticipates a more streamlined approach to loss claim payment processing. Therefore, the Agency will limit the amount of additional interest (accrued between the settlement date and loss claim payment) included in the loss claim payment to 60 days of additional interest during the loss claim period.<sup>1</sup>

The final rule makes several other changes to improve and clarify the loss claim process.

The Agency will revise 7 CFR 3555.354, which currently allows lenders to submit a loss claim electronically or in paper format. The change will require all lenders to utilize a web-based system to submit loss claims that will make it easier for both lenders and the Agency.

The Agency will also add a definition for settlement date for deed-in-lieu actions for purposes of calculating loss claims. The Agency will define the settlement date of the deed-in-lieu as the date title is recorded. The current version of the regulation does not address this issue.

##### B. Loss Mitigation

Changes regarding loss mitigation procedures will continue the Agency's efforts to improve the overall effectiveness of loss mitigation by emphasizing payment reduction. Historically, borrowers who receive a payment reduction of less than 10 percent have re-defaulted at a rate greater than 60 percent. When at least a 10 percent payment reduction is achieved, the re-default rate is reduced by half. The changes will continue to increase homeownership success and decrease foreclosures. The Agency

<sup>1</sup> In the unlikely event that it takes more than 60 days to process a loss claim, the Agency may pay up to 90 days of additional interest if provided for in the relevant Loan Note Guarantee (Form RD 3555-17). The Agency plans to amend the Loan Note Guarantee for consistency with the 60-day limit in the final rule.

expects a corresponding reduction in lender REO property which could result in community stability and decreased expenses associated with foreclosure and property disposition.

The Agency will also add a Mortgage Recovery Advance (MRA) option that will not require a modification to the terms of the promissory note. This option will create an opportunity for borrowers with a resolved hardship to cure the delinquency and retain their already affordable payment.

The Agency will also amend 7 CFR 3555.51(b)(1) to clarify that in addition to complying with Agency laws and guidance, lenders must comply with other applicable federal, state, and local laws, including those that fall under the purview of the Consumer Financial Protection Bureau (CFPB), such as the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA).

## II. Discussion of Relevant Public Comments Received on the August 23, 2018, Proposed Rule

On August 23, 2018, RHS published a proposed rule regarding the changes to SFHGLP loss claims and loss mitigation discussed above (83 FR 42618–42622). The Agency received comments from nine respondents including lenders, State Housing Finance Agencies, industry trade groups, and other interested parties. Specific public comments are addressed below in order of appearance in the regulation.

### Loss Claims

Nine respondents supported the Agency's proposal to streamline the loss claim process for lenders who have acquired title to properties through voluntary liquidation or foreclosure.

Two respondents requested clarification when the rule would be enacted, and which loans will be directly affected by the changes. The new rule will affect all loans where lender acquisition or possession of the property takes place on or after the Final Rule effective date.

Six respondents requested further definition of "acquisition of title" along with the request to amend the regulation requirement to include the vacancy status of the property. The proposed rule stated the lender should order an appraisal within fifteen days of acquiring title to the property and did not consider the potential inability to

complete an interior appraisal if eviction action would be required. In response to these comments, the Agency will amend the regulation in § 3555.353(b) to require the lender to submit a loss claim package, including a market value appraisal, within 60 days of the foreclosure sale date or the date the lender acquires title. If eviction action is required in order to obtain a market value appraisal, the lender must submit the loss claim package, including the market value appraisal, within 60 days of the date the occupants clear the premises (also referred to in this notice as a lender taking "possession" of the property).

One respondent requested the Agency to define "cost effective" and "significant amount" as used in § 3555.302(b) for purposes of determining when protective advances require concurrence from the Agency and cover costs besides taxes and insurance. The respondent suggested that if the cost of a protective advance exceeds ten percent of the market value of the property, Agency concurrence is required. This aligns with existing published policy in the USDA SFHGLP Handbook Chapters 17 and 18 regarding Pre-Foreclosure Sales (PFS) and Deed-in-Lieu transactions. The Agency will continue to provide additional guidance to lenders as necessary. No change is made to the regulation.

One respondent requested the Agency to allow for additional payment of interest when USDA exceeds 60 days for processing claims. At minimum, the respondent recommends a review process within USDA to quarterly or bi-annually review cycle times and publish a requirement in this regulation that will allow some flexibility to reimburse interest beyond 60 days. The Agency believes that it is well positioned through improvements in the process created with this change to meet the 60-day timeframe for processing loss claims. No change is made to the provision. However, in the unlikely event that it takes more than 60 days to process a loss claim, the Agency may pay up to 90 days of additional interest if provided for in the relevant Loan Note Guarantee (Form RD 3555–17). The Agency plans to amend the Loan Note Guarantee for consistency with the 60-day limit in the final rule.

Three respondents believe the Agency should publish the loss claim model algorithm to allow lenders increased

transparency to better model potential outcomes. The Agency is providing an overview of the loss claim model algorithm as follows: The Property Sale Value Calculator (PSVC) uses a statistical technique known as linear regression. The PSVC is based on, and like, the Federal Housing Agency's (FHA) Loss Given Default (LGD) model, which also uses linear regression. For a detailed description of FHA's LGD model, see Section 5 of the Congressional Budget Office's working paper, *Modeling the Budgetary Costs of FHA's Single-Family Mortgage Insurance* <http://www.cbo.gov/sites/default/files/cbofiles/attachments/45711-FHA.pdf>.

Linear regression is a statistical method for estimating one unknown variable using other known variables. The result of linear regression analysis is an equation of coefficients based on historical relationships between variables. Inputting known variables into the equation generates an estimate of the unknown variable—the property sale value. The model coefficients use data on approximately 94,000 historical claims from the program. The Agency updates the model coefficients annually using actual property sale values acquired through a third-party data provider. The Agency adds historical data to the model every year and re-generates coefficients to ensure historical relationships between variables represent the most recent data available and that the model produces accurate property value estimates.

The servicing system takes known loan characteristic values based on the REO date and multiplies them by the coefficients. The products are then summed to output the estimated property sale value.

Table 1 (below) presents the variables used in the model along with the variable type and a description. The model uses two types of variables: Continuous and categorical. Continuous variables can have any numeric value. Categorical variables have a value of one if they fall within a certain range and a value of zero if they do not. If a loan has a categorical variable with a value of zero, that means the coefficient is not applicable to the loan and the model does not adjust the estimated property sale value for that characteristic. The model only adjusts the estimated property sale value for certain states.

TABLE 1—DESCRIPTION OF VARIABLES

Variable	Type	Description
Constant .....	NA .....	Applied to all loans.
Original Loan Amount .....	Continuous .....	Original mortgage amount.
Appraisal Amount .....	Continuous .....	Appraisal amount at the time a property becomes REO.
Current Loan-to-Value Ratio (CLTV) .....	Continuous .....	The ratio of the UPB to the appraisal amount.
Origination Year Indicators .....	Categorical .....	Indicates a loan originated between 2004 and 2009.
States .....	Categorical .....	Indicates a loan from a given state.
Loan Size Ratio (LSR) .....	Categorical .....	The ratio of the original loan amount to the average original loan amount in the region.

One respondent encouraged the Agency to publish the findings from the “Settle at Foreclosure Pilot Program,” to help lenders better understand potential effects to their portfolio’s loss assumptions on RHS properties which have culminated in a foreclosure sale. The Agency has received positive feedback from pilot lenders concerning reduction of loss claim documentation, the elimination of property disposition plans, and collection of future recovery. Additionally, pilot lenders receive payment of loss claim funds sooner as compared to the current system. This is evidenced internally through a reduction in loss claim processing time for the Agency. The Agency believes further information regarding the pilot is unnecessary at this time given the overview of the loss claim algorithm above and will provide further guidance as necessary.

One respondent suggested the regulation should address differences between estimated and actual expenses and that RHS should specify that actual expenses are captured for claim filing only when all necessary steps to make a property stable have occurred. The proposed changes to the regulation do not require the servicing lender to use actual expenses since the new process utilizes estimated property preservation and disposal expenses using the VA Net Value Factor. No change is made to this provision.

Three respondents commented on the Agency’s use of the VA Net Value Factor to estimate holding and deposition costs. All three respondents contended the VA Net Value Factor consistently and significantly underestimates the actual expenses and believes lenders will not be sufficiently compensated for holding and property management costs. The VA Net Value Factor is a long-established model widely utilized in the mortgage servicing industry for loss claim servicing. The VA Net Value Factor regularly updates the factor taking into account the costs of servicing single family properties. The Agency has used the VA Net Value Factor since 1999 with success and does

not believe that there are industry accepted alternatives to the VA Net Value Factor. No change is made to this provision.

One respondent suggested that RHS should continue to develop and support alternative disposition strategies. Given the resource savings to RHS and the timeframe reduction in the proposed rule, the respondent requests that RHS should not implement this rule at the cost of alternative disposition strategies. Instead, RHS should continue to prioritize efforts to develop or enhance disposition options that do not result in lenders taking a property into inventory. The adoption of this new loss claim regulation should not prohibit or discourage lenders from offering borrowers the full range of loss mitigation options. The Agency fully supports loss mitigation activity in lieu of foreclosure and will not eliminate any requirements that lenders offer and investigate loss mitigation alternatives prior to foreclosure as required in § 3555.301(b).

One respondent proposed that the value of the property to determine loss claim calculation be based on the outstanding unpaid principal balance (UPB) and percentage of loss coverage in the Loan Note Guarantee. The respondent contends the suggested valuation method will not establish a reliable property value. If existing UPBs were utilized to establish value, there would be no loss and any future claim payments would be reduced or nonexistent. The Agency did not propose to change the percentage of coverage based on the original loan amount and will retain the loan guarantee limits as outlined in § 3555.351. No change is made to this provision.

One respondent requested that a time limit be imposed on post-payment review or eliminate repayment under post-payment reviews. This was not addressed in the proposed rule and, therefore, no further action will be taken.

#### *General Lender Requirement*

Two respondents commented on the proposed general lender requirements to clarify that in addition to complying with Agency laws and guidance, lenders must comply with all other applicable federal, state, and local laws. The first respondent requested the Agency update the language in regulation § 3555.51(b)(1) instead of § 3555.6. The Agency agrees to update § 3555.51(b)(1) versus § 3555.6.

The second respondent requested the Agency to include the RESPA and TILA obligations. The updated language in § 3555.51(b) refers to all applicable laws, and specifically mentions RESPA and TILA. Lenders may refer to the CFPB regulations implementing RESPA and TILA, including those at 12 CFR parts 1024 and 1026, for specific requirements. It is redundant and unnecessary for the Agency to repeat the content of those regulations in 7 CFR part 3555. No change is made in this provision.

#### *Loss Mitigation*

Four respondents commented on the proposed regulation language at 7 CFR 3555.303(b)(3)(v) regarding the option for a lender to require a trial plan before a traditional servicing loan modification. One respondent requested clarification as to when a trial period should be used to ensure equal treatment of all borrowers. The current regulation only requires a trial period when Special Servicing Options are utilized, and the updated regulation language provides flexibility to the lender/to determine whether a trial period is warranted or required by lender or investor guidelines for other retention options. The Agency does not believe it is necessary or helpful for the Agency to prescribe when trial periods may be required. No change is made to this provision.

Two of the four respondents expressed concern that by not requiring a trial plan prior to a traditional servicing loan modification, the loans will not meet the investor buyout requirements. While the final rule will

not require a trial period, the rule will neither prohibit the use of trial period overlays based on loan lender and investor requirements. No change is made to this provision.

The fourth respondent requested that the Agency eliminate the requirement for trial period plans to increase borrower access to loss mitigation measures. As previously discussed, the regulation in 3555.303 will not require a trial plan for traditional servicing loan modifications. It is the lender's responsibility to determine if a trial plan is warranted and/or a trial plan is required by lender or investor guidelines. The regulation does require the use of trial plans for special servicing extended term loan modifications. No change is made to this provision.

Two respondents proposed the MRA eligibility threshold be adjusted. Both commenters suggest RHS adjust the eligibility threshold to "31 percent or less." This would align with the eligibility cut-off for Special Servicing measures making the MRA only an option for all customers ineligible for Special Loan Servicing. The Agency agrees and will amend the regulation to state "31 percent or less."

One of the two respondents also requested RHS to provide clarity on where the MRA eligibility threshold would fit in the servicing waterfall. Details on the waterfall will be addressed in the *Loss Mitigation Guide (Attachment 18-A)*. No further change is made to this provision.

One respondent proposed RHS change the verbiage in section § 3555.304(d)(2) from "date of default" to "date of initial default" to align with industry standards. The Agency agrees and will adopt the language "date of initial default."

One respondent suggested that RHS should amend § 3555.303 to permit capitalization of protective advances in traditional servicing loan modifications. The respondent suggested RHS update the regulation to explicitly permit lenders to capitalize protective advances related to the maintenance and preservation of mortgage properties. The Agency does not believe such a change is necessary at this time, and the suggestion is outside the scope of the proposed rule. No change is made to this provision.

One respondent requested clarification that modified interest rates for loan modifications are not limited by the interest rate at the time the Loan Note Guarantee (LNG) was issued. The proposed rule provided in § 3555.304(c)(1) that the modified interest rate for special servicing

extended term loan modifications not exceed the market interest rate and eliminated the reference to the interest rate stated in the LNG. The Agency will make a similar change in § 3555.303(b)(3)(i) regarding traditional servicing loan modifications.

One respondent requested that RHS incorporate an exclusion waiver from loss mitigation options requiring a change in the interest rate, a write off of principal, and/or extension of the term of the mortgage for Housing Finance Agencies with loans funded through the sale of Mortgage Revenue Bonds. This authority is already provided to lenders in the *Loss Mitigation Guide*. No change is made to this provision.

One respondent recommended that RHS should eliminate the requirement for agency approval of all loss mitigation decisions and instead establish a loss mitigation appeals process for disputed cases. Instead of having RHS review each case, the Agency must instead divert those resources to an appeal process by which the borrower can address lenders mistakes. The commenter believes the Agency should implement appeal rights pursuant to 42 U.S.C. 1480(g). The Agency is finalizing the elimination of the need for Agency concurrence for all loss mitigation plans. The suggestion to add appeal processes beyond what is already provided for § 3555.4 is unnecessary and outside the scope of the proposed rule. No change is made to this provision.

One respondent suggested the Agency should require lenders to provide servicing plans to borrowers. They stated RHS should require the lender to simultaneously provide the borrower with copies of all servicing plans submitted to the Agency regarding the borrower's loan. RESPA and Regulation X (12 CFR part 1024), administered by the CFPB, govern mortgage servicing disclosure requirements. It is unnecessary for the Agency to duplicate or add to those requirements. No change is made in this provision.

One respondent requested the Agency to clarify that unpaid principal balance is not counted twice in the modification calculation and RHS should make it clear how the terms of modifications are calculated to avoid confusion. The Agency agrees and will clarify the language in sections § 3555.303(b)(3)(ii) for traditional servicing loan modifications and the new § 3555.304(c)(1) for special servicing extended term loan modifications.

One respondent proposed three changes to the updated regulation that are outside of the scope of the published proposed rule. The first recommended

the Agency fully implement the FHA-Home Affordable Modification Program (HAMP) waterfall. The second was a suggestion to include language in required notices and form documents to clearly identify the loan status. The third called for the implementation of payment moratorium options for borrowers in default. These items are outside of the scope of this rulemaking and not necessary at this time. No change is made to this provision.

One respondent stated the Agency should eliminate the debt-to-income cap and clarify that lenders must waive late fees in connection with a successful loss mitigation. The Agency does not consider these suggestions as necessary at this time, and they are outside the scope of the proposed rule. No change is made to this provision.

One respondent suggested RHS should modernize its data collection systems and its quality control process to improve its evaluation of loss mitigation options. These items were not addressed in the proposed rule and are considered to be outside of the scope. No change is made in response to this comment.

The loss mitigation changes will offer borrowers faster and greater payment relief early in the loan delinquency. The changes will continue to increase homeownership success and decrease foreclosures. The Agency expects a corresponding reduction in lender-owned properties resulting in greater community stability as well as decreased expenses associated with foreclosure and property disposition.

#### **Executive Order 12866, Classification**

This rule has been determined to be non-significant and therefore was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

#### **Congressional Review Act**

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

#### **Executive Order 12988, Civil Justice Reform**

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. Except where specified, all State and local laws and regulations that are in direct conflict with this rule will be preempted. Federal funds carry Federal requirements. No person is required to apply for funding under the SFHGLP, but if they do apply and are selected for funding, they must comply with the requirements applicable to the

Federal program funds. This final rule is not retroactive. It will not affect agreements entered prior to the effective date of the rule. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR part 11 must be exhausted.

#### **Unfunded Mandates Reform Act**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effect of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Agency generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of \$100 million, or more, in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

#### **Environmental Impact Statement**

This document has been reviewed in accordance with 7 CFR part 1970, subpart A, “Environmental Policies.” It is the determination of the Agency that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, neither an Environmental Assessment nor an Environmental Impact Statement is required.

#### **Executive Order 13132, Federalism**

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the national government and States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

#### **Regulatory Flexibility Act**

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the undersigned has determined and certified by signature of this document that this rule change will not have a significant impact on a substantial number of small entities. This rule does not impose any significant new requirements on Agency applicants and borrowers, and the regulatory changes affect only Agency determination of program benefits for guarantees of loans made to individuals.

#### **Executive Order 13175, Consultation and Coordination With Indian Tribal Governments**

Executive Order 13175 imposes requirements on RHS in the development of regulatory policies that have Tribal implications or preempt tribal laws. RHS has determined that the final rule does not have a substantial direct effect on one or more Indian Tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian Tribes. Thus, this final rule is not subject to the requirements of Executive Order 13175. If a Tribe determines that this rule has implications of which RHS is not aware and would like to engage with RHS on this rule, please contact USDA’s Native American Coordinator at (720) 544–2911 or [AIAN@usda.gov](mailto:AIAN@usda.gov).

#### **Executive Order 12372, Intergovernmental Consultation**

These loans are subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. RHS conducts intergovernmental consultations for each SFHGLP loan in accordance with 2 CFR part 415, subpart C.

#### **Programs Affected**

The program affected by this regulation is listed in the Catalog of Federal Domestic Assistance under Number 10.410, Very Low to Moderate Income Housing Loans (Section 502 Rural Housing Loans).

#### **Paperwork Reduction Act**

The information collection and record keeping requirements contained in this regulation have been approved by OMB in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The assigned OMB control number is 0570–0179.

#### **E-Government Act Compliance**

The Agency 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.

#### **Non-Discrimination Policy**

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA’s TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

(1) *Mail*: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410;

(2) *Fax*: (202) 690–7442; or

(3) *Email*: [program.intake@usda.gov](mailto:program.intake@usda.gov).

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#### **List of Subjects in 7 CFR Part 3555**

Home improvement, Loan Programs—Housing and community development, Eligible loan purpose, Construction, Loan terms, Mortgages, Rural areas.

Therefore, chapter XXXV, title 7 of the Code of Federal Regulations is amended as follows:

**PART 3555—GUARANTEED RURAL HOUSING PROGRAM**

■ 1. The authority citation for Part 3555 continues to read as follows:

**Authority:** 5 U.S.C. 301; 42 U.S.C. 1471 *et seq.*

■ 2. Amend § 3555.10 in the definition of *Settlement date* to by revising the introductory text and adding paragraph (5) to read as follows:

**§ 3555.10 Definitions and abbreviations.**

*Settlement date.* The settlement date, for the purpose of loss calculation, is:

(5) The date title is acquired upon recordation of a deed-in-lieu of foreclosure, with prior approval of the lender.

■ 3. Amend § 3555.51 by adding a new second sentence to paragraph (b)(1) to read as follows:

**§ 3555.51 Lender eligibility.**

(b) \* \* \* Lenders must also comply with all other applicable federal, state, and local laws, rules, and requirements, including those under the purview of the Consumer Financial Protection Bureau, such as the Real Estate Settlement Procedures Act and the Truth in Lending Act. \* \* \*

■ 4. Amend § 3555.301 by revising paragraph (h) to read as follows:

**§ 3555.301 General servicing techniques.**

(h) *Formal servicing plan.* The lender must report a formal servicing plan to the Agency utilizing a web-based automated system when a borrower's account is delinquent for 90 days or more and a method other than foreclosure is recommended to solve the delinquency.

■ 5. Amend § 3555.302 by revising the last sentence in paragraph (b) to read as follows:

**§ 3555.302 Protective advances.**

(b) \* \* \* The lender must obtain prior Agency concurrence before issuing protective advances under this paragraph of a significant amount as specified by the Agency.

■ 6. Amend § 3555.303 by revising paragraphs (b)(3)(i), (ii), and (v) to read as follows:

**§ 3555.303 Traditional servicing options.**

(b) \* \* \*  
(3) \* \* \*  
(i) Loan modifications must be a fixed interest rate and cannot exceed the market interest rate at the time of modification.

(ii) Loan modifications may capitalize all or a portion of the arrearage and/or reamortization of the balance due including foreclosure fees and costs, tax and insurance advances, and past due Agency annual fees imposed by the lender. Late charges and lender fees may not be capitalized.

(v) Lenders may require that borrowers complete a trial payment plan prior to making scheduled payments amended by the traditional loan servicing loan modification.

■ 7. Amend § 3555.304 by:

- a. Removing paragraph (a)(2);
- b. Redesignating paragraphs (a)(3) and (4) as paragraphs (a)(2) and (3);
- c. Adding new paragraph (a)(4); and
- d. Revising paragraphs (c)(1) and (2) and (d)(1) and (2).

The addition and revisions read as follows:

**§ 3555.304 Special servicing options.**

(a) \* \* \*  
(4) If the borrower currently has a mortgage payment to income ratio of 31 percent or less, special servicing options can be utilized to cure the delinquency without modifying the note; otherwise, special servicing options shall be used in the order established in this section to bring the borrower's mortgage payment to income ratio as close as possible to, but not less than, 31 percent.

(c) \* \* \*  
(1) Loan modifications may capitalize all or a portion of the arrearage and/or reamortization of the balance due including foreclosure fees and costs, tax and insurance advances, and past due Agency annual fees imposed by the lender. Late charges and lender fees may not be capitalized.

(2) Loan modifications must be a fixed interest rate and cannot exceed the current market interest rate at the time of modification. When reducing the interest rate, the maximum rate is subject to paragraph (c)(3) of this section.

(d) \* \* \*  
(1) The maximum amount of a mortgage recovery advance is 30 percent of the unpaid principal balance as of the

date of initial default. The Agency may change the maximum amount of mortgage recovery advance by publication in the **Federal Register**.

(2) If the borrower's total monthly mortgage payment is less than 31 percent of gross monthly income prior to an extended term loan modification, the mortgage recovery advance can be used to cure the borrower's delinquency without changing the terms of the promissory note.

■ 8. Amend § 3555.305 by revising the introductory text and paragraph (a)(1) to read as follows:

**§ 3555.305 Voluntary liquidation.**

The lender must have exhausted the servicing options outlined in §§ 3555.302 through 3555.304 to cure the delinquency before considering voluntary liquidation. The methods of voluntary liquidation of the security property outlined in this section may be used to protect the interests of the Government.

(a) \* \* \*  
(1) The loan is at least 30 days delinquent or meets the imminent default definition as outlined in § 3555.303(a)(2);

■ 9. Amend § 3555.306 by revising paragraph (f) to read as follows:

**§ 3555.306 Liquidation.**

(f) *Lender acquisition of title.* If at liquidation, the title to the property is conveyed to the lender, the lender will submit a loss claim package, including a market value appraisal, within 60 days of the foreclosure sale date or the date the lender acquires title. If eviction action is required in order to obtain a market value appraisal, the lender must submit the loss claim package, including the market value appraisal, within 60 days of the date the occupants clear the premises. The lender must submit the loss claim request, including the market value appraisal, in accordance with subpart H.

■ 10. Amend § 3555.352 by revising paragraphs (c) and (e) to read as follows:

**§ 3555.352 Loss covered by the guarantee.**

(c) *Additional interest.* Additional interest on the unsatisfied principal accrued from the settlement date to the date the claim is paid, but not more than 60 days from the settlement date;

(e) *Liquidation costs.* Reasonable and customary liquidation costs, such as

attorney fees, market value appraisals, and foreclosure costs. Annual fees advanced by the lender to the Agency are ineligible for reimbursement when calculating the loss claim payment.

■ 11. Amend § 3555.353 by revising paragraphs (a) introductory text and (b) to read as follows:

**§ 3555.353 Net recovery value.**

\* \* \* \* \*

(a) *For a property that has been sold.* When a loss claim is filed on a property that was sold to a third party at the foreclosure sale or through an approved pre-foreclosure sale, net recovery value is calculated as follows:

\* \* \* \* \*

(b) *For a property that has been acquired.* When a loss claim is filed on a property acquired by the lender through a foreclosure sale or a deed-in-lieu of foreclosure, the net recovery value is based on an estimated sales price calculated using a market value appraisal along with holding and disposition costs calculated using the acquisition and management factor (also known as the VA Net Value Factor) published by the VA, and other factors as determined by the Agency. The lender must submit a loss claim package, including a market value appraisal, within 60 days of the foreclosure sale date or the date the lender acquires title. If eviction action is required in order to obtain a market value appraisal, the lender must submit the loss claim package, including the market value appraisal, within 60 days of the date the occupants clear the premises and in accordance with other requirements of this subpart. with any loss claim request in accordance with subpart H.

■ 12. Amend § 3555.354 by revising the introductory text and paragraph (b) to read as follows:

**§ 3555.354 Loss claim procedures.**

All lenders must use a web-based automated system designated by the Agency to submit all loss claim requests.

\* \* \* \* \*

(b) *REO.* If at liquidation, the title to the property is conveyed to the lender, the lender will submit a loss claim package, including a market value appraisal, within 60 days of the foreclosure sale date or the date the lender acquires title. If eviction action is required in order to obtain a market value appraisal, the lender must submit the loss claim package within 60 days of the date the occupants clear the premises. The lender must order a market value appraisal and include the

market value appraisal with the loss claim package. The Agency will use the market value appraisal, along with other Agency required documentation, to determine the property value for the basis of the loss claim. The Agency will apply an acquisition and management resale factor to estimate holding and disposition costs, based on the most current VA Management and Acquisition Factor found at [https://www.benefits.va.gov/HOMELOANS/servicers\\_valeri.asp](https://www.benefits.va.gov/HOMELOANS/servicers_valeri.asp).

\* \* \* \* \*

**§ 3555.356 [Removed and Reserved]**

■ 13. Remove and reserve § 3555.356.

Dated: November 25, 2019.

**Bruce W. Lammers,**

*Administrator, Rural Housing Service.*

[FR Doc. 2019–27504 Filed 12–23–19; 8:45 am]

**BILLING CODE 3410–XV–P**

## FEDERAL RESERVE SYSTEM

### 12 CFR Parts 206, 208, 211, 215, 217, 223, 225, 238, and 251

[Regulation Q; Docket No. R–1638]

**RIN 7100–AF 29**

#### Regulatory Capital Rule: Capital Simplification for Qualifying Community Banking Organizations

**AGENCY:** Board of Governors of the Federal Reserve System (Board).

**ACTION:** Final rule; correction.

**SUMMARY:** The **Federal Register** document of November 13, 2019, promulgating a final rule that provides for a simple measure of capital adequacy for certain community banking organization had two erroneous amendment instructions. This document corrects these errors.

**DATES:** This correction is effective on January 1, 2020.

**SUPPLEMENTARY INFORMATION:** In FR Doc. 2019–23472 appearing on page 61776 in the **Federal Register** of Wednesday, November 13, 2019, the following corrections are made:

■ 1. On page 61796, in the center column, amendatory instruction 31 is corrected to read as follows:

“31. Section 208.43 is amended by revising paragraphs (a), (b) introductory text, and (b)(1) to read as follows:”

■ 2. On page 61799, in the center column, amendatory instruction 46 is corrected to read as follows:

“46. Section 225.14 is amended by:  
a. Redesignating footnote 3 to paragraph (a)(1)(ii) as footnote 1 to paragraph (a)(1)(ii);

b. Revising paragraphs (a)(1)(v), (a)(1)(vii), and (c)(6)(i)(A) and (B); and  
c. Adding paragraphs (c)(6)(iii) and (f).”

Board of Governors of the Federal Reserve System, December 18, 2019.

**Ann Misback,**

*Secretary of the Board.*

[FR Doc. 2019–27717 Filed 12–23–19; 8:45 am]

**BILLING CODE 6210–01–P**

## DEPARTMENT OF STATE

### 22 CFR Part 120

[Public Notice: 10946]

**RIN 1400–AE76**

#### International Traffic in Arms Regulations: Creation of Definition of Activities That Are Not Exports, Reexports, Retransfers, or Temporary Imports; Creation of Definition of Access Information; Revisions to Definitions of Export, Reexport, Retransfer, Temporary Import, and Release

**AGENCY:** Department of State.

**ACTION:** Interim final rule; request for comment.

**SUMMARY:** The Department of State amends the International Traffic in Arms Regulations (ITAR) to create a definition of “activities that are not exports, reexports, retransfers, or temporary imports” by combining existing text from the regulations with new text regarding secured unclassified technical data. The activities included in the new definition are: Launching items into space, providing technical data to U.S. persons within the United States or within a single country abroad, and moving a defense article between the states, possessions, and territories of the United States. The definition also clarifies that the electronic transmission and storage of properly secured unclassified technical data via foreign communications infrastructure does not constitute an export. Additionally, the Department amends the ITAR to create a definition of “access information” and revise the definition of “release” to address the provision of access information to an unauthorized foreign person.

**DATES:** *Effective date:* This interim final rule is effective on March 25, 2020.

*Comments due date:* Interested parties may submit comments by January 27, 2020.

**ADDRESSES:** Interested parties may submit comments by one of the following methods:



• *Email:* [DDTCTPublicComments@state.gov](mailto:DDTCTPublicComments@state.gov) with the subject line, “Revisions to Definitions; Data Transmission and Storage”

• *Internet:* At [www.regulations.gov](http://www.regulations.gov), search for this notice using Docket DOS–2019–0040.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sarah Heidema, Director, Office of Defense Trade Controls Policy, Department of State, telephone (202) 663–1282; email [DDTCTPublicComments@state.gov](mailto:DDTCTPublicComments@state.gov). ATTN: ITAR Amendment—Revisions to Definitions; Data Transmission and Storage.

**SUPPLEMENTARY INFORMATION:** The Directorate of Defense Trade Controls (DDTC), U.S. Department of State, administers the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120 through 130). The items subject to the jurisdiction of the ITAR, *i.e.*, defense articles and defense services, are identified on the ITAR’s U.S. Munitions List (USML) (22 CFR 121.1). With few exceptions, items not subject to the export control jurisdiction of the ITAR are subject to the jurisdiction of the Export Administration Regulations (EAR, 15 CFR parts 730 through 774, which includes the Commerce Control List (CCL) in Supplement No. 1 to part 774), administered by the Bureau of Industry and Security (BIS), U.S. Department of Commerce. Both the ITAR and the EAR create license requirements for exports and reexports of controlled items. Items not subject to the ITAR or to the exclusive licensing jurisdiction of any other set of regulations are subject to the EAR.

On June 3, 2015, the Department of State published a proposed rule (80 FR 31525) (2015 proposed rule) and requested comments on an extensive array of proposed amendments to the ITAR, including the revision of key definitions, the creation of several new definitions, and the revision of related provisions. The proposed amendments also attempted to harmonize these definitions with the EAR to the extent appropriate. After reviewing the public comments on the 2015 proposed rule, the Department published an interim final rule on June 3, 2016 (81 FR 35611) (2016 interim final rule), which updated the definitions of “export” and “reexport or retransfer” and, in an effort to clarify and support the interpretation of these definitions, also created definitions of “release” and “retransfer.” BIS concurrently published amendments (BIS companion rule) to definitions, including “export,” “reexport,” “release,” and “transfer (in-country)” in the EAR (81 FR 35586).

The Department subsequently reviewed the public comments on the 2016 interim final rule and published a final rule on September 8, 2016 (81 FR 62004) (2016 final rule), which revised the definition of “retransfer” and made other clarifying revisions. Not all of the amendments proposed in the 2015 proposed rule were adopted, and both the 2016 interim final rule and the 2016 final rule reserved the remaining amendments for consideration in separate rulemakings.

This interim final rulemaking addresses certain of the remaining amendments from the 2015 proposed rule, and the Department continues to reserve the remaining amendments for consideration in separate rulemakings. Included in this interim final rule is the creation of a definition for “activities that are not exports, reexports, retransfers, or temporary imports” under a new ITAR § 120.54 (§ 120.52 in the 2015 proposed rule). Among other things, this provision provides that the properly secured (by end-to-end encryption) electronic transmission or storage of unclassified technical data via foreign communications infrastructure does not constitute an export, reexport, retransfer, or temporary import.

The Department recognizes the BIS companion rule addressed these issues with the creation of EAR § 734.18, and the Department has received repeated enquiries regarding when a similar rule would be issued regarding the ITAR. In an effort to align the definition in the ITAR with the definition in the EAR, the interim final rule described below is structured similarly to EAR § 734.18. The Department also recognizes that it has received public comments regarding these amendments to the ITAR. Where appropriate, those comments are addressed in the analysis below. In light of the potential impact the amendments in this rule may have on the regulated community’s processes, and the updated security strength standards described below, the Department considered it appropriate to provide another opportunity for the public to submit comments and therefore publishes this rule as an interim final rule with the opportunity for the public to provide comment.

### 1. Definition of Activities That Are Not Exports, Reexports, Retransfers, or Temporary Imports

The Department adds § 120.54 to describe those “activities that are not exports, reexports, retransfers, or temporary imports” and does not require authorization from the Department. For the purpose of this preamble, the Department will use the term

“controlled event” to mean an export, reexport, retransfer, or temporary import, all of which require a DDTC license or other approval.

The first of five provisions in the new § 120.54 states in paragraph (a)(1) that it is not a controlled event to launch items into space. This activity is already excluded from the definition of an export in ITAR § 120.17(a)(6) and by statute, see 51 U.S.C. 50919(f). In an effort to consolidate the different activities that do not qualify as exports under the ITAR, this provision has been moved to § 120.54(a)(1), and the language has been simplified.

The second provision states in paragraph (a)(2) that it is not a controlled event to transmit or otherwise transfer technical data to a U.S. person within the United States from a person in the United States. In response to public comments, the updated version of paragraph (a)(2) provides that a transmission or other transfer between U.S. persons who are in the United States is unequivocally not a controlled event. However, any release to a foreign person remains a controlled event.

The third provision, which was not included in the 2015 proposed rule but is added here in response to public comments to that proposed rule, is found in the new paragraph (a)(3). This provision states that transmissions or other transfers of technical data between and among only U.S. persons in the same foreign country are similarly not reexports or retransfers so long as they do not result in a release to a foreign person or transfer to a person prohibited from receiving the technical data because that person is otherwise precluded from engaging in the regulated activity, for example a debarred person.

The fourth provision states in paragraph (a)(4) that it is not a controlled event to move a defense article between the states, possessions, and territories of the United States. One commenter requested that the Department revise paragraph (a)(4) to list explicitly the Virgin Islands of the United States, Guam, American Samoa, and the various United States Minor Outlying Islands. The Department will not make this change because the ITAR already defines the term “United States” in § 120.13, and that definition is applicable.

The fifth provision states in paragraph (a)(5) that it is not a controlled event to send, take, or store unclassified technical data when it is effectively encrypted using end-to-end encryption. Therefore, a controlled event does not occur when technical data is encrypted

prior to leaving the sender's facilities and remains encrypted until decrypted by the intended authorized recipient or retrieved by the sender, as in the case of remote storage. The controlled event occurs upon the release of the technical data. If the technical data is decrypted by someone other than the sender, a U.S. person in the United States, or a person otherwise authorized to receive the technical data, then the technical data is not secured using end-to-end encryption for purposes of paragraph (a)(5) and the original transmission was a controlled event.

The encryption must be accomplished in a manner that is certified by the U.S. National Institute for Standards and Technology (NIST) as compliant with the Federal Information Processing Standards Publication 140–2 (FIPS 140–2), or must meet or exceed a 128-bit security strength. At the time of publication of this rule, that criterion is expressed in “Table 2: Comparable strengths” of NIST Special Publication 800–57 Part 1, Revision 4. Additionally, the technical data may not be intentionally sent to a person in or stored in a § 126.1 country or the Russian Federation, even in its encrypted state. This will allow for transmissions and storage of encrypted data in most foreign countries, so long as the technical data remains continuously encrypted while outside of the United States or until decrypted by an authorized intended recipient.

In response to public comments regarding the requirement of the 2015 proposed rule that the encryption be via a FIPS 140–2 compliant module, the Department added language that allows encryption through means other than FIPS 140–2 compliant modules, so long as it meets or exceeds a 128-bit security strength. One commenter suggested that the Department retain only FIPS 140–2 to encourage interoperability between systems, but the overwhelming number of commenters requested other encryption modules be allowed. The Department also clarified that intentional storage in the Russian Federation or a § 126.1 country constitutes a controlled event. However, incidental collection by a foreign intelligence service or transient storage that is incidental to sending information via the internet does not.

Further, in response to public comments, the Department revised paragraph (b) to clarify the definition of end-to-end encryption. The cryptographic protection must be applied prior to the data being sent outside of the originator's security boundary and remain undisturbed until it arrives within the security boundary

of the intended recipient. For communications between individuals, this can be accomplished by encrypting the data on the sender's computer prior to emailing or otherwise sending it to the intended recipient. For large entities, the security boundary may be managed by IT staff, who will encrypt the data before it leaves the entity's secure network and decrypt it on the way into the network. However, in all instances, the means of decryption must not be provided to any third party and the data must not have the cryptographic protection removed at any point in transit.

One commenter suggested that the Department define which modules under FIPS 140–2 are compliant and which NIST publications are applicable, in the rule. The Department disagrees with this comment. Compliance with any of the four levels set out in FIPS 140–2 is sufficient for the purposes of this section. Exporters are free to choose the level that best meets their needs. Different NIST publications are relevant to each standard, so the applicable publications will depend on the standard used.

One commenter suggested that the Department provide one year from the issuance of a new NIST standard for implementation. The Department disagrees with this comment. The NIST standards will be final and applicable when NIST makes them the standard.

One commenter requested that the Department allow a transition period so that exporters can implement IT systems compliant with paragraph (5). The Department disagrees with this comment. Paragraph (5) creates a mechanism for companies to send and store technical data outside the United States without engaging in a controlled event. Until companies implement an IT system that is compliant with paragraph (5), they may not take advantage of this paragraph, but nothing in paragraph (5) places any new requirements on exporters, therefore there is no need for a transition period.

One commenter suggested that the Department revise paragraph (b) to say “the means to access the data in unencrypted form is not ‘released’ to any third party” rather than “the means to access the data in unencrypted form is not given to any third party,” as “release” is a defined term. The Department disagrees with this comment. The Department did revise this concept in paragraph (b) to require that “the means of decryption are not provided to any third party,” but the Department chose not to use the word “released” because that word has a

technical definition that would not be applicable in this usage.

Several commenters requested that the Department provide a safe harbor, of sorts, by only requiring that cloud customers obtain contractual assurances that the data would not be stored in a § 126.1 country or the Russian Federation. The Department disagrees with this comment. Such a provision would not be in the national security or foreign policy interests of the United States. The Department recognizes it can be difficult to control the actions of third parties, including partners, service providers, and subcontractors, and will review potential violations on a case-by-case basis, subject to the totality of the facts and circumstances comprising the issue at hand.

One commenter requested that the Department clarify that appropriately encrypted transmissions may transit the Russian Federation or a § 126.1 country and still qualify for this provision. The Department clarified this point by adding the word “intentionally,” to differentiate those electronic transmissions that were intentionally sent to Russia or a § 126.1 country, and those that simply transited them in route to another country. The commenter also provided an example of such a transmission where an email server is located in the Russian Federation or a § 126.1 country. Transmission through these destinations is allowed, including temporary storage incident to internet transmissions, but long-term storage of the information, such as is commonly done on email servers, is prohibited in these destinations. Prior to using this provision, putative exporters should ensure that the intended recipient or any intended remote storage provider does not store their information in the Russian Federation or a § 126.1 country.

One commenter requested that the Department provide that emails between authorized parties in the same country also be included in the definition of activities that are not exports, reexports, or retransfers if they happen to transit a third country, even if the technical data is not encrypted as described in paragraph (5). The Department notes that transmissions between U.S. persons in the United States are not exports under paragraph (2), but that with respect to transmissions in foreign countries, only those communications that remain in one country between only U.S. persons are excluded under paragraph (3). If a company in a foreign country is concerned that emails that include technical data may transit third countries, it should encrypt those

communications consistent with paragraph (5).

Several commenters requested that the Department revise the local definition of end-to-end encryption to allow for information security mechanisms that render the data into clear text in route to the intended recipient, for processing via applications, such as anti-virus software or spell-check. The commenters also note that multiple layers of encryption may be applied and removed throughout the transit of the data. The Department disagrees with this comment. Use of paragraph (a)(5) requires that the technical data subject to the ITAR be continuously encrypted at all times while outside of an authorized security boundary. The Department is aware that there are many ways that this provision can be implemented; some of which would allow an entity to run anti-virus or other security scans prior to allowing the data onto its servers. As long as that initial encryption layer remains intact, the addition or removal of subsequent layers of encryption, which may or may not meet the FIPS 140–2 standard, is not relevant to the application of this section.

One commenter requested that the Department include the electronic storage in the United States and transfer from the United States of non-U.S. origin technical data by non-U.S. persons within the activities that are not an export, reexport, or retransfer, even when not encrypted. The Department disagrees with this comment. Non-U.S. origin technical data transiting or stored in the United States that is encrypted in the manner described in paragraph (a)(5) (*i.e.*, it remains encrypted at all times between originator and recipient, including at any time while in the United States), does not require authorization from the Department, unless it originates in or is sent to a country listed in § 126.1 or the Russian Federation.

One commenter stated that paragraph (a)(5) in this rule does not authorize the export of technical data in a physical medium and requested that the Department revise paragraph (a)(5) to allow the shipment or carriage of technical data in a physical medium that has been properly encrypted. The Department notes that the comment mischaracterizes the activity. The movement or storage of controlled technical data in a properly encrypted state outside of the United States is not an export as defined in § 120.17(a)(1), the specific concern raised by the commenter, or a controlled event of any type, and does not require

authorization. The Department notes that paragraph (a)(5) is not limited to electronic transmissions and the shipment or carriage of technical data in a physical medium is not a controlled event, so long as all of the conditions are met.

One commenter requested that the Department expand paragraph (a)(5) to cover tokenization, as well as encryption. Tokenization is a process whereby individual elements of a document, be they letters, words, diagrams, or pictures, are replaced by a representative token. As described by the commenter, the tokens are assigned randomly and a key of the document is created. The document may not be returned to the original text from the tokens without use of the specific key for that document. This process is different from encryption, in that encryption uses an algorithm to encode the document, such that representative characters are assigned according to a mathematical formula that can, at least theoretically, be deciphered through analysis of the encrypted text. The Department will not add tokenization. There is no NIST or other comparable standard that the Department can reference to set a minimum threshold for implementation of tokenization.

One commenter suggested that the Department encourage other jurisdictions to adopt a provision similar to paragraph (a)(5) in their export control systems. The Department agrees, and has already engaged in discussions with allies regarding paragraph (a)(5).

One commenter requested that the Department add shipping to and within the territory of an approved end-user as an activity that is not an export, reexport, or retransfer. The Department disagrees with this comment. A shipment to the territory of an approved end-user is an export or reexport that requires authorization. Shipments within the territory of an authorized end-user will likewise require authorization if the shipment is to someone other than the authorized end-user or for activities other than the authorized end-use.

One commenter requested that the Department create a definition of “basic technical data” and include the sharing of such information in this section, analogizing to the sharing of the owner’s manual for a car. The Department disagrees with this comment. The export of technical data requires authorization from the Department. If the Department were to define some portion of technical data that does not warrant control, the Department would revise § 120.6 or § 120.10 to exclude it.

One commenter suggested that the Department include shipments to military post offices in this section, noting that the National Industrial Security Program Operating Manual (NISPOM) treats transfers to military post offices as domestic transfers. The Department disagrees with this comment. The export of a defense article shipped to a military post office via the U.S. Postal Service is accomplished by the U.S. military and therefore may be authorized without a license via § 126.4 of the ITAR, so long as the other terms and conditions of that provision are met.

## **2. Revised Definitions of Export, Reexport, Retransfer, and Temporary Import**

As stated above, the Department moves the language of § 120.17(a)(6), which articulates that it is not an export to launch items into space, to § 120.52(a)(1), and simplifies the language. In its place, the Department adds a new § 120.17(a)(6) in order to include within the definition of export the release through the use of access information of previously encrypted technical data as described in § 120.50(a)(3) (to a foreign person, no matter where located) and (a)(4) (causing the technical data to be in an unencrypted form out of the United States). The Department added a citation to § 120.54 to §§ 120.17(a), 120.18, 120.19(a), and 120.51(a), which define export, temporary import, reexport, and retransfer, respectively, to exclude from those definitions activities identified in § 120.54. In addition, the Department takes this opportunity to revise § 120.17(a) in order to mirror the construction of the other definitions of controlled activities and lead with the defined term of “export.”

## **3. Definition of Access Information**

The Department adds new § 120.55 to define “access information.” Access information allows access to encrypted technical data in an unencrypted form, such as decryption keys, network access codes, and passwords. An authorization is required to release technical data through access information to the same extent that an authorization is required to export the technical data when it is unsecured by encryption.

Several commenters requested that the Department adopt the knowledge requirement that was included in the BIS companion rule and now appears in EAR § 734.19. The Department disagrees with this comment. As provided in §§ 120.50(b) and 120.54(b), an existing authorization for the release of technical data to the foreign person must be in

place prior to the provision of access information to the foreign person that will allow the transition of the encrypted technical data to an unencrypted state.

#### 4. Revised Definition of Release

The Department adds two new subparagraphs to paragraph (a) and a new paragraph (b) to the definition of release in § 120.50 in order to clarify what constitutes a release of technical data, a controlled event requiring authorization from the Department, and the provision of access information that may result in the release of technical data. Paragraph (a)(3) makes it a release of technical data to use access information to cause or enable a foreign person to access, view, or possess technical data in unencrypted form. Paragraph (a)(4) makes it a release of technical data to use access information in a foreign country to cause technical data to be in unencrypted form, including when such actions are taken by U.S. persons abroad. Most U.S. persons will be authorized to release the technical data abroad to themselves or over their employer's virtual private network through the exemption at ITAR § 125.4(b)(9).

The 2015 proposed rule proposed a new paragraph (a)(5) to make it a release to provide access information to a foreign person that can cause or enable access, viewing, or possession of technical data in unencrypted form. It also proposed a Note to paragraph (a) in order to clarify the license requirement regarding technical data secured by the access information when a release occurs under the proposed paragraphs (a)(3), (a)(4), or (a)(5).

In a change from the 2015 proposed rule, the Department now includes at paragraph (b) language derived from the proposed paragraph (a)(5) and Note included in that draft. The new paragraph (b) clarifies that the provision of access information to a foreign person is not itself a controlled event; there is no need for an application by the access information provider, or for the Department to issue an authorization, for the provision of access information. However, in order for the Department to effectively control the release of technical data to a foreign person in certain circumstances, paragraph (b) requires an authorization for a release of technical data to a foreign person before providing the access information to that foreign person, if that access information can cause or enable access, viewing, or possession of the unencrypted technical data. In the absence of an authorization for the release of technical data in such

circumstances, the provision of access information to a foreign person is a violation of ITAR § 127.1(b)(1) for failure to abide by a rule or regulation contained in this subchapter.

Furthermore, causing or enabling a foreign person to access, view, or possess unencrypted technical data may constitute a separate violation of ITAR § 127.1(a), if the exporter (or reexporter or retransferor) in question has not received prior authorization from the Department in the form of a license or other authorization (e.g., exemption). As stated in ITAR § 120.54(b), in order for the sending, taking, or storing technical data to meet the requirements of end-to-end encryption and therefore to constitute an activity that is not a controlled event under ITAR § 120.54(a)(5), the intended recipient must be the originator, a U.S. person in the United States, or otherwise authorized to receive the technical data in an unencrypted form.

The Department recognizes that the 2015 proposed rule contained draft language for a new § 127.1(b)(4) that would have listed the types of controlled events involving the secured unclassified technical data described in this interim final rule's § 120.54(a)(5). The Department did not receive any public comments on this proposed amendment. Nevertheless, once the Department decided to establish a new definition for "access information" in § 120.55 that is distinct from the definition of technical data in § 121.10, it seemed more appropriate to include descriptions of the relevant controlled events under the definition of release in § 120.50 because that provision was added to the ITAR in order to describe more effectively the controlled disclosure of information. Moreover, this construction is analogous to how the EAR defines the term "access information" in EAR § 772.1 and uses that term in § 734.19 to describe controlled events related to "activities that are not exports, reexports, or retransfers" under § 734.18.

Finally, the Department adds and reserves §§ 120.52 and 120.53.

#### Regulatory Analysis and Notices

##### *Administrative Procedure Act*

This rulemaking is exempt from section 553 (Rulemaking) and section 554 (Adjudications) of the Administrative Procedure Act (APA) pursuant to 5 U.S.C. 553(a)(1) as a military or foreign affairs function of the United States Government. Although the Department is of the opinion that this interim final rule is exempt from the rulemaking provisions of the APA,

the Department published this rule as a proposed rule (80 FR 31525) with a 60-day provision for public comment, published an interim final rule (81 FR 35611) with a 30-day provision for public comment and three-month delayed effective date for certain provisions thereof, and now as another interim final rule with a 30-day provision for public comment and three-month delayed effective date for the provisions identified herein. Those publications were without prejudice to the Department's determination that controlling the import and export of defense services is a foreign affairs function.

##### *Regulatory Flexibility Act*

Since the Department is of the opinion that this rulemaking is exempt from the rulemaking provisions of 5 U.S.C. 553, there is no requirement for an analysis under the Regulatory Flexibility Act.

##### *Unfunded Mandates Reform Act of 1995*

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

##### *Small Business Regulatory Enforcement Fairness Act of 1996*

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 (the "Act"), a major rule is a rule that the Administrator of the OMB Office of Information and Regulatory Affairs finds has resulted or is likely to result in: (1) An annual effect on the economy of \$100,000,000 or more; (2) a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and foreign markets.

The Department does not believe this rulemaking is a major rule within the meaning of the Act. The means of solving the issue of data protection are already both familiar to and extensively used by the affected public in protecting sensitive information.

*Executive Orders 12372 and 13132*

This rulemaking 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. Therefore, in accordance with Executive Order 13132, it is determined that this rulemaking does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

*Executive Orders 12866 and 13563*

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributed impacts, and equity). The executive orders stress the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rulemaking has been designated a “significant regulatory action,” although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rulemaking has been reviewed by the Office of Management and Budget (OMB).

*Executive Order 12988*

The Department has reviewed the rulemaking in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

*Executive Order 13175*

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, Executive Order 13175 does not apply to this rulemaking.

*Executive Order 13771*

This final rule is not subject to the requirements of Executive Order 13771 because it is issued with respect to a military or foreign affairs function of the United States.

*Paperwork Reduction Act*

This rulemaking does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35; however, the Department seeks public comment on any unforeseen potential for increased burden.

**List of Subjects in 22 CFR 120**

Arms and munitions, Classified information, Exports.

Accordingly, for the reasons set forth above, title 22, chapter I, subchapter M, part 120 of the Code of Federal Regulations is amended as follows:

**PART 120—PURPOSE AND DEFINITIONS**

- 1. The authority citation for part 120 continues to read as follows:

**Authority:** Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2794; 22 U.S.C. 2651a; Pub. L. 105–261, 112 Stat. 1920; Pub. L. 111–266; Section 1261, Pub. L. 112–239; E.O. 13637, 78 FR 16129.

- 2. Section 120.17 is amended by revising paragraphs (a) introductory text and (a)(6) to read as follows:

**§ 120.17 Export.**

(a) *Export*, except as set forth in § 120.54, § 126.16, or § 126.17, means:

\* \* \* \* \*

(6) The release of previously encrypted technical data as described in § 120.50(a)(3) and (4) of this subchapter.

\* \* \* \* \*

- 3. Section 120.18 is revised to read as follows:

**§ 120.18 Temporary import.**

*Temporary import*, except as set forth in § 120.54, means bringing into the United States from a foreign country any defense article that is to be returned to the country from which it was shipped or taken, or any defense article that is in transit to another foreign destination. Temporary import includes withdrawal of a defense article from a customs bonded warehouse or foreign trade zone for the purpose of returning it to the country of origin or country from which it was shipped or for shipment to another foreign destination. Permanent imports are regulated by the Attorney General under the direction of the Department of Justice’s Bureau of Alcohol, Tobacco, Firearms, and Explosives (see 27 CFR parts 447, 478, 479, and 555).

- 4. Section 120.19 is amended by revising paragraph (a) introductory text to read as follows:

**§ 120.19 Reexport.**

(a) *Reexport*, except as set forth in § 120.54, § 126.16, or § 126.17, means:

\* \* \* \* \*

- 5. Section 120.50 is amended as follows:

- a. By removing the word “or” at the end of paragraph (a)(1);  
 ■ b. By removing the period and adding in its place a semi-colon at the end of paragraph (a)(2); and  
 ■ c. By adding paragraphs (a)(3) and (4) and (b).

The additions read as follows:

**§ 120.50 Release.**

(a) \* \* \*

(3) The use of access information to cause or enable a foreign person, including yourself, to access, view, or possess unencrypted technical data; or

(4) The use of access information to cause technical data outside of the United States to be in unencrypted form.

(b) Authorization for a release of technical data to a foreign person is required to provide access information to that foreign person, if that access information can cause or enable access, viewing, or possession of the unencrypted technical data.

- 6. Section 120.51 is amended by revising paragraph (a) introductory text to read as follows:

**§ 120.51 Retransfer.**

(a) *Retransfer*, except as set forth in § 120.54, § 126.16, or § 126.17, means:

\* \* \* \* \*

**§ 120.52 [Reserved]**

- 7. Add reserved § 120.52.

**§ 120.53 [Reserved]**

- 8. Add reserved § 120.53.

- 9. Section 120.54 is added to read as follows:

**§ 120.54 Activities that are not exports, reexports, retransfers, or temporary imports.**

(a) The following activities are not exports, reexports, retransfers, or temporary imports:

(1) Launching a spacecraft, launch vehicle, payload, or other item into space.

(2) Transmitting or otherwise transferring technical data to a U.S. person in the United States from a person in the United States.

(3) Transmitting or otherwise transferring within the same foreign country technical data between or among only U.S. persons, so long as the transmission or transfer does not result in a release to a foreign person or

transfer to a person prohibited from receiving the technical data.

(4) Shipping, moving, or transferring defense articles between or among the United States as defined in § 120.13 of this subchapter.

(5) Sending, taking, or storing technical data that is:

- (i) Unclassified;
- (ii) Secured using end-to-end encryption;
- (iii) Secured using cryptographic modules (hardware or software) compliant with the Federal Information Processing Standards Publication 140–2 (FIPS 140–2) or its successors, supplemented by software implementation, cryptographic key management, and other procedures and controls that are in accordance with guidance provided in current U.S. National Institute for Standards and Technology (NIST) publications, or by other cryptographic means that provide security strength that is at least comparable to the minimum 128 bits of security strength achieved by the Advanced Encryption Standard (AES–128);
- (iv) Not intentionally sent to a person in or stored in a country proscribed in § 126.1 of this subchapter or the Russian Federation; and

**Note to paragraph (a)(5)(iv):** Data in-transit via the internet is not deemed to be stored.

(v) Not sent from a country proscribed in § 126.1 of this subchapter or the Russian Federation.

(b)(1) For purposes of this section, end-to-end encryption is defined as:

(i) The provision of cryptographic protection of data, such that the data is not in an unencrypted form, between an originator (or the originator's in-country security boundary) and an intended recipient (or the recipient's in-country security boundary); and

(ii) The means of decryption are not provided to any third party.

(2) The originator and the intended recipient may be the same person. The intended recipient must be the originator, a U.S. person in the United States, or a person otherwise authorized to receive the technical data, such as by a license or other approval pursuant to this subchapter.

(c) The ability to access technical data in encrypted form that satisfies the criteria set forth in paragraph (a)(5) of this section does not constitute the release or export of such technical data.

■ 9. Section 120.55 is added to read as follows:

#### **§ 120.55 Access Information.**

Access information is information that allows access to encrypted

technical data subject to this subchapter in an unencrypted form. Examples include decryption keys, network access codes, and passwords.

**Christopher A. Ford,**

*Assistant Secretary, International Security and Nonproliferation, U.S. Department of State.*

[FR Doc. 2019–27438 Filed 12–23–19; 8:45 am]

**BILLING CODE 4710–25–P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 165**

[Docket No. USCG–2019–0942]

#### **Safety Zone, Brandon Road Lock and Dam to Lake Michigan Including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, and Calumet-Saganashkee Channel, Chicago, IL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce a segment of the Safety Zone; Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel on all waters of the Main Branch of the Chicago River 600 feet west of the N Orleans Street Bridge and 1000 feet east of the N Columbus Street Bridge. This action is necessary and intended to protect the safety of life and property on navigable waters prior to, during, and immediately after firework displays. During the enforcement periods listed below, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or a designated representative.

**DATES:** The regulation in 33 CFR 165.930 will be enforced from 11:30 p.m. on December 31, 2019 through 12:15 a.m. on January 1, 2020.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this notice of enforcement, call or email LT Tiziana C. Garner, Waterways Management Division, Marine Safety Unit Chicago, U.S. Coast Guard; telephone (630) 986–2155, email [D09-DG-MSUChicago-Waterways@uscg.mil](mailto:D09-DG-MSUChicago-Waterways@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce a segment of the Safety Zone; Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and

Ship Canal, Chicago River, Calumet-Saganashkee Channel on all waters of the main branch of the Chicago River 600 feet west of the N Orleans Street Bridge and 1000 feet east of the N Columbus Street bridge. During the enforcement period, no vessel may transit this regulated area without approval from the Captain of the Port Lake Michigan or a designated representative. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port Lake Michigan, or an on-scene representative.

This notice of enforcement is issued under authority of 33 CFR 165.930 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will also provide notice through other means, which will include Broadcast Notice to Mariners, Local Notice to Mariners, distribution in leaflet form, and on-scene oral notice. The Captain of the Port Lake Michigan or a designated on-scene representative may be contacted via Channel 16, VHF–FM or at (414) 747–7182.

Dated: December 17, 2019.

**Thomas J. Stuhlreyer,**

*Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.*

[FR Doc. 2019–27625 Filed 12–23–19; 8:45 am]

**BILLING CODE 9110–04–P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 165**

[Docket Number USCG–2019–0965]

**RIN 1625–AA00**

#### **Safety Zone; Straits of Mackinac, MI**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in the Captain of the Port, Sault Sainte Marie zone in Mackinac City, MI. This temporary safety zone is necessary to protect the public and private contractors from potential hazards associated with remotely operated underwater vehicle operations in the Straits of Mackinac. During the effective dates of the rule, vessels will not be able to operate in certain U.S. navigable waters in the Straits of Mackinac within 500 yards of the Tug Nancy Anne and Deck Barge MM–142 without authorization from the Captain of the Port.

**DATES:** This rule is effective without actual notice from December 26, 2019 through December 27, 2019. For the purposes of enforcement, actual notice will be used from December 19, 2019 through December 26, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2019–0965 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this rule, call or email LT Sean V. Murphy, Sector Sault Sainte Marie Waterways Management Division, U.S. Coast Guard at telephone (906) 635–3223, and email [Sean.V.Murphy@uscg.mil](mailto:Sean.V.Murphy@uscg.mil).

#### **SUPPLEMENTARY INFORMATION:**

#### **I. Table of Abbreviations**

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

#### **II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Pursuant to 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The final details of the specific dates, vessel names, and safety zone distances concerning the safety zone were not finalized within a sufficient time to allow for notice and a subsequent 30-day comment period before commencement of remotely operated underwater vehicle (ROV) operations. Delaying this rule to allow for a notice and comment period would be impracticable and contrary to the public interest because it would inhibit the Coast Guard’s ability to protect the public from the potential hazards associated with the ROV operations.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30

days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, delaying the effective date of this rule would be impracticable and contrary to public interest because immediate action is needed to respond to the potential safety hazards associated with the ROV operations.

#### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sault Sainte Marie (COTP) has determined that potential hazards associated with ROV operations starting December 19, 2019, will be a safety concern for anyone within a 500-yard radius of all U.S. navigable waters of the Tug Nancy Anne and Deck Barge MM–142 conducting ROV operations. This rule is needed to protect personnel and vessels in the navigable waters within the safety zones while ROV operations is conducted.

#### **IV. Discussion of the Rule**

This rule establishes a safety zone from December 19, 2019 through December 27, 2019. The safety zones will cover all navigable waters within 500 yards of the Tug Nancy Anne and Deck Barge MM–142. The duration of the zone is intended to protect personnel and vessels in these navigable waters while vessels conduct ROV operations. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

#### **V. Regulatory Analyses**

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

##### *A. Regulatory Planning and Review*

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

This regulatory action determination is based on the size and location of the safety zone. Vessel traffic will be able to safely transit around this safety zone which would impact a small designated area of the Straits of Mackinac. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter 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 rule will not have a significant economic impact on a substantial number of small entities.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

##### *C. Collection of Information*

This rule will not call for a new collection of information under the



Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### *D. Federalism and Indian Tribal Governments*

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

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

#### *E. Unfunded Mandates Reform Act*

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

#### *F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Coast Guard Environmental Planning Policy, COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that does not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that will prohibit entry within 500 yards of U.S. navigable waters of a vessel and barge being used to conduct ROV operations. It is categorically excluded from further review under

paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

#### *G. Protest Activities*

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

#### **List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

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

#### **PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS**

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

**Authority:** 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.T09–0965 to read as follows:

##### **§ 165.T09–0965 Safety Zone; Tug Nancy Anne and Deck Barge MM–142 operating in the Straits of Mackinac, MI.**

(a) *Location.* The following area is a safety zone: All navigable waters within 500 yards of Tug Nancy Anne and Deck Barge MM–142 while conducting remotely operated underwater vehicle (ROV) operations in the Straits of Mackinac.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sault Sainte Marie (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within the safety zone described in paragraph (a) is prohibited unless authorized by the Captain of the Port, Sault Sainte Marie or his on-scene representative.

(2) Before a vessel operator may enter or operate within the safety zone, they

must obtain permission from the Captain of the Port, Sault Sainte Marie, or his on-scene representative via VHF Channel 16 or telephone at (906) 635–3233. Vessel operators given permission to enter or operate in the safety zone must comply with all orders given to them by the Captain of the Port, Sault Sainte Marie or his on-scene representative.

(d) *Enforcement period.* This section will be enforced from December 19, 2019 through December 27, 2019.

Dated: December 18, 2019.

**A.E. Florentino,**

*Commander, U.S. Coast Guard, Acting Captain of the Port Sault Sainte Marie.*

[FR Doc. 2019–27706 Filed 12–23–19; 8:45 am]

**BILLING CODE 9110–04–P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

##### **40 CFR Part 52**

**[EPA–R04–OAR–2019–0203; FRL–10003–55–Region 4]**

##### **Air Quality Plans; Tennessee; Infrastructure Requirements for the 2015 8-Hour Ozone National Ambient Air Quality Standard**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the State Implementation Plan (SIP) submission, provided by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), through a letter dated September 13, 2018, for inclusion into the Tennessee SIP. This action pertains to the infrastructure requirements of the Clean Air Act (CAA or Act) for the 2015 8-hour ozone national ambient air quality standard (NAAQS). Whenever EPA promulgates a new or revised NAAQS, the CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA. TDEC certified that the Tennessee SIP contains provisions that ensure the 2015 8-hour ozone NAAQS is implemented, enforced, and maintained in Tennessee. EPA has determined that portions of Tennessee's SIP submission satisfy certain required infrastructure elements for the 2015 8-hour ozone NAAQS.

**DATES:** This rule will be effective January 27, 2020.

**ADDRESSES:** EPA has established a docket for this action under Docket



Identification No. EPA–R04–OAR–2019–0203. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Sean Lakeman, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, 30303–8960. Mr. Lakeman can be reached via electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov) or via telephone at (404) 562–9043.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On October 1, 2015 (published October 26, 2015, *see* 80 FR 65292), EPA promulgated a revised primary and secondary NAAQS for ozone revising the 8-hour ozone NAAQS from 0.075 parts per million (ppm) to a new more protective level of 0.070 ppm. Pursuant to section 110(a)(1) of the CAA, states are required to submit SIP revisions meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the NAAQS. This particular type of SIP is commonly referred to as an “infrastructure SIP.” States were required to submit such SIPs for the 2015 8-hour ozone NAAQS to EPA no later than October 1, 2018.<sup>1</sup>

<sup>1</sup> In these infrastructure SIP submissions, states generally certify evidence of compliance with

This action is approving Tennessee's September 13, 2018,<sup>2</sup> revision submitted to EPA through TDEC for the applicable infrastructure SIP requirements of the 2015 8-hour ozone NAAQS, with the exception of the interstate transport provisions of section 110(a)(2)(D)(i)(I) pertaining to contribution to nonattainment or interference with maintenance in other states (prongs 1 and 2), and the prevention of significant deterioration (PSD) provisions related to major sources under sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) prong 3, and 110(a)(2)(J). With respect to the interstate transport provisions of section 110(a)(2)(D)(i)(I) and the PSD provisions related to major sources under sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), and 110(a)(2)(J), EPA will address these in separate rulemaking actions.

In a notice of proposed rulemaking (NPRM) published on October 9, 2019 (84 FR 54080), EPA proposed to approve Tennessee's September 13, 2018, revision submitted to EPA through TDEC for the applicable infrastructure SIP requirements of the 2015 8-hour ozone NAAQS. The NPRM provides additional detail regarding the background and rationale for EPA's action. Comments on the NPRM were due on or before November 8, 2019. EPA received no comments on the NPRM.

**II. Final Action**

With the exception of interstate transport provisions of section 110(a)(2)(D)(i)(I) and (II) (prongs 1 and 2) pertaining to the contribution to nonattainment or interference with maintenance in other states and PSD provisions related to major sources under sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J), EPA is approving Tennessee's September 13, 2018, infrastructure submission for the 2015 8-hour ozone NAAQS for the above described infrastructure SIP requirements. EPA is approving Tennessee's infrastructure SIP submission for the 2015 8-hour ozone NAAQS because the submission is consistent with section 110 of the CAA.

**III. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission

sections 110(a)(1) and (2) of the CAA through a combination of state regulations and statutes, some of which have been incorporated into the federally-approved SIP. In addition, certain federally-approved, non-SIP regulations may also be appropriate for demonstrating compliance with sections 110(a)(1) and (2).

<sup>2</sup> The September 13, 2018, SIP submission submitted by TDEC was received by EPA on September 17, 2018.

that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, 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), nor will it impose

substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this

action must be filed in the United States Court of Appeals for the appropriate circuit by February 24, 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 in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 10, 2019.

Mary S. Walker,

Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401 *et seq.*

#### Subpart RR—Tennessee

■ 2. Section 52.2220(e) is amended by adding an entry for “110(a)(1) and (2) Infrastructure Requirements for the 2015 8-hour Ozone NAAQS” at the end of the table to read as follows:

#### § 52.2220 Identification of plan.

\* \* \* \* \*

(e) \* \* \*

#### EPA-APPROVED TENNESSEE NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or non-attainment area	State effective date	EPA approval date	Explanation
110(a)(1) and (2) Infrastructure Requirements for the 2015 8-hour Ozone NAAQS.	Tennessee .....	9/13/2018	12/26/2019 [Insert citation of publication].	With the exception of the PSD permitting requirements of 110(a)(2)(C) and (J), and 110(a)(2)(D)(i)(I) and (II) (prongs 1, 2 and 3).

[FR Doc. 2019–27542 Filed 12–23–19; 8:45 am]

BILLING CODE 6560–50–P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 81

[EPA–R08–OAR–2019–0354; FRL–10003–43–Region 8]

#### Finding of Failure To Attain and Reclassification of Denver Area for the 2008 Ozone National Ambient Air Quality Standard

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is determining that the Denver-Boulder-Greeley-Ft. Collins-Loveland, Colorado nonattainment area (Denver Area) failed to attain the 2008 ozone National Ambient Air Quality Standard (NAAQS) by the applicable attainment date for “Moderate” nonattainment areas. The effect of failing to attain by the attainment date is that the area will be reclassified by operation of law to “Serious” upon the effective date of this final reclassification action. Along with the reclassification, the EPA is finalizing

deadlines for submittal of SIP revisions required under the new classification and implementation of related control requirements. This final action is necessary to fulfill the EPA’s statutory obligation to determine whether the Denver Area attained the NAAQS by the attainment date, and, within six months of the attainment date, to publish a document in the **Federal Register** identifying each area that is determined as having failed to attain and its reclassification.

**DATES:** This rule is effective on January 27, 2020.

**ADDRESSES:** The EPA has established a docket for this action under docket ID no. EPA–R08–OAR–2019–0354. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>; you may contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

#### FOR FURTHER INFORMATION CONTACT:

Abby Fulton, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6563, [fulton.abby@epa.gov](mailto:fulton.abby@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document “we,” “us,” and “our” means the EPA.

#### I. Background

The background for this action is discussed in detail in our August 15, 2019 proposal, in which we proposed to determine that the Denver Area failed to attain the 2008 ozone NAAQS by the applicable attainment date.<sup>1</sup> The proposed determination was based upon complete, quality-assured, and certified ozone monitoring data that showed that, at 0.079 parts per million (ppm), the 8-hour ozone design value for the area exceeded 0.075 ppm for the period 2015–2017.<sup>2</sup> The EPA proposed that the

<sup>1</sup> Proposed Rule and Notice of Public Hearing, Finding of Failure to Attain and Reclassification of Denver Area for the 2008 Ozone National Ambient Air Quality Standard, 84 FR 41674 (Aug. 15, 2019).

<sup>2</sup> *See id.*; Proposed Rule, Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Several Areas Classified as Moderate for the 2008 Ozone National Ambient Air Quality Standards, 83 FR 56781, 56784 (Nov. 14, 2018), Docket ID no. EPA–

Denver Area would be reclassified as a Serious nonattainment area by operation of law on the effective date of a final action finding that the area failed to attain the 2008 ozone NAAQS by the applicable attainment date for Moderate areas.<sup>3</sup> For the Denver Area, we also proposed deadlines for submittal of SIP revisions and implementation of the related control requirements for the Serious nonattainment area consistent with due dates and implementation deadlines for Moderate areas across the country that failed to attain by the July 20, 2018 attainment date.<sup>4</sup>

## II. Final Action

The EPA held a public hearing on the proposal at the Denver regional offices on September 6, 2019 and accepted written public comments through September 16, 2019. All comments received during the public comment period, as well as pertinent comments submitted in response to the EPA's November 2018 proposal to grant the State of Colorado's request for a 1-year attainment date extension for the Denver Area (which was part of a national rulemaking concerning Moderate areas) may be found in the electronic docket for this final action. Key comments and the agency's responses are included in this section, below. A Response to Comments document including all significant comments received on the EPA's proposal and the agency's responses to those comments is in the docket for this rulemaking. To access the full set of comments received and the Response to Comments, please go to <http://www.regulations.gov> and search for Docket No. EPA-R08-OAR-2019-0354, or contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

HQ-OAR-2018-0226; and Air Quality System (AQS, <https://www.epa.gov/aqs>) data, monitor ID 08-059-0011. A design value is a statistic that describes the air quality status of a given location (*i.e.*, air quality monitor) with respect to the NAAQS and is used to determine compliance with the standard. The design value is the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentrations. The design value is calculated for each air quality monitor in an area, and the area's design value is the highest design value among the individual monitoring sites in the area. See 40 CFR part 50, appendix D—Reference Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere (Chemiluminescence Method).

<sup>3</sup> See CAA section 181(b)(2)(A), 42 U.S.C. 7511(b)(2)(A).

<sup>4</sup> See Final Rule, Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Several Areas Classified as Moderate for the 2008 Ozone National Ambient Air Quality Standards, 84 FR 44238 (Aug. 23, 2019).

### A. Determination of Failure To Attain and Reclassification

In accordance with CAA section 181(b)(2), the EPA is finalizing its proposed determination that the Denver Area failed to attain the 2008 ozone NAAQS by the applicable attainment date of July 20, 2018.<sup>5</sup> Therefore, on the effective date of this final action, the area will be reclassified by operation of law from Moderate to Serious for the 2008 ozone NAAQS.<sup>6</sup> Once reclassified to Serious, the Denver Area will be required to attain the standard “as expeditiously as practicable” but no later than nine years after the initial designation as nonattainment, which in this case would be no later than July 20, 2021. If the area attains the 2008 ozone NAAQS before the Serious area attainment date, Colorado may request redesignation to attainment, provided the State can demonstrate that it has met the criteria under CAA section 107(d)(3)(E).<sup>7</sup>

### B. Summary of Major Comments and Responses

The EPA received about 460 comments on its proposal to determine that the Denver Area failed to attain by the applicable attainment date and to reclassify the area to Serious nonattainment. We also received and are considering in this action 14 pertinent comments on our previous proposal to grant the State's since-withdrawn request for an attainment date extension.<sup>8</sup> All comments received are posted in the docket for this action, and responses to all significant comments are in the Response to Comments document in the docket. Below is a summary of the major adverse comments and our responses to them.

*Comments concerning the withdrawn extension request:* Several commenters requested that the EPA reinstate the one-year attainment date extension to give the Denver Area time to attain the NAAQS. Some expressed concern that withdrawal of the one-year extension of the attainment date would not improve air quality as expeditiously as possible. One commenter pointed to a lawsuit at the Colorado Court of Appeals<sup>9</sup> and stated that the Court could possibly

invalidate the withdrawal of the attainment date extension request.

*Response:* By letter dated June 4, 2018,<sup>10</sup> the Colorado Department of Public Health and Environment (CDPHE) requested an extension of the Denver Area Moderate attainment date and certified that the State of Colorado complied with all the requirements and commitments pertaining to the Denver Area Moderate ozone area SIP, in accordance with CAA section 181(a)(5)(A). On November 14, 2018, the EPA proposed in our national Determination of Attainment by the Attainment date (DAAD) action to grant a 1-year extension of the attainment date for the Denver Area.<sup>11</sup> In a letter dated March 26, 2019, Colorado Governor Jared Polis informed the EPA that the State was withdrawing its June 4, 2018, request for a one-year attainment date extension for the 2008 ozone NAAQS.<sup>12</sup> We therefore stated in our final national DAAD action that we were not taking final action on the extension but would be addressing whether the Denver area attained the 2008 NAAQS by the July 20, 2018 attainment date and any associated reclassification in a separate action.<sup>13</sup> We proceeded in this fashion because the EPA interprets CAA section 181(a)(5) to require a request from a state before the EPA may consider granting a one-year attainment date extension.<sup>14</sup> Accordingly, because the Governor has withdrawn the State's request, the EPA is not taking final action to grant a one-year extension for the Denver Area, and instead is determining that the Denver Area failed to attain by the attainment date.

*Comments opposing reclassification:* Several commenters disagreed with the EPA's proposal to reclassify the Denver Area from a Moderate to a Serious nonattainment area. The commenters cited various reasons for their opposition. One asserted that but for international emissions, Colorado would comply with the applicable ozone NAAQS, while another asserted

<sup>10</sup> Letter from Garrison Kaufman, Director, Air Pollution Control Division, CDPHE to Doug Benevento, “Submittal of Exceptional Events Demonstration and Request to Extend 2008 Ozone National Ambient Air Quality Standard Attainment Deadline for the Denver Metropolitan/North Front Range Nonattainment Area” (June 4, 2018), docket ID no. EPA-R08-OAR-2019-0354-0002.

<sup>11</sup> 84 FR at 56784.

<sup>12</sup> Letter from Governor Jared Polis to Doug Benevento, Regional Administrator, EPA Region 8, “Withdrawal of Colorado's Request to Extend the 2008 Ozone National Ambient Air Quality Standard Attainment Date for the Denver Metropolitan/North Front Range Nonattainment Areas” (March 26, 2019), docket ID no. EPA-R08-OAR-2019-0354-0012.

<sup>13</sup> 84 FR at 44242.

<sup>14</sup> See *id.*

<sup>5</sup> See 42 U.S.C. 7511(b)(2); 84 FR 41674.

<sup>6</sup> The revised classification will appear in the **Federal Register** at 40 CFR 81.306.

<sup>7</sup> 42 U.S.C. 7407(d)(3)(E). Redesignation guidance and more information about the Clean Data Policy are available at <https://www.epa.gov/ozone-pollution/redesignation-and-clean-data-policy-cdp>.

<sup>8</sup> 83 FR 56781; these comments are available at docket ID no. EPA-R08-OAR-2019-0354-0011.

<sup>9</sup> See Defend Colorado comment letter, docket ID no. EPA-R08-OAR-2019-0354-0334.

that the State's decision not to pursue a CAA section 179B international emissions demonstration was "misguided." Another commenter alleged that the Denver Area cannot attain the standard by July 20, 2021, and that reclassification would force businesses to adopt new control strategies "with no scientific evidence that such strategies will achieve any reduction in ozone." One comment focused on data, claiming that the CDPHE annual air quality data is "incomplete and materially flawed" because it does not account for international emissions and exceptional events, and that the "based on" language of section 181(b)(2) gives the EPA the discretion to consider factors other than the air quality data submitted by the state. The commenter asked the EPA to reopen the public comment period so that it can "more fully evaluate the impact of international emissions and exceptional events on ozone concentrations in Colorado." Also, the commenter urged the EPA to propose a new rule finding that the Denver Area attained the 2008 ozone NAAQS.

*Response:* Detailed responses to the above comments are in the Response to Comments document in the docket for this action. A summary of those responses follows. The EPA has a mandatory duty under CAA section 181(b)(2) to determine whether the Denver area attained by its July 20, 2018 attainment date based on the area's design value as of the attainment date. The area's 2015–2017 design value of 0.079 parts per million is based on certified, quality-assured air quality monitoring data. None of the air quality considerations raised by commenters permits the EPA to make a different determination of attainment for the Denver area.

With respect to the influence of international emissions on a nonattainment area, CAA section 179B(b)<sup>15</sup> specifies that "any state" that establishes to the satisfaction of the Administrator that an ozone nonattainment area in such state would have attained the ozone NAAQS "but for emissions emanating from outside the United States" is not subject to CAA requirements for reclassification upon failure to attain.<sup>16</sup> The clear statutory

text of CAA section 179B(b) limits the option to make the section 179B(b) demonstration to the state with jurisdiction over the relevant ozone nonattainment area. There is no statute or rule requiring the state to submit a 179B(b) demonstration. As noted by some of the commenters, the CAA is based on a cooperative federalism structure, and in that structure, Congress reserved for each state the discretion, based on its expertise and judgment, whether to seek relief under CAA section 179B(b). The EPA has no authority to require the state to make a different decision, nor may any party make such a demonstration on behalf of the state. The EPA has not received a section 179B(b) demonstration from Colorado.

As to exceptional events, an acceptable demonstration must meet requirements of the Exceptional Events Rule, promulgated at 40 CFR 50.14. Under this rule, demonstrating that an event meets these requirements begins with a state identifying monitoring data that were affected by an exceptional event and resulted in exceedances or violations of any NAAQS for purposes of a regulatory determination. Once a state identifies such data, it may choose to notify the Regional EPA office of its intent to submit an exceptional event demonstration.<sup>17</sup> If the state chooses to submit a demonstration, it flags the associated data and creates an initial event description in the EPA's Air Quality System. The state and the EPA communicate about any potential issues or deadlines that may be pertinent to the submission, and once the demonstration is finalized, the state must provide notice and opportunity for public comment. After these steps have been completed, the state submits the demonstration to the Regional EPA office for analyses and potential concurrence.

As some commenters note, the EPA previously reviewed two exceptional event demonstrations submitted as a part of Colorado's now-withdrawn request for an attainment date extension.<sup>18</sup> These demonstrations were considered in calculating the design value for the Denver Area that this action is based on. That is, the 0.079 ppm design value for the Denver Area excludes the two days covered by the previously submitted exceptional event demonstrations. While the exclusion of

those two days of data qualified the Denver Area for the 1-year extension of the attainment date, the area's design value as of the attainment date exceeds the NAAQS whether or not the exceptional events days are excluded. The EPA will review any exceptional event demonstrations that may be provided by Colorado in the future, as potentially relevant to future actions, but we have received no other demonstrations that relate to this action. As noted above, CAA section 181(b)(2)(A) requires the EPA Administrator to determine whether an area attained the 2008 ozone 8-hour NAAQS based on the area's design value as of the July 20, 2018 attainment date, which in this case was 0.079 ppm, based on data from calendar years 2015–2017.

Finally, the EPA disagrees with the assertion that section 181(b)(2) affords the agency the discretion to consider other factors besides an area's air quality design value in determining whether an area attained by its attainment date. But even if the commenters' interpretations were correct, for the reasons explained above and in the Response to Comments, it would be reasonable in this case not to exercise that discretion, and to consider only the design value.

*Comment:* Several commenters urged the EPA not to finalize reclassification of the Denver Area to Serious because it will result in "immediate and long-term damage" to the State's economy and have "immeasurable economic impacts on the business community" and elsewhere. Several commenters claimed that reclassification would result in the loss of federal highway funds.

*Response:* The CAA does not allow the EPA to consider economic impacts in assessing whether an area has attained the NAAQS by the applicable date. Instead, CAA section 181(b)(2) requires the EPA to make the determination of attainment based solely on the design value, which is derived entirely from monitored air quality data. Here, we find that the Denver Area did not attain the 2008 Ozone NAAQS by the Moderate attainment date, based on the area's 2015–2017 design value of 0.079 ppm—which unequivocally exceeds the standard of 0.075 ppm.<sup>19</sup> As required by CAA section 181(b)(2)(A), the determination that the Denver Area failed to attain by the attainment date results in a reclassification to Serious by operation of law.

As to loss of highway funds, the mere reclassification of an area does not

<sup>15</sup> 42 U.S.C. 7509a(b). Section 179B(a) is not relevant to this action, because it concerns the approvability of attainment demonstrations, and does not apply to reclassifications. Accordingly, our discussion focuses on section 179B(b).

<sup>16</sup> The text of that section contains an erroneous reference to section 181(a)(2) instead of 181(b)(2); our response to the comment would be the same regardless of the cross-referenced section. See

General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, 57 FR 13498, 13569 (Apr. 16, 1992).

<sup>17</sup> 40 CFR 50.14(a).

<sup>18</sup> See Letter from Garrison Kaufman (June 4, 2018), docket ID no. EPA–R08–OAR–2019–0354–0002.

<sup>19</sup> See 83 FR 56784.

automatically trigger highway sanctions or increased offset requirements under section 179(b)(1). Sanctions would only be a possibility if the EPA finds that the State has failed to submit a plan under section 110, disapproves a submission, or finds that any requirement of an approved plan is not being properly implemented, and would only be required if the State fails to remedy the deficiency within 18 months.

*Comment:* Several commenters were concerned about the need for businesses to obtain major source permits because the major source threshold drops with a Serious classification, and about the potential of an increased backlog at CDPHE for issuing permits.

*Response:* We acknowledge commenters' concerns regarding resource needs for permitting new major sources under a Serious reclassification. However, as previously discussed, CAA section 181(b)(2) sets forth the requirements for the EPA to make an attainment determination and subsequent reclassification due to failure to attain, and does not afford the agency any discretion to refrain from reclassification because of commenters' concerns about permitting. The EPA recognizes the challenges posed by a Serious classification, though, and is committed to working closely with Colorado to help them with planning requirements associated with this classification.

*C. Comments Concerning Serious Area SIP Revision Submission Deadlines and Reasonably Available Control Technology (RACT) Implementation Deadlines*

The EPA received comments on the proposed Serious area deadlines for submitting SIP and RACT revisions, and on the deadlines for implementation of RACT. After full consideration of those comments, and pursuant to CAA section 182(i), the EPA is finalizing the following SIP submission due dates and RACT implementation deadlines for Colorado. The due date for Serious area SIP revisions, including RACT measures tied to attainment for the Denver Area, will be August 3, 2020. That is also the implementation deadline for RACT measures tied to attainment. For SIP revisions for RACT measures not tied to attainment, the EPA is finalizing a due date of March 23, 2021 and an implementation deadline of July 20, 2021. All of these deadlines are consistent with deadlines finalized in the August 2019 national rulemaking that reclassified several other areas classified as Moderate to Serious for the

2008 ozone NAAQS.<sup>20</sup> August 3, 2020, is also the deadline for areas classified Moderate and higher for the 2015 ozone NAAQS to submit RACT SIP revisions.<sup>21</sup>

*Comments on August 3, 2020 deadlines:* Some commenters opposed the deadline for SIP submissions and implementation of RACT measures tied to attainment because they asserted that deadline would not provide a reasonable amount of time to evaluate control options, conduct rulemaking, and give affected sources sufficient time to implement control requirements. Several commenters said that it would not be achievable for Colorado to develop and submit a SIP by the August 3, 2020 deadline, especially because of Colorado's legislative process. These commenters preferred a period of 18 months or more, or at least the same amount of time as other reclassified areas, for Serious Area SIP submission due dates and implementation deadline for RACT measures tied to attainment. Several comments suggested that an extended deadline for SIP submittal could result in more significant emission reduction measures than a shortened deadline. On the other hand, other comments supported the August 2, 2020 deadline based on the need to "rapidly address the pollution problem," and one commenter claimed that the EPA's "history of repeated delay in implementing the 2008 NAAQS further justifies EPA's proposal to adopt the same SIP submission due dates and implementation deadlines that were finalized in EPA's August 2019 national rulemaking."

*Response:* CAA section 182(i) gives the Administrator the authority to adjust SIP submission due dates as necessary or appropriate to assure consistency among SIP submissions.<sup>22</sup> In interpreting "consistency among the required submissions," the EPA is not only considering submissions for multiple ozone NAAQS that are currently being implemented, but also consistency among the various similarly situated nonattainment areas that are being reclassified. As stated in section II of the proposal's preamble, "given the State's commitment to addressing its

Serious Area obligations, and given section 182(i)'s focus on consistency, we [find] that aligning Colorado's deadline with the national deadlines is appropriate and necessary for achieving 'consistency among the submissions' of all reclassified areas across the country and supports achieving timely attainment in the Denver Area."<sup>23</sup>

With regard to the requests for a period of 18 months or longer for submitting SIP revisions, the governor's letter withdrawing the extension request committed to "moving aggressively forward and without delay in our efforts to reduce ground level ozone concentrations in the Denver Metro/ North Front Range nonattainment area." We will work with Colorado's air planning agencies as they develop additional attainment plans. Furthermore, Colorado has known that revised implementation plans would be due soon after reclassification, in order to provide for expeditious attainment of the 2008 ozone NAAQS, and has had the opportunity to make progress on plan development activities before issuance of this final action. Colorado was aware of proposed Serious SIP due dates since the November 14, 2018 proposed DAAD, which is evident from the comment letter submitted by CDPHE in connection with that proceeding.<sup>24</sup> And previously, when the Denver Area was reclassified from Marginal to Moderate nonattainment,<sup>25</sup> the State only had seven months from the effective date of reclassification to submit Moderate and RACT SIPs. The Colorado Air Quality Control Commission has adopted new and revised rules in 2019 to prepare for the development and submission of a Serious SIP. Some of these include adoption of Regulation Number 21 to establish VOC content limits for consumer products and architectural and industrial maintenance coatings manufactured and/or sold in Colorado, revisions to Regulation Number 7 to minimize emissions from the oil and gas sector, and adoption of certain RACT for major sources with VOC and/or NO<sub>x</sub> emissions equal to or greater than 50 tons per year (tpy). Nonetheless, the EPA recognizes the challenges posed by these due dates and deadlines and is committed to working closely with

<sup>20</sup> See 84 FR 44238.

<sup>21</sup> See Final Rule, Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements, 83 FR 62998, 63007 (Dec. 6, 2018) (setting RACT submission deadlines at "no later than 24 months after the effective date of nonattainment designation"); Final Rule, Additional Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards, 83 FR 25776 (June 4, 2018) (designating areas effective August 3, 2018).

<sup>22</sup> 42 U.S.C. 7511a(i).

<sup>23</sup> 84 FR at 41676.

<sup>24</sup> Comment submitted by Garry Kaufman, Director, Air Pollution Control Division, CDPHE and Mike Silverstein, Executive Director, Regional Air Quality Council, docket ID no. EPA-R08-OAR-2019-0354-0011.

<sup>25</sup> Final Rule, Determinations of Attainment by the Attainment Date, Extensions of Attainment Date, and Reclassification of Several Areas for the 2008 Ozone National Ambient Air Quality Standards, 81 FR 26697 (May 4, 2017).

states to help them as they prepare SIP revisions in a timely manner.

*Comment on deadline for implementing RACT measures not tied to attainment:* One commenter stated that adopting and enforcing RACT by July 20, 2021 is a significant regulatory burden, and that the legislative framework in Colorado “makes it unworkable for Colorado to meet the proposed deadlines for RACT revisions and the proposed deadlines are therefore arbitrary and capricious.” CDPHE’s comment on the November 14, 2018 proposal recommended aligning the Serious SIP submittals, including RACT, with the Moderate area SIP submittal for the 2015 ozone standard.<sup>26</sup> Alternatively, the State asked for a period of 18 months to two years from the effective date of reclassification to submit a Serious RACT SIP. Several commenters on this action supported the time frames that CDPHE recommended.

CDPHE preferred a RACT implementation deadline of January 1, 2024, as proposed in the national notice, to allow more time for Colorado to identify, adopt, and implement measures for ozone precursor reductions. One commenter agreed with this deadline and claimed that it would be “unlikely that Colorado [could] consider any measures not already in place for sources over 100 tpy” with an implementation date of August 3, 2020. Other commenters supported the proposal to adopt the same SIP submission due dates and implementation deadlines that were finalized in the EPA’s August 2019 national rulemaking, citing to the need for national consistency under Section 182(i).

*Response:* As previously discussed, the EPA has concluded that it is appropriate under CAA section 182(i) to align the submission and implementation deadlines for RACT not needed for attainment with other areas recently reclassified to Serious for the 2008 ozone NAAQS. The deadlines that the State has requested are well beyond the Serious area attainment date, and it is self-evident that an implementation deadline beyond the attainment date cannot serve timely attainment. Also, the deadlines being finalized today best support the State’s expressed commitment to reducing ground level ozone concentrations in the Denver Area. The approach being finalized sets a later deadline for RACT implementation than for submission, which allows some time to implement RACT measures where it is possible to

do so. As noted in the August 23, 2019 rulemaking, we believe that a slightly longer timeframe for measures that are not directly tied to the area’s attainment can be appropriate, especially where an area is simultaneously implementing two ozone standards, such that additional controls will help the area attain both standards more expeditiously.

### III. Statutory and Executive Order Reviews

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

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

#### B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

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

#### C. Paperwork Reduction Act (PRA)

This rule does not impose any new information collection burden under the PRA not already approved by the Office of Management and Budget.<sup>27</sup> This action does not contain any information collection activities and serves only to make final: (1) A determination that the Denver Area Moderate ozone nonattainment area failed to attain the 2008 NAAQS by the July 20, 2018 where such area will be reclassified to Serious nonattainment for the 2008 ozone standards by operation of law upon the effective date of the final reclassification action; and (2) establishment of adjusted due dates for SIP revisions, including RACT SIP revisions, and RACT implementation deadlines.

#### D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. The determination of failure to attain the 2008 ozone NAAQS (and resulting reclassification) does not in and of itself create any new requirements beyond what is mandated

<sup>27</sup> On April 30, 2018, the OMB approved the EPA’s request for renewal of the previously approved information collection request (ICR). The renewed request expires on April 30, 2021, three years after the approval date (see OMB Control Number 2060–0695 and ICR Reference Number 201801–2060–003 for EPA ICR No. 2347.03).

by the CAA. Instead, this rulemaking only makes factual determinations, and does not directly regulate any 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. This action imposes no enforceable duty on any state, local or tribal governments or the private sector.

#### F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, tribes, or the relationship between the national government and the states and tribes, 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 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 and will not impose substantial direct costs on tribal governments or preempt tribal law.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

#### I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

#### J. National Technology Transfer Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

<sup>26</sup> 83 FR 56781.

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

This action does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods.

**L. Congressional Review Act (CRA)**

This rule is exempt from the CRA because it is a rule of particular applicability. The rule makes factual determinations for specific entities and does not directly regulate any entities. The determination of failure to attain the 2008 ozone NAAQS (and resulting reclassification) does not in itself create any new requirements beyond what is mandated by the CAA.

**M. Judicial Review**

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the

appropriate circuit by February 24, 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 in 40 CFR Part 81**

Environmental protection, Air pollution control, Carbon monoxide, Designations and classifications, Greenhouse gases, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 16, 2019.

**Gregory Sopkin,**

*Regional Administrator, Region 8.*

For the reasons stated in the preamble, the Environmental Protection

Agency amends 40 CFR part 81 as follows:

**PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

■ 1. The authority citation for part 81 continues to read as follows:

*Authority:* 42 U.S.C. 7401, *et seq.*

**Subpart C—Section 107 Attainment Status Designations**

■ 2. In § 81.306, the table “Colorado—2008 8-Hour Ozone NAAQS (Primary and secondary)” is amended by revising the “Date” and “Type” entries under “Classification” for “Denver-Boulder-Greeley-Ft. Collins-Loveland, CO:2” to read as follows:

**§ 81.306 Colorado.**

\* \* \* \* \*

**COLORADO—2008 8-HOUR OZONE NAAQS**

[Primary and secondary]

Designated Area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
Denver-Boulder-Greeley-Ft. Collins-Loveland, CO:2 .....	.....	Nonattainment .....	1/27/2020.	Serious.
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

\* \* \* \* \*

[FR Doc. 2019-27485 Filed 12-23-19; 8:45 am]

BILLING CODE 6560-50-P

**CORPORATION FOR NATIONAL AND COMMUNITY SERVICE**

**45 CFR Parts 1230 and 2554**

**RIN 3045-AA73**

**Annual Civil Monetary Penalties Inflation Adjustment**

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Interim final rule.

**SUMMARY:** The Corporation for National and Community Service (CNCS) is updating its regulations to reflect required annual inflation-related increases to the civil monetary penalties in its regulations, pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

**DATES:**

**Effective date:** This rule is effective January 15, 2020.

**Comment due date:** Technical comments may be submitted until January 27, 2020.

**ADDRESSES:** You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) *By mail sent to:* Corporation for National and Community Service; Attention Stephanie Soper; Office of General Counsel; 250 E Street SW, Washington, DC 20525.

(2) By hand delivery or by courier to the CNCS mailroom at the address above between 9:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday, except federal holidays.

(3) Electronically through [www.regulations.gov](http://www.regulations.gov).

Comments submitted in response to this Notice will be made available to the public through [www.regulations.gov](http://www.regulations.gov). For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email

comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Soper, Law Office Manager, Office of General Counsel, at 202-606-6747 or email to [ssoper@cns.gov](mailto:ssoper@cns.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Corporation for National and Community Service (CNCS) is a federal agency that engages millions of Americans in service through its AmeriCorps, Senior Corps, and Volunteer Generation Fund programs to further its mission to improve lives, strengthen communities, and foster



civic engagement through service and volunteering. For more information, visit *NationalService.gov*.

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Pub. L. 114–74) (the “Act”), which is intended to improve the effectiveness of civil monetary penalties and to maintain the deterrent effect of such penalties, requires agencies to adjust the civil monetary penalties for inflation annually.

## II. Method of Calculation

CNCS has two civil monetary penalties in its regulations. A civil monetary penalty under the Act is a penalty, fine, or other sanction that is for a specific monetary amount as provided by Federal law or has a maximum amount provided for by federal law and is assessed or enforced by an agency pursuant to federal law and is assessed or enforced pursuant to an administrative proceeding or a civil action in the federal courts. (*See* 28 U.S.C. 2461 note).

The inflation adjustment for each applicable civil monetary penalty is determined using the percent increase in the Consumer Price Index for all Urban Consumers (CPI-U) for the month of October of the year in which the amount of each civil money penalty was most recently established or modified. In the December 16, 2019, OMB Memo for the Heads of Executive Agencies and Departments, M–20–05, *Implementation of Penalty Inflation Adjustments for 2020, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015*, OMB published the multiplier for the required annual adjustment. The cost-of-living adjustment multiplier for 2020, based on the CPI-U for the month of October 2019, not seasonally adjusted, is 1.01764.

CNCS identified two civil penalties in its regulations: (1) The penalty associated with Restrictions on Lobbying (45 CFR 1230.400) and (2) the penalty associated with the Program Fraud Civil Remedies Act (45 CFR 2554.1).

The civil monetary penalties related to Restrictions on Lobbying (Section 319, Pub. L. 101–121; 31 U.S.C. 1352) range from \$20,134 to \$201,340. Using the 2020 multiplier, the new range of possible civil monetary penalties is from \$20,489 to \$204,892.

The Program Fraud Civil Remedies Act of 1986 (Pub. L. 99–509) civil monetary penalty has an upper limit of \$11,463. Using the 2020 multiplier, the new upper limit of the civil monetary penalty is \$11,665.

## III. Summary of Final Rule

This final rule adjusts the civil monetary penalty amounts related to Restrictions on Lobbying (45 CFR 1230.400) and the Program Fraud Civil Remedies Act of 1986 (45 CFR 2554.1). The range of civil monetary penalties related to Restrictions on Lobbying increase from “\$20,134 to \$201,340” to “\$20,489 to \$204,892.” The civil monetary penalties for the Program Fraud Civil Remedies Act of 1986 increase from “up to \$11,463” to “up to \$11,665.”

## IV. Regulatory Procedures

### A. Determination of Good Cause for Publication Without Notice and Comment

CNCS finds, under 5 U.S.C. 553(b)(3)(B), that there is good cause to except this rule from the public notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b). Because CNCS is implementing a final rule pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, which requires CNCS to update its regulations based on a prescribed formula, CNCS has no discretion in the nature or amount of the change to the civil monetary penalties. Therefore, notice and comment for these proscribed updates is impracticable and unnecessary. As an interim final rule, no further regulatory action is required for the issuance of this legally binding rule. If you would like to provide technical comments, however, they may be submitted until January 27, 2020.

### B. Review Under Procedural Statutes and Executive Orders

CNCS has determined that making technical changes to the amount of civil monetary penalties in its regulations does not trigger any requirements under procedural statutes and Executive Orders that govern rulemaking procedures.

## V. Effective Date

This rule is effective January 15, 2020. The adjusted civil penalty amounts apply to civil penalties assessed on or after January 15, 2020, when the violation occurred after November 2, 2015. If the violation occurred prior to November 2, 2015, or a penalty was assessed prior to August 1, 2016, the pre-adjustment civil penalty amounts in effect prior to August 1, 2106, will apply.

## List of Subjects

### 45 CFR Part 1230

Government contracts, Grant programs, Loan programs, Lobbying, Penalties, Reporting and recordkeeping requirements.

### 45 CFR Part 2554

Claims, Fraud, Organization and functions (Government agencies), Penalties.

For the reasons discussed in the preamble, under the authority of 42 U.S.C. 12651c(c), the Corporation for National and Community Service amends chapters XII and XXV, title 45 of the Code of Federal Regulations as follows:

## PART 1230—NEW RESTRICTIONS ON LOBBYING

■ 1. The authority citation for part 1230 continues to read as follows:

**Authority:** Section 319, Pub. L. 101–121 (31 U.S.C. 1352); Pub. L. 93–113; 42 U.S.C. 4951, *et seq.*; 42 U.S.C. 5060.

### § 1230.400 [Amended]

■ 2. Amend § 1230.400 by:

- a. In paragraphs (a), (b), and (e), removing “\$20,134” and adding, in its place, “\$20,489” each place it appears.
- b. In paragraphs (a), (b), and (e), removing “\$201,340” and adding, in its place, “\$204,892” each place it appears.

### Appendix A to Part 1230 [Amended]

■ 3. Amend appendix A to part 1230 by:

- a. Removing “\$20,134” and adding, in its place, “\$20,489” each place it appears.
- b. Removing “\$201,340” and adding, in its place, “\$204,892” each place it appears.

## PART 2554—PROGRAM FRAUD CIVIL REMEDIES ACT REGULATIONS

■ 4. The authority citation for part 2554 continues to read as follows:

**Authority:** Pub. L. 99–509, Secs. 6101–6104, 100 Stat. 1874 (31 U.S.C. 3801–3812); 42 U.S.C. 12651c-12651d.

### § 2554.1 [Amended]

■ 5. Amend § 2554.1 by removing “\$11,463” in paragraph (b) and adding, in its place, “\$11,665.”

Dated: December 18, 2019.

**Timothy Noelker,**  
General Counsel.

[FR Doc. 2019–27669 Filed 12–23–19; 8:45 am]

**BILLING CODE 6050–28–P**



**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 140819687–5583–02; RTID 0648–XS020]

**Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region; 2019–2020 Commercial Trip Limit Reduction for Spanish Mackerel in the Atlantic Southern Zone**

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

**ACTION:** Temporary rule; trip limit reduction.

**SUMMARY:** NMFS reduces the commercial trip limit of Atlantic migratory group Spanish mackerel in the southern zone of the Atlantic exclusive economic zone (EEZ) to 1,500 lb (680 kg) in round or gutted weight per day. This commercial trip limit reduction is necessary to maximize the socioeconomic benefits of the fishery.

**DATES:** This temporary rule is effective from 6 a.m. eastern time on December 24, 2019, until 12:01 a.m. eastern time on March 1, 2020.

**FOR FURTHER INFORMATION CONTACT:** Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, or email: [mary.vara@noaa.gov](mailto:mary.vara@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish in the Atlantic includes king mackerel, Spanish mackerel, and cobia on the east coast of Florida, and is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All weights described for the Atlantic migratory group of Spanish mackerel (Atlantic Spanish mackerel) apply as either round or gutted weight.

For management purposes, the commercial sector of Atlantic Spanish mackerel is divided into northern and southern zones. The southern zone consists of Federal waters off South Carolina, Georgia, and the east coast of Florida. The southern zone boundaries for Atlantic Spanish mackerel extend from the border of North Carolina and

South Carolina (which is a line extending in a direction of 135°34'55" from true north beginning at 33°51'07.9" N lat. and 78°32'32.6" W long. to the intersection point with the outward boundary of the EEZ) to the border of Miami-Dade and Monroe Counties, Florida (at 25°20'24" N lat.).

The southern zone commercial quota for Atlantic Spanish mackerel is 2,667,330 lb (1,209,881 kg). Seasonally variable trip limits are based on an adjusted commercial quota of 2,417,330 lb (1,096,482 kg). The adjusted commercial quota is calculated to allow continued harvest in the southern zone at a set rate for the remainder of the current fishing year, through February 29, 2020, in accordance with 50 CFR 622.385(b)(2).

As specified at 50 CFR 622.385(b)(1)(ii)(B), after 75 percent of the adjusted commercial quota of Atlantic Spanish mackerel is reached or is projected to be reached, Atlantic Spanish mackerel in or from the EEZ in the southern zone may not be possessed on board or landed from a vessel that has been issued a Federal permit for Atlantic Spanish mackerel in amounts exceeding 1,500 lb (680 kg) per day.

NMFS has determined that 75 percent of the adjusted commercial quota for Atlantic Spanish mackerel has been reached. Accordingly, the commercial trip limit of 1,500 lb (680 kg) per day applies to Atlantic Spanish mackerel harvested in or from the EEZ in the southern zone effective from 6 a.m. eastern time on December 24, 2019, until 12:01 a.m. eastern time on March 1, 2020, unless changed by subsequent notification in the **Federal Register**.

**Classification**

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of Atlantic Spanish mackerel and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.385(b)(1)(ii)(B) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act, because the temporary rule is issued without opportunity for prior notice and opportunity for comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds that the need to immediately reduce the trip limit for the commercial sector for Atlantic Spanish mackerel constitutes good cause to waive the requirements to provide prior notice and the opportunity for public

comment pursuant to 5 U.S.C. 553(b)(B) as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rules implementing the commercial quotas and trip limits have already been subject to notice and comment, and all that remains is to notify the public of the trip limit reduction.

Prior notice and opportunity for public comment is contrary to the public interest, because any delay in the trip limit reduction of the commercial harvest could result in the commercial quota being exceeded. There is a need to immediately implement this action to protect the Atlantic Spanish mackerel resource, because the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment would require additional time and could potentially result in a harvest well in excess of the established commercial quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: December 18, 2019.

**Jennifer M. Wallace,**  
*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. 2019–27723 Filed 12–19–19; 4:15 pm]

**BILLING CODE 3510–22–P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 660**

[Docket No. 191106–0077]

RIN 0648–BI89

**Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Pacific Fishery Management Plan; Amendment 28; Correction**

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

**ACTION:** Final rule; correction

**SUMMARY:** NMFS published a final rule that implemented Amendment 28 to the Pacific Coast Groundfish Fishery Management Plan in the **Federal Register** on November 19, 2019 (84 FR 63966). The final rule changed boundaries of closed areas that affect commercial vessels fishing under the Pacific Coast Groundfish Fishery

Management Plan with bottom contacting gear in Federal waters off of Washington, Oregon, and California.

**DATES:** Effective January 1, 2020.

**FOR FURTHER INFORMATION CONTACT:**

Gretchen Hanshew, West Coast Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115, phone: 206–526–6147, or email: *Gretchen.Hanshew@noaa.gov*.

**SUPPLEMENTARY INFORMATION:**

**Federal Register Correction**

Effective January 1, 2020, in rule document 2019–24684 at 84 FR 63966 in the issue of November 19, 2019:

■ 1. On page 63977, in the second column, in amendatory instruction 12, paragraph (e)(5) is corrected to read as follows:

**§ 660.78 [Corrected]**

(e) \* \* \*

(5) 46°00.83' N lat., 124°36.78' W

long.;

■ 2. On page 63979, in the third column, in amendatory instruction 14, paragraph (f)(22) is corrected to read as follows:

**§ 660.79 [Corrected]**

(f) \* \* \*

(22) 40°32.68' N lat., 125°05.63' W long.;

**Authority:** 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

Dated: December 18, 2019.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. 2019–27657 Filed 12–23–19; 8:45 am]

**BILLING CODE 3510–22–P**

# Proposed Rules

Federal Register

Vol. 84, No. 247

Thursday, December 26, 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.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 335

RIN 3206-AN77

#### Promotion and Internal Placement

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Office of Personnel Management (OPM) is proposing regulations to give agencies the discretion to reinstate certain former Federal employees without competition to positions at any grade level for which the individual is qualified. Agencies will have greater flexibility in recruiting back to Government service former Federal employees who have developed enhanced or higher-level skill-sets than they had when they left government. Individuals seeking to rejoin the Federal workforce may do so more easily and at grade levels commensurate with the skills and experience they actually possess (and be compensated at such grade levels).

**DATES:** Comments must be received on or before February 24, 2020.

**ADDRESSES:** You may submit comments, identified by the docket number or Regulation Identifier Number (RIN) for this proposed rulemaking, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for sending comments.

- *Email:* [employ@opm.gov](mailto:employ@opm.gov). Include the docket number or RIN in the subject line of the message.

*Instructions:* All submissions must include the agency name and docket number or RIN for this rulemaking. Please arrange and identify your comments on the regulatory text by subpart and section number; if your comments relate to the supplementary information, please refer to the heading and page number. All comments received will be posted without change,

including any personal information provided. Please ensure your comments are submitted within the specified open comment period. Comments received after the close of the comment period will be marked "late," and OPM is not required to consider them in formulating a final decision. Before acting on this proposal, OPM will consider all comments we receive on or before the closing date for comments. Changes to this proposal may be made in light of the comments we receive.

**FOR FURTHER INFORMATION CONTACT:**

Michelle Glynn, Telephone: 202-606-1571, Fax: 202-606-2329, TDD: 202-418-3134, or email: [michelle.glynn@opm.gov](mailto:michelle.glynn@opm.gov).

**SUPPLEMENTARY INFORMATION:**

**Summary of the Proposed Changes**

The U.S. Office of Personnel Management (OPM) is exercising its authority under 5 U.S.C. 3301 and 3302 in proposing to revise part 335, title 5, Code of Federal Regulations (CFR), to change the criteria for how an agency may reinstate certain former Federal employees to a position in the competitive service. Under current rules, an agency may reinstate an individual, without competition, only to a position at a grade level that is no higher than the grade level of a position the individual held on a permanent basis in the competitive service. Reinstatement to a higher-graded position, or to a position with greater promotion potential, requires competition under 5 CFR part 335 *Promotion and Internal Placement*.

Oftentimes, when an individual leaves Federal service, he or she acquires skills and/or experience that may qualify the individual for a position at a higher grade level than the one the individual held prior to leaving government. The proposed rules place these reinstatement actions under *discretionary actions* at 5 CFR 335.103(c)(3). The proposed rules allow an agency to reinstate a former career or career-conditional employee without competition, and regardless of the promotion potential, to a position at a grade level higher than that previously held by that individual to provide greater flexibility to agencies when they need to reinstate a former Federal employee. The proposed changes will benefit both agencies as well as individuals seeking to reenter the

Federal workforce as the proposed rules seek to encourage individuals who have gained additional skills and experiences to reenter the Federal workforce at grade levels equal to the grade levels they actually qualify for, not for grade levels they previously qualified for. Any restriction on the promotion potential of the position may be a disincentive to attracting needed talent with the desired skills and/or experience. In order to qualify for this type of reinstatement the individual must meet the following criteria:

(1) Been voluntarily separated from his or her most recent career or career-conditional appointment for at least 1 year, and

(2) Received a rating of record for his or her most recent career or career-conditional position of at least Fully Successful (or equivalent).

OPM is proposing that individuals who voluntarily separate must wait 1 year to be eligible for a higher-graded position under this authority in order to provide consistency with the general qualification requirements for advancement to a higher grade. OPM's government-wide qualification standards require that competitive service employees have 1 year of specialized experience before being promoted to the next highest grade level. The proposed 1-year requirement will prevent situations in which employees seeking a promotion quit and get reinstated to a higher-graded position (in essence a promotion) prior to meeting the specialized experience requirement. Thus, the proposed rules benefit both Federal agencies and former Federal employees seeking reemployment with the government at a level commensurate with each individual's actual skill and/or experience level, while preserving a measure of fairness with respect to current employees.

OPM is proposing that individuals who did not receive a rating of record for his or her most recent career or career-conditional position of at least Fully Successful (or equivalent) are not eligible for reinstatement without competition under this rule because if the individual was not performing to expectations at the time s/he left Federal service, that rationale for liberalizing the rules for re-entry would not be present, and we would want agencies to put the candidate through a more rigorous

process to accurately evaluate current capabilities before hiring the individual again. An individual whose most recent evaluation was less than Fully Successful would have been headed for potential demotion or termination if s/he had remained.

For individuals who resigned and did not wait 1 year or more before applying for reinstatement, or for individuals who did not receive a rating of record for his or her most recent career or career-conditional position of at least Fully Successful (or equivalent), the proposed rule will require competition for higher graded positions, or positions with greater promotion potential. However, the individuals remain eligible for reinstatement without competition for positions with no higher grade or with no more promotion potential than a position previously held by the individual on a permanent basis in the competitive service.

The specific proposed changes are as follows:

OPM is proposing to modify current § 335.103(c)(1)(vi), by requiring competition under this part for an individual seeking reinstatement, within 1 calendar year from the date of his or her separation, to a position at a higher grade level or promotion potential than previously held, or for an individual who did not receive a rating of record of Fully Successful (or equivalent).

New paragraph § 335.103(c)(3)(viii) creates as a discretionary action that is not subject to competitive procedures reinstatement to a position at a higher grade level or promotion potential than previously held provided the individual resigned 1 year or more prior to the date he or she applies for reinstatement, and that the individual received a rating of record for his or her most recent career or career-conditional position of at least Fully Successful (or equivalent).

OPM is proposing these changes under Civil Service Rules II and VII, codified at 5 CFR parts 2 and 7, to establish and administer a system that provides for career appointments for former employees eligible for career appointment upon reinstatement.

#### Regulatory Flexibility Act

I certify that this regulation will not have a significant impact on a substantial number of small entities because it applies only to Federal agencies and employees.

#### E.O. 13563 and E.O. 12866, Regulatory Review

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory

alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a “significant regulatory action,” under Executive Order 12866 and has been reviewed by OMB.

#### Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs

This proposed rule is not expected to be subject to the requirements of E.O. 13771 (82 FR 9339, February 3, 2017) because this proposed rule is expected to be related to agency organization, management, or personnel.

#### E.O. 13132, Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

#### E.O. 12988, Civil Justice Reform

This regulation meets the applicable standard set forth in section 3(a) and (b)(2) of Executive Order 12988.

#### Unfunded Mandates Reform Act of 1995

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

#### Congressional Review Act

This action pertains to agency management, personnel and organization and does not substantially affect the rights or obligations of nonagency parties and, accordingly, is not a “rule” as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting

requirement of 5 U.S.C. 801 does not apply.

#### Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act.

#### List of Subjects in 5 CFR Part 335

Government employees.

Office of Personnel Management

Alexys Stanley,

Regulatory Affairs Analyst.

Accordingly, OPM proposed to amend 5 CFR part 335 as follows:

\* \* \* \* \*

#### PART 335—PROMOTION AND INTERNAL PLACEMENT

■ 1. The authority citation for part 335 continues to read as follows:

**Authority:** 5 U.S.C. 2301, 2302, 3301, 3302, 3330; E.O. 10577, E.O. 11478, 3 CFR 1966–1970, Comp., page 803, unless otherwise noted, E.O. 13087; and E.O. 13152, 3 CFR 19554–58 Comp., p.218; 5 U.S.C. 3304(f), and Pub. L. 106–117.

#### Subpart A—General Provisions

■ 2. In § 335.103, revise paragraph (c)(1)(vi) and add paragraph (c)(3)(viii) to read as follows:

#### § 335.103 Agency promotion programs.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(vi) Reinstatement to a permanent or temporary position at a higher grade or with more promotion potential than a position previously held on a permanent basis in the competitive service if the individual did not wait 1 year or more after separating from Federal employment before applying for reinstatement, or did not receive a rating of record for his or her most recent career or career-conditional position of at least Fully Successful (or equivalent).

\* \* \* \* \*

(viii) Reinstatement in accordance with 5 CFR part 315 to any position in the competitive service for which the individual is qualified at a higher grade level or with more promotion potential than a career or career-conditional position previously held by the individual; provided,—the individual has been voluntarily separated for at least 1 year before being reinstated, and the individual must have received a rating of record for his or her most recent career or career-conditional

position of at least Fully Successful (or equivalent).

\* \* \* \* \*

[FR Doc. 2019-27715 Filed 12-23-19; 8:45 am]

BILLING CODE 6325-39-P

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 17

RIN 2900-AQ63

### Specialty Education Loan Repayment Program

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to amend its regulations that govern scholarship programs to certain health care professionals. This rulemaking would implement the mandates of the VA MISSION Act of 2018 by establishing a Specialty Education Loan Repayment Program, which would assist VA in meeting the staffing needs of VA physicians in medical specialties for which VA has determined that recruitment or retention of qualified personnel is difficult.

**DATES:** Comments must be received on or before February 24, 2020.

**ADDRESSES:** Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand-delivery to: Director, Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW, Room 1064, Washington, DC 20420; or by fax to (202) 273-9026. (This is not a toll-free telephone number.) Comments should indicate that they are submitted in response to “RIN 2900-AQ63—Specialty Education Loan Repayment Program.” Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. (This is not a toll-free telephone number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at <http://www.Regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Whitney Henderson, Manager, Education Loan Repayment Services, 810 Vermont Avenue NW, Washington, DC 20420, [Whitney.Henderson2@va.gov](mailto:Whitney.Henderson2@va.gov), (501) 918-3256. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** On June 6, 2018, section 303 of Public Law 115-182, the John S. McCain III, Daniel K. Akaka, and Samuel R. Johnson VA Maintaining Internal Systems and Strengthening Integrated Outside Networks Act of 2018, or the VA MISSION Act of 2018, amended title 38 of the United States Code (U.S.C.) by establishing new sections 7691 through 7697 and created a new student loan repayment program known as the Specialty Education Loan Repayment Program (SELRP). The SELRP would serve as an incentive for physicians starting or currently in residency programs in medical specialties for which VA has determined that recruitment and retention of qualified personnel is difficult to work for VA at VA facilities that need more physicians with that medical specialty after the individual completes their residency program. VA would determine the anticipated needs for medical specialties during a period of two to six years in the future. In taking this proactive approach, VA would commence recruitment for physicians in these specialties before the projected need to help ensure adequate health care coverage for VA beneficiaries. This proposed rule would establish the requirements for the SELRP in proposed 38 CFR 17.525 through 17.531.

#### 17.525 Purpose

Proposed § 17.525 would establish the purpose of the SELRP. We would state that the SELRP is an incentive program for certain individuals to meet VA's need for physicians in medical specialties for which VA determines that recruitment and retention of qualified personnel is difficult. We would also state that assistance under the SELRP may be in addition to other assistance available to individuals under the Educational Assistance Program under 38 U.S.C. 7601. This section would be in alignment with 38 U.S.C. 7691 and 7692.

#### 17.526 Definitions

Proposed § 17.526 would be the definitions section applicable to §§ 17.525 through 17.530. The term educational loan is defined in § 17.641 for the Program for the Repayment of Educational Loans for Certain VA Psychiatrists (PREL). We would use this definition, with minimal edits by eliminating references to the PREL, to state that the term applies to the SELRP, to maintain consistency in application of similar VA scholarship programs and to ease the implementation of such programs by VA personnel.

We propose to define the term SELRP to mean the Specialty Education Loan Repayment Program established in §§ 17.525 through 17.530.

To define the term State, we would refer to 38 U.S.C. 101(20), or a political subdivision of such a State. We propose to provide this definition to inform the potential participant where the period of obligated service would be performed.

We would also define the term “VA” to mean the Department of Veterans Affairs.

#### 17.527 Eligibility

Proposed § 17.527 would establish the eligibility criteria for participants of the SELRP. Proposed paragraph (a) would state that to be eligible to participate in the SELRP, an individual will be eligible for appointment under 38 U.S.C. 7401 to work as a physician in a medical specialty for which VA determines that recruitment or retention of qualified personnel is difficult. We would add that in determining staffing needs, VA will consider the anticipated needs of VA for a period of two to six years in the future, and utilize staffing shortage occupation, vacancy data, and national health care workforce and other relevant data in such determinations. VA will publish these vacancies in a notice in the **Federal Register** on a yearly basis until vacancies are filled. Although sections 7691 to 7697 do not provide for how VA would publish the vacancies or the frequency of such publications, we believe that adding these requirements via regulation would provide for transparency in VA's needs. See Public Law 115-182, Title III, § 303(f). The individual must also owe any amount of principal or interest for an educational loan where the proceeds were used by or on behalf of the individual to pay costs relating to a course of medical education or training that leads to employment as a physician. Lastly, the individual must have graduated from an accredited medical or osteopathic school and matched to an accredited residency program in a medical specialty designated by VA; or [is] a physician in training with more than 2 years remaining in such training. These requirements are stated in 38 U.S.C. 7693.

Proposed paragraph (b) would provide for instances where an individual applies for the SELRP before there is a posting of a residency match for the individual's medical specialty. See section 303(e) of the VA MISSION Act of 2018. We would state that an applicant may apply for the SELRP before receiving a residency match

during the applicant's senior year of medical or osteopathic school. We would add that Once the applicant is matched with a residency specialty stated in § 17.525 and upon selection of the SELRP, VA must offer the applicant participation in the SELRP no later than 28 days after the applicant is matched with the residency; and VA has published the residency in a Notice in the **Federal Register**. Such notices are published on a yearly basis until vacancies are filled. Although section 7691 does not provide for how VA would publish the residencies or the frequency of such publications, we believe that adding these requirements via regulation would provide for transparency in VA's needs.

Proposed paragraph (c) would state the order of preference for VA to select participants to the SELRP. This order of preference would reflect medically underserved locations where VA has identified a shortage of physicians. We would state that VA would give preference to eligible participants who are, or will be, participating in residency programs in health care facilities that are: Located in rural areas; Operated by Indian tribes, tribal organizations, or the Indian Health Services; or Are affiliated with underserved health care facilities of VA. VA would also give preference to eligible individuals who are veterans. Proposed paragraph (c) would be in alignment with 38 U.S.C. 7693(b).

#### 17.528 Application

Section 303 of the VA MISSION Act of 2018 did not establish an application procedure for the SELRP. To maintain consistency in the application process of similar VA scholarship programs and to ease the implementation such programs by VA personnel, we would mirror proposed § 17.528 to current § 17.643, Application for the Program for Repayment of Educational Loans for Certain VA Psychiatrists (PREL.) Consistent with § 17.643(a), proposed paragraph § 17.528(a) would state that a complete application for the SELRP consists of a completed application form, letters of reference, and personal statement.

Proposed paragraph § 17.528(b) would state what documents qualify as letters of reference. These documents would be those stated in § 17.643(a), however, we would not include as a reference a letter from the Program Director for the specialty in which the applicant is training, as stated in § 17.643(b)(1), because an applicant for the SELRP cannot apply during their fellowship. We would state in proposed paragraph (b)(1) that a reference includes one letter

of reference from the Program Director of the core program in which the applicant is training, which indicates that the applicant is in good to excellent standing, or, for individuals who have yet to initiate training, a letter of reference from a faculty member or dean. Proposed paragraphs § 17.528(b)(2) and (b)(3) would restate § 17.643(b)(2) and (b)(3) with minor edits to apply to the SELRP. We would state that references include one or more letters of reference from faculty members under which the applicant trained; and one letter of reference from a peer colleague who is familiar with the practice and character of the applicant.

Proposed paragraph § 17.528(c) would state what constitutes as a personal statement for purposes of the SELRP. We would restate § 17.643(c). We would edit current § 17.643(c)(1)(ii) by requesting that the applicant provide their interest in working at a particular medical specialty and underserved area. This would facilitate placement of the individual in an underserved location that holds interest to the applicant and for which VA has a vacancy in the medical specialty. We would not restate current § 17.643(c)(2)(i) because the applicant may participate in any program under 38 U.S.C. 7601. We would also make one minor edit in from current § 17.643(c)(2)(ii) in proposed paragraph (c)(2)(i) to state that the covered loan must be specific to education that was required, used, and qualified the applicant for appointment as a physician.

#### 17.529 Award Procedures

Proposed § 17.529 would state the award procedures for the SELRP. Proposed paragraph § 17.529(a) would state the repayment amount for the educational loan. We would state in paragraph (a)(1) that VA may pay no more than \$40,000 in educational loan repayment for each year of obligated service for a period not to exceed four years for a total payment of \$160,000.00. The yearly amount may depend on the total amount of the educational loan of the individual. We would add in proposed paragraph (a)(2) that an educational loan repayment may not exceed the actual amount of principal and interest on an educational loan or loans. Proposed paragraph (a) would be in alignment with 38 U.S.C. 7694.

Section 303 of the VA MISSION Act of 2018 did not contain a provision for the payment of the SELRP. To maintain consistency in the application processes for similar VA scholarship programs and to ease the implementation of such programs by VA, we would mirror the

payment provision in § 17.645(b) for the SELRP in proposed paragraph § 17.529(b) with one minor edit. We would change the term depending on the acceptance of conditions to depending on the terms of the agreement to maintain consistency in terminology in the SELRP.

Proposed paragraph § 17.529(c) would provide for a waiver of the maximum amount of repayment of the applicant's educational loans under certain circumstances. We would state that a waiver may be available if VA determines that there is a shortage of qualified employees due to either the location of where the participant will serve the period of obligated service or due to the requirements of the position (medical specialty) that the participant will hold in VA. Proposed § 17.529(c) would include the caveat that the waiver may not exceed the actual amount of the principal and the interest on the participant's loans payable to or for that participant. This proposed paragraph (c) would be in alignment with 38 U.S.C. 7694(c)(2).

#### 17.530 Agreement and Obligated Service

Proposed § 17.530 would contain the requirements in the agreement that an applicant must sign and the terms of obligated services that are required as participants of the SELRP. As a condition of participating in the SELRP, and participant must agree, in writing, to the conditions stated in proposed paragraph (a). These conditions are a restatement of 38 U.S.C. 7696(a). We would state that a participant must obtain a license to practice medicine in a State; Successfully complete post-graduate training leading to eligibility for board certification in a medical specialty; Serve as a full-time clinical practice employee of VA for 12 months for every \$40,000.00 that the participant receives payment for the SELRP, however, the participant must serve for a period of no fewer than 24 months; and Except as provided in paragraph (b) of this section, begin obligated service as a full-time VA employee no later than 60 days after completing residency in the medical specialty described in § 17.527(a)(1).

Section 303 of the VA MISSION Act of 2018 did not provide a provision for when the participant's obligated service would begin. We believe that establishing such provision via regulation would be helpful to the applicant in knowing the expectations of the SELRP up front. We would mirror proposed paragraph § 17.530(b)(1) to § 17.646(a) by stating that a participant's obligated service will begin on the date

on which the participant begins full-time, permanent employment with VA in the field of medicine in a location determined by VA. Obligated service must be full-time, permanent employment and does not include any period of temporary or contractual employment.

Proposed paragraph (b)(2) would restate 38 U.S.C. 7695 with minor edits. We would state that participants of the SELRP may select from a list of VA medical facilities provided by VA to serve the period of obligated service. In alignment with similar scholarship programs, we would add that VA reserves the right to make final decisions on the location and position of the obligated service. See 38 CFR 17.646(c). VA believes that it is necessary to reserve the right to make final decisions on the location to achieve the intent of the VA Mission Act of 2018. VA must be able to have control over where it places the individuals to ensure VA beneficiaries' health care needs are met in locations that are within close proximity of the beneficiaries' residence.

Proposed § 17.530(c) would restate 38 U.S.C. 7696(b) with minor edits for clarity. We would state that if a participant receives an accredited fellowship in a medical specialty other than the medical specialty described in § 17.527(a)(1), the participant may request, in writing, a delayed commencement of the period of obligated service until after the participant completes the fellowship. However, the period of obligated service will begin no later than 60 days after completion of such fellowship in the medical specialty described in § 17.527(a)(1).

#### 17.531 Failure To Comply With Terms and Conditions of Agreement

Proposed § 17.531 would state the consequences for failure to comply with the terms and conditions of the SELRP. This proposed section would mirror 38 U.S.C. 7696(c) with no edits. We would state that a participant of the SELRP who fails to satisfy the period of obligated service will owe the United States government an amount determined by the formula  $A = B \times ((T - S) \div T)$ , where: "A" is the amount the participant owes the United States government; "B" is the sum of all payments to or for the participant under the SELRP; "T" is the number of months in the period of obligated service of the participant; "S" is the number of whole months of such period of obligated service served by the participant. For example, if a participant agrees to a period of obligated service of 24

months, but only served 12 months and agreed to receive an amount of \$80,000 for 24 months of obligated service, the total amount owed would be calculated as follows:  $A = 80,000 \times ((24 - 12) \div 24)$ , total amount owed the Federal Government would be \$40,000.

#### Effect of Rulemaking

The Code of Federal Regulations, as proposed to be revised by this proposed rulemaking, would represent the exclusive legal authority on this subject. No contrary rules or procedures would be authorized. All VA guidance would be read to conform with this proposed rulemaking if possible or, if not possible, such guidance would be superseded by this rulemaking.

#### Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that VA consider the impact of paperwork and other information collection burdens imposed on the public. According to the 1995 amendments to the Paperwork Reduction Act (5 CFR 1320.8(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number. This proposed rule includes provisions constituting new collections of information under the Paperwork Reduction Act of 1995 that require approval by the OMB. Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking action to OMB for review.

OMB assigns control numbers to collections of information it approves. VA 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. Proposed § 17.528 contains a collection of information under the Paperwork Reduction Act of 1995. If OMB does not approve the collection of information as requested, VA will immediately remove the provision containing a collection of information or take such other action as is directed by OMB.

Comments on the collection of information contained in this proposed rule should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies sent by mail or hand delivery to the Director, Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue NW,

Room 1064, Washington, DC 20420; fax to (202) 273-9026; or through [www.Regulations.gov](http://www.Regulations.gov). Comments should indicate that they are submitted in response to "RIN 2900-AQ63—Specialty Education Loan Repayment Program."

OMB is required to make a decision concerning the collections of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed rule.

VA considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of VA, including whether the information will have practical utility;
- Evaluating the accuracy of VA's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The collections of information contained in § 17.528 are described immediately following this paragraph, under their respective titles. For the new proposed collection of information below, VA used general wage data from the Bureau of Labor Statistics (BLS) to estimate the respondents' costs associated with completing the information collection. According to the latest available BLS data, the mean hourly wage of full-time wage and salary workers was \$101.63 based on the BLS wage code—"29-1069 All Occupations." This information was taken from the following website: [https://www.bls.gov/oes/current/oes\\_nat.htm](https://www.bls.gov/oes/current/oes_nat.htm) (March 2019).

*Title:* Specialty Education Loan Repayment Program.

*OMB Control No.:* 2900-xxxx (new).

*CFR provision:* 38 CFR 17.528.

*Summary of collection of information:* The information required determines the eligibility or suitability of an applicant desiring to participate in the

SELRP under the provisions of 38 U.S.C. 7691 through 7697. The purpose of the SELRP would be to repay educational loans to individuals who pursued a program of study leading to a degree in medicine and who are seeking employment in VA. VA considers this program as a hiring incentive to meet the staffing needs for physicians in medical specialties for which VA determines that recruitment and retention of qualified personnel is difficult.

*Description of the need for information and proposed use of information:* The information is needed to apply for the SELRP. VA will use this information to select qualified candidates to participate in this program.

*Description of likely respondents:* Potential participants of the SELRP.

*Estimated number of respondents per month/year:* 200 per year.

*Estimated frequency of responses per month/year:* 1 time per year.

*Estimated average burden per response:* 90 minutes.

*Estimated total annual reporting and recordkeeping burden:* 80 hours.

*Estimated cost to respondents per year:* VA estimates the total cost to all respondents to be \$8,130 per year. Legally, respondents may not pay a person or business for assistance in completing the information collection. Therefore, there are no expected overhead costs for completing the information collection.

### Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The provisions associated with this rulemaking are not processed by any other entities outside of VA. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking would be exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

### Executive Orders 12866, 13563 and 13771

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving

Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

The Office of Management and Budget has designated this rule is not a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at <http://www.regulations.gov>, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at <http://www.va.gov/orpm> by following the link for VA Regulations Published from FY 2004 through FYTD.

This proposed rule is not expected to be an E.O. 13771 regulatory action because this proposed rule is not significant under E.O. 12866.

### Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

### Catalog of Federal Domestic Assistance

There are no Catalog of Federal Domestic Assistance numbers and titles for this rule.

### List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Health care, Health facilities, Health professions, Health records, Medical and dental schools, Scholarships and fellowships, Veterans.

### Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Pamela Powers, Chief of Staff, Department of Veterans Affairs,

approved this document on November 5, 2019, for publication.

### Consuela Benjamin,

*Regulation Development Coordinator, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.*

For the reasons set forth in the preamble, we propose to amend 38 CFR part 17 as follows:

### PART 17—MEDICAL

■ 1. The authority citation for part 17 is amended to read as follows:

**Authority:** 38 U.S.C. 501, and as noted in specific sections.

\* \* \* \* \*

Sections 17.525 through 17.531 are also issued under 38 U.S.C. 7691 through 7697.

\* \* \* \* \*

■ 2. Adding an undesignated center heading immediately following § 17.511 and new §§ 17.525 through 17.531 to read as follows.

### Specialty Education Loan Repayment Program

17.525	Purpose.
17.526	Definitions.
17.527	Eligibility.
17.528	Application.
17.529	Award procedures.
17.530	Agreement and obligated service.
17.531	Failure to comply with terms and conditions of agreement.

### § 17.525 Purpose.

The purpose of §§ 17.525 through 17.531 is to establish the Specialty Education Loan Repayment Program (SELRP). The SELRP an incentive program for certain individuals to meet VA's need for physicians in medical specialties for which VA determines that recruitment and retention of qualified personnel is difficult. Assistance under the SELRP may be in addition to other assistance available to individuals under the Educational Assistance Program under 38 U.S.C. 7601.

### § 17.526 Definitions.

The following definitions apply to §§ 17.525 through 17.530.

*Educational loan* means a loan, government or commercial, made for educational purposes by institutions that are subject to examination and supervision in their capacity as lending institutions by an agency of the United States or of the state in which the lender has its principal place of business. Loans must be for the actual costs paid for tuition, and other reasonable educational expenses such as living expenses, fees, books, supplies, educational equipment and materials, and laboratory expenses. Loans must be



obtained from a government entity, a private financial institution, a school, or any other authorized entity stated in this definition. The following loans do not qualify for the SELRP:

- (1) Loans obtained from family members, relatives, or friends;
- (2) Loans made prior to, or after, the individual's qualifying education;
- (3) Any portion of a consolidated loan that is not specifically identified with the education and purposes for which the SELRP may be authorized, such as home or auto loans merged with educational loans;
- (4) Loans for which an individual incurred a service obligation for repayment or agreed to service for future cancellation;
- (5) Credit card debt;
- (6) Parent Plus Loans;
- (7) Loans that have been paid in full;
- (8) Loans that are in default, delinquent, not in a current payment status, or have been assumed by a collection agency;
- (9) Loans not obtained from a bank, credit union, savings and loan association, not-for-profit organization, insurance company, school, and other financial or credit institution which is subject to examination and supervision in its capacity as a lending institution by an agency of the United States or of the state in which the lender has its principal place of business;
- (10) Loans for which supporting documentation is not available;
- (11) Loans that have been consolidated with loans of other individuals, such as spouses, children, friends, or other family member; or
- (12) Home equity loans or other non-educational loans.

**SELRP** means the Specialty Education Loan Repayment Program established in §§ 17.525 through 17.530.

**State** means a State as defined in 38 U.S.C. 101(20), or a political subdivision of such a State.

**VA** means the Department of Veterans Affairs.

#### **§ 17.527 Eligibility.**

(a) *General.* An individual must meet the following requirements to be eligible to participate in the SELRP.

- (1) Will be eligible for appointment under 38 U.S.C. 7401 to work as a physician in a medical specialty for which VA determines that recruitment or retention of qualified personnel is difficult. In determining staffing needs, VA will consider the anticipated needs of VA for a period of two to six years in the future. VA will publish these vacancies in a notice in the **Federal Register** on a yearly basis until vacancies are filled.

(2) Owes any amount of principal or interest for an educational loan where the proceeds were used by or on behalf of the individual to pay costs relating to a course of medical education or training that leads to employment as a physician and;

(3) Is:

- (i) Recently graduated from an accredited medical or osteopathic school and matched to an accredited residency program in a medical specialty designated by VA; or
- (ii) A physician in training with more than 2 years remaining in such training.

(b) *Applicants without a residency match.* An applicant may apply for the SELRP before receiving a residency match during the applicant's senior year of medical or osteopathic school. Once the applicant is matched with a residency specialty stated in § 17.525 and upon selection of the SELRP, VA must offer the applicant participation in the SELRP no later than 28 days after

(1) The applicant is matched with the residency; and

(2) VA has published the residency in a Notice in the **Federal Register**. Such notices are published on a yearly basis until vacancies are filled.

(c) *Preferences.* VA will give preference to eligible participants who:

(1) Are, or will be, participating in residency programs in health care facilities that are:

- (i) Located in rural areas;
- (ii) Operated by Indian tribes, tribal organizations, or the Indian Health Services; or
- (iii) Are affiliated with underserved health care facilities of VA.

(2) Veterans.

#### **§ 17.528 Application.**

(a) *General.* A complete application for the SELRP consists of a completed application form, letters of reference, and personal statement.

(b) *References.* The applicant must provide the following letters of reference and sign a release of information form for VA to contact such references. The letters of reference should include the following:

(1) One letter of reference from the Program Director of the core program in which the applicant is training, which indicates that the applicant is in good to excellent standing, or, for individuals who have yet to initiate training, a letter of reference from a faculty member or dean;

(2) One or more letters of reference from faculty members under which the applicant trained; and

(3) One letter of reference from a peer colleague who is familiar with the practice and character of the applicant.

(c) *Personal statement.* The personal statement must include the following documentation:

(1) A cover letter that provides the following information:

- (i) Why the applicant is interested in VA employment;
- (ii) The applicant's interest in working at a particular medical specialty and underserved area;
- (iii) Likely career goals, including career goals in VA; and
- (iv) A brief summary of past employment or training and accomplishments, including any particular clinical areas of interest (e.g., substance abuse).

(2) The following information must be provided on a VA form or online collection system and is subject to VA verification:

(i) A summary of the applicant's educational debt, which includes the total debt amount and when the debt was acquired. The health professional debt covered the loan must be specific to education that was required, used, and qualified the applicant for appointment as a physician.

(ii) The name of the lending agency that provided the educational loan.

(3) A full curriculum vitae.

(The Office of Management and Budget has approved the information collection requirements in this section under control number XXXX-XXXX.)

#### **§ 17.529 Award procedures.**

(a) *Repayment amount.* (1) VA may pay no more than \$40,000 in educational loan repayment for each year of obligated service for a period not to exceed four years for a total payment of \$160,000.00.

(2) An educational loan repayment may not exceed the actual amount of principal and interest on an educational loan or loans.

(b) *Payment.* VA will pay the participant, or the lending institution on behalf of the participant, directly for the principal and interest on the participant's educational loans. Payments will be made monthly or annually for each applicable service period, depending on the terms of the agreement. Participants must provide VA documentation that shows the amounts that were credited or posted by the lending institution to a participant's educational loan during an obligated service period. VA will issue payments after the participant commences the period of obligated service. Payments are exempt from Federal taxation.

(c) *Waiver of maximum amount of payment.* VA may waive the limitations under paragraph (a)(1) of this section to participants of the SELRP if VA

determines that there is a shortage of qualified employees due to either the location of where the participant will serve the period of obligated service or the requirements of the position that the participant will hold in VA. However, the waiver may not exceed the actual amount of the principal and the interest on the participant's loans payable to or for that participant.

#### **§ 17.530 Agreement and obligated service.**

(a) *General.* In addition to any requirements under section 5379(c) of title 5, a participant in the SELRP must agree, in writing, to the following:

- (1) Obtain a license to practice medicine in a State;
- (2) Successfully complete post-graduate training leading to eligibility for board certification in a medical specialty;
- (3) Serve as a full-time clinical practice employee of VA for 12 months for every \$40,000.00 that the participant receives payment through the SELRP, however, the participant must serve for a period of no fewer than 24 months; and
- (4) Except as provided in paragraph (b) of this section, begin obligated service as a full-time VA employee no later than 60 days after completing residency in the medical specialty described in § 17.527(a)(1).

(b) *Obligated service.* (1) *General provision.* A participant's obligated service will begin on the date on which the participant begins full-time, permanent employment with VA in the qualifying field of medicine in a location determined by VA. Obligated service must be full-time, permanent employment and does not include any period of temporary or contractual employment.

(2) *Location and position of obligated service.* VA will provide SELRP participants a list of qualifying medical facility locations. A participant may select a service location from that list. However, VA reserves the right to make final decisions on the location and position of the obligated service.

(c) *Exception to commencement of obligated service.* If a participant receives an accredited fellowship in a medical specialty other than the specialty described in § 17.27(a)(1), the participant may request, in writing, a delayed commencement of the period of obligated service until after the participant completes the fellowship. However, the period of obligated service will begin no later than 60 days after completion of such fellowship in the medical specialty described in § 17.527(a)(1).

#### **§ 17.531 Failure to comply with terms and conditions of agreement.**

A participant of the SELRP who fails to satisfy the period of obligated service will owe the United States government an amount determined by the formula  $A = B \times ((T - S) \div T)$ , where:

- (a) "A" is the amount the participant owes the United States government.
- (b) "B" is the sum of all payments to or for the participant under the SELRP.
- (c) "T" is the number of months in the period of obligated service of the participant.
- (d) "S" is the number of whole months of such period of obligated service served by the participant.

[FR Doc. 2019–27511 Filed 12–23–19; 8:45 am]

BILLING CODE 8320–01–P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[EPA–R01–OAR–2019–0513; FRL–10003–57–Region 1]

#### **Air Plan Approval; Connecticut; Transport State Implementation Plan for the 2008 Ozone Standard**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Connecticut that addresses the interstate transport of air pollution requirements of the Clean Air Act for the 2008 ozone national ambient air quality standards (NAAQS) (*i.e.*, ozone transport SIP). The intended effect of this action is to propose approval of the transport SIP as a revision to the Connecticut SIP. This action is being taken in accordance with the Clean Air Act.

**DATES:** Written comments must be received on or before January 27, 2020.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R01–OAR–2019–0513 at <https://www.regulations.gov>, or via email to [simcox.alison@epa.gov](mailto:simcox.alison@epa.gov). For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is

restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www.epa.gov/dockets/commenting-epa-dockets>. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Alison C. Simcox, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square—Suite 100, (Mail code 05–2), Boston, MA 02109–3912, tel. (617) 918–1684, email [simcox.alison@epa.gov](mailto:simcox.alison@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

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- I. Background
- II. EPA's Evaluation of Connecticut's Submittal
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### **I. Background**

On June 15, 2015, the Connecticut Department of Energy and Environmental Protection (CT DEEP) submitted a revision to its State Implementation Plan (SIP) consisting of an interstate transport SIP for the 2008 ozone NAAQS. This interstate transport SIP, which we are herein proposing to approve, was submitted to address the infrastructure requirements of section 110(a)(2)(D)(i)(I) of the Clean Air Act (CAA or Act).

On March 12, 2008, EPA revised the level of the primary ozone standard from 0.08 ppm to 0.075 ppm, based on a three-year average of the annual

fourth-highest daily maximum 8-hour average. See 73 FR 16436. Section 110(a)(1) of the CAA requires states to submit SIPs to address a new or revised NAAQS within three years after promulgation of a standard, or within a shorter period as EPA may prescribe. Section 110(a)(2) lists the elements that new SIPs must address, as applicable, including section 110(a)(2)(D)(i), which pertains to interstate transport of certain emissions.

Section 110(a)(2)(D)(i) identifies four elements related to the evaluation of impacts of interstate transport of air pollutants; in this rulemaking, we are addressing the first two elements; EPA addressed all other infrastructure SIP elements under section 110(a)(2) for Connecticut for the 2008 8-hour ozone NAAQS in separate rulemakings.<sup>1</sup> Specifically, the portions that we are proposing to approve pertain to section 110(a)(2)(D)(i)(I): (1) Significant contribution to nonattainment of the ozone NAAQS in any other state (commonly called “prong 1”); and (2) interference with maintenance of the ozone NAAQS (commonly called “prong 2”) by any other state. These two provisions (or “prongs”) are commonly referred to as the “good neighbor” provisions of the CAA. The first provision requires that a state’s SIP for a new or revised NAAQS contain adequate measures to prohibit any source or other type of emissions activity in the state from emitting pollutants in amounts that will “contribute significantly” to nonattainment of the NAAQS in another state. The second provision requires that a state’s SIP prohibit any source or other type of emissions activity in the state from emitting pollutants in amounts that will “interfere with maintenance” of the applicable NAAQS in any other state.

*EPA’s Analysis Related to 110(a)(2)(D)(i)(I) for the 2008 8-Hour Ozone NAAQS*

EPA developed technical information and related analyses to assist states with meeting section 110(a)(2)(D)(i)(I) requirements for the 2008 8-hour ozone NAAQS through SIPs and, as appropriate, to provide backstop federal implementation plans (FIPs) in the event that states failed to submit approvable SIPs.<sup>2</sup> On October 26, 2016, EPA took steps to develop this backstop

role with respect to eastern states<sup>3</sup> by finalizing an update to the 2011 Cross-State Air Pollution Rule (2011 CSAPR) ozone-season program that addresses good neighbor obligations for the 2008 8-hour ozone NAAQS (CSAPR Update).<sup>4</sup> The CSAPR Update established statewide nitrogen oxides (NO<sub>x</sub>) budgets for certain affected electricity generating units (EGUs) in 22 eastern states for the May through September ozone season to reduce the interstate transport of ozone pollution in the eastern United States, and, thereby, help downwind states and communities meet and maintain the 2008 8-hour ozone NAAQS. See 81 FR 74506. The rule also determined that emissions from 14 states (including Connecticut) would not significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in downwind states. Accordingly, EPA determined that it did not need to require further emission reductions from sources in those states to address the good neighbor provision as to the 2008 ozone NAAQS. *Id.*

A recent ruling by the United States Court of Appeals for the District of Columbia Circuit in *Wisconsin v. EPA*, 938 F.3d 303 (D.C. Cir. 2019) upheld certain aspects of the CSAPR Update and remanded others to EPA but did not vacate the rule. Our proposed approval of Connecticut’s Transport SIP relies in part on EPA’s finding in the CSAPR Update that emissions from Connecticut do not significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in any downwind state. See 84 FR at 40346–47 (citing 81 FR at 74506). No party challenged that aspect of the CSAPR Update and nothing in the court’s opinion overturned that finding or called it into doubt. Consequently, *Wisconsin* does not impact EPA’s reliance on the finding in the CSAPR Update to support approval of Connecticut’s Transport SIP for the 2008 ozone NAAQS.

The CSAPR Update used the same framework that was used by EPA in developing 2011 CSAPR.<sup>5</sup> Through

several previous rulemakings,<sup>6</sup> EPA, working in partnership with states, established a four-step interstate-transport framework to address the requirements of the “good neighbor” provision for the ozone NAAQS.<sup>7</sup> The four steps are: Step 1—identify downwind receptors that are expected to have problems attaining or maintaining the NAAQS; step 2—determine which upwind states contribute enough to these identified downwind air quality problems to warrant further review and analysis; step 3—identify the emissions reductions necessary to prevent an identified upwind state from contributing significantly to those downwind air quality problems; and step 4—adopt permanent and enforceable measures needed to achieve those emissions reductions.

To apply the first and second steps of the four-step interstate-transport framework to the 2008 ozone NAAQS, EPA evaluated modeling projections for air-quality monitoring sites in 2017 and considered current (at the time) ozone monitoring data at these sites to identify receptors<sup>8</sup> anticipated to have problems attaining or maintaining the 2008 ozone NAAQS. Next, EPA used air-quality modeling to assess contributions from upwind states to these downwind receptors and evaluated the contributions relative to a screening threshold of one percent (1%) of the 2008 NAAQS (*i.e.*, 0.75 parts per billion (ppb)). States with contributions that equaled or exceeded the 1% threshold were identified as warranting further analysis for “significant contribution to nonattainment” or “interference with maintenance” of the NAAQS. In the CSAPR Update, EPA found that Connecticut did not contribute at or above the 1% threshold to any downwind nonattainment or maintenance receptor. See 81 FR 74506. Therefore, EPA did not issue FIP requirements for sources in Connecticut

<sup>6</sup> NO<sub>x</sub> SIP Call. 63 FR 57356 (October 27, 1998); Clean Air Interstate Rule (CAIR). 70 FR 25162 (May 12, 2005); Cross-State Air Pollution Rule (CSAPR). 75 FR 48208 (August 8, 2011); and CSAPR Update. 81 FR 74504 (October 26, 2016).

<sup>7</sup> The four-step interstate framework has also been used to address requirements of the good neighbor provision for some previous particulate matter (PM) NAAQS.

<sup>8</sup> Within the CSAPR framework, the term “receptor” indicates a monitoring site. Under CSAPR Update, nonattainment receptors are downwind monitoring sites that are projected to have an average design value that exceed the NAAQS and that have a current monitored design value above the NAAQS, while maintenance receptors are downwind monitoring sites that are projected to have maximum design values that exceed the NAAQS.

<sup>1</sup> See 80 FR 54471 (September 10, 2015); 81 FR 35636 (June 3, 2016).

<sup>2</sup> The EPA issued a Notice of Data Availability on August 4, 2015, requesting comment on the modeling platform and air quality modeling results that were used for the proposed Cross-State Air Pollution Rule (CSAPR) Update. See 80 FR 46271.

<sup>3</sup> For purposes of the CSAPR Update, “eastern” states refer to all contiguous states fully east of the Rocky Mountains (thus not including the mountain states of Montana, Wyoming, Colorado, or New Mexico).

<sup>4</sup> See Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals, Final Rule (2011 CSAPR), 76 FR 48208 (August 8, 2011); Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS (CSAPR Update), 81 FR 74504 (October 26, 2016).

<sup>5</sup> Key elements of the four-step interstate transport framework have been upheld by the Supreme Court in *EPA v. EME Homer City Generation, L.P.*, 572 U.S. 489 (2014).

as part of CSAPR Update. *See id.* at 74553.

## II. EPA's Evaluation of Connecticut's Submittal

On December 28, 2012, CT DEEP submitted most of its infrastructure SIP for the 2008 ozone NAAQS to EPA. On June 3, 2016, EPA fully approved most, and conditionally approved some portions, of that submittal. *See* 81 FR 35636. However, that submittal did not include the "good neighbor" provisions of section 110(a)(2)(D)(i)(I). On June 15, 2015, Connecticut submitted a SIP revision to address this unmet SIP obligation for the 2008 ozone NAAQS. In today's action, we are proposing to approve that submittal.

In its June 2015 submittal, Connecticut examined the results of EPA's transport modeling for 2017 and ambient monitoring data at key downwind sites to demonstrate that the state meets its good neighbor requirements for the 2008 ozone NAAQS. CT DEEP referenced modeling results for EPA's 2011 CSAPR, which showed that emissions from Connecticut were projected to have a maximum impact in 2018 of 0.41 ppb at the monitor in Suffolk County, NY, with impacts at all other monitors of concern being 0.08 ppb or less, well below the 1% screening threshold of 0.75 ppb for the 2008 NAAQS.

EPA's August 2016 CSAPR Update Modeling TSD also projected the largest contributions of emissions from Connecticut to nonattainment and maintenance receptors at well below the threshold of 1% of the NAAQS. Specifically, this modeling indicated that Connecticut's largest impact on any projected downwind nonattainment receptor in 2017 was 0.00 ppb and the largest impact on any projected downwind maintenance-only site was 0.46 ppb.<sup>9</sup> As a result, in the CSAPR Update, EPA "determined that emissions from [Connecticut] do not significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in downwind states" and that EPA "need not require further emission reductions from sources in [Connecticut] to address the good neighbor provision as to the 2008 ozone NAAQS." 81 FR at 74506.

Connecticut examined the results of EPA's transport modeling for 2017 and CT DEEP projected state-emissions trends to demonstrate that the state meets its good-neighbor requirements for the 2008 ozone NAAQS. Based on

their analysis, total NO<sub>x</sub> emissions are projected to decline 18% between 2017 and 2025. CT DEEP also expects additional NO<sub>x</sub> emission reductions in the post-2017 period because their analysis did not include the state's recent revisions to its low emission vehicle (LEV) regulations, EPA's Tier 3 vehicle and fuel standards, and updates to its NO<sub>x</sub> RACT regulations. These additional NO<sub>x</sub> reductions expected to occur in future years (described below) further help to ensure that the state will not significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in other states.

CT DEEP identified regulations that have been approved into the Connecticut SIP to provide for the control of nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOCs), the primary precursors to the formation of ground level ozone. Reasonably available control technology (RACT) has been required for major sources of NO<sub>x</sub> in Connecticut since 1996, with multiple updates since. On July 31, 2017, EPA approved Connecticut's Regulations of State Agencies (RCSA) sections 22a–174–22e, Control of nitrogen oxides emissions, –22f, High daily NO<sub>x</sub> emitting units at non-major sources of NO<sub>x</sub>, and –38, Municipal Waste Combustors. *See* 82 FR 35454.

In addition to these programs, CT DEEP noted that it implements regulations modeled after California's LEV program, has established a stringent new motor vehicle control program, and implements a statewide vehicle emission inspection and maintenance program and state and federal incentive programs for diesel vehicle retrofits and replacements. Connecticut also implements a variety of energy efficiency strategies, including its Comprehensive Energy Strategy<sup>20</sup>.

In light of the EPA's determination made in the CSAPR Update finding that emissions from Connecticut will not significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in downwind states, we propose that Connecticut has met its CAA Section 110(a)(2)(D)(i)(I) "good neighbor" SIP obligation for the 2008 ozone NAAQS.

## III. Proposed Action

EPA is proposing to approve Connecticut's June 15, 2015, SIP submission as meeting the CAA requirements of prongs 1 and 2 under section 110(a)(2)(D)(i)(I) for the 2008 8-hour ozone NAAQS. EPA is soliciting public comments on the issues discussed in this notice or on other

relevant matters.<sup>10</sup> These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the ADDRESSES section of this Federal Register.

## IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed 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 proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not expected to be an Executive Order 13771 regulatory action because this action is not significant 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

<sup>10</sup> However, the EPA notes that it is not, in this action, reopening for public comment or otherwise reconsidering the analytic analysis conducted for or the determinations made in the final CSAPR Update rulemaking action.

<sup>9</sup> See CSAPR Update Modeling TSD at Table 4–2.

Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide 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 and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 18, 2019.

**Dennis Deziel,**

*Regional Administrator, EPA Region 1.*

[FR Doc. 2019-27765 Filed 12-23-19; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 572

[Docket No. NHTSA-2019-0023]

RIN 2127-AM13

#### Anthropomorphic Test Devices, HIII 5th Percentile Female Test Dummy; Incorporation by Reference

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes to revise the chest jacket and spine box specifications for the Hybrid III 5th Percentile Female Test Dummy (HIII-5F) set forth in Part 572, *Anthropomorphic Test Devices*. The proposed jacket revisions would resolve discrepancies between the jacket specifications in Subpart O and jackets available in the field, and ensure a

sufficiently low level of variation between jackets fabricated by different manufacturers. The spine box revisions would eliminate a source of signal noise caused by fasteners within the box that may become loose. This rulemaking responds to a petition for rulemaking from the Alliance of Automobile Manufacturers.

**DATES:** You should submit your comments early enough to be received not later than February 24, 2020. *Proposed effective date:* 45 days following date of publication of a final rule.

**ADDRESSES:** You may submit comments to the docket number identified in the heading of this document by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, M-30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

- You may also call the Docket at 202-366-9826.

Regardless of how you submit your comments, please mention the docket number of this document.

*Instructions:* For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note: All comments received, including any personal information provided, will be posted without change to <http://www.regulations.gov>.

*Privacy Act:* Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

*Confidential Business Information:* If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given

under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to the Docket at the address given above. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR part 512).

#### FOR FURTHER INFORMATION CONTACT:

For technical issues, you may contact Mr. Peter G. Martin, Office of Crashworthiness Standards (telephone: 202-366-5668). For legal issues, you may contact Mr. John Piazza, Office of Chief Counsel (telephone: 202-366-2992) (fax: 202-366-3820). Address: National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Washington, DC 20590.

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#### I. Executive Summary

This document proposes changes to the Hybrid III 5th percentile adult female (HIII-5F) anthropomorphic test device (crash test dummy). The HIII-5F is used in frontal compliance crash tests and air bag static deployment tests, certification to which is required for certain vehicles by Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *“Occupant crash protection.”* The dummy is described in 49 CFR part 572 Subpart O.

Among other things, Subpart O incorporates by reference several documents that specify the physical make-up of the dummy. This document proposes changes to the chest jacket and spine box specifications to address issues with the fit and availability of the jacket and a noise artifact from the spine box. Neither change is intended to impose new requirements on vehicle manufacturers.

#### *Chest Jacket*

The chest jacket is a sleeveless foam-filled vinyl zippered jacket that represents human flesh, including female breasts. The chest jacket may need to be replaced because it can shrink or otherwise fall out of specification or wear out with age. Since the introduction of the HIII-5F into Part 572 in 2000, none of the jackets that were manufactured met the jacket specifications specified in Part 572. Since around 2006, NHTSA, in its own compliance tests, has used the brand of dummy and jacket (either First Technology Safety Systems (FTSS) or Denton ATD (Denton)) used by the vehicle manufacturer to certify the vehicle. However, these FTSS and Denton jackets are no longer being manufactured; manufacturers (or test laboratories) and NHTSA have, or will soon, run out of these jackets. In 2013, SAE<sup>1</sup> published an information report for the HIII-5F chest jacket, SAE J2921 JAN2013, *H-III5F Chest Jacket Harmonization*, describing a new jacket compatible with FTSS and Denton dummies.

This NPRM proposes to adopt the jacket specifications described in J2921, as well as a few additional specifications. We believe that chest jackets that have been and are being manufactured to the SAE J2921 design would also conform to the proposed specifications but seek comment on whether this is accurate. NHTSA also believes that additional specifications are necessary to ensure a sufficient level of uniformity between jackets produced by different manufacturers when other manufacturers enter the market, and to prevent the variances in jacket designs that were problematic in the past from reoccurring.

We recognize that when the proposed jacket is used on an existing dummy, the dummy may require some amount of re-tuning or refurbishment to pass the Part 572 Subpart O qualifications tests, but this is commonplace when worn parts are replaced. NHTSA tentatively

concludes that the proposed jacket specification would assure uniformity in the form, fit, and function of the HIII-5F. A benefit of this is that the agency would no longer have to maintain chest jackets of different designs and take steps to match the compliance test jacket with that specified by the vehicle manufacturers, thereby providing more objective test results. We also tentatively conclude that dummies fitted with chest jackets that satisfy the proposed specifications would perform equivalently to dummies fitted with the FTSS or Denton jackets that were previously used. We seek comment on all of these tentative conclusions.

#### *Spine Box*

The spine box is the dummy's steel backbone. It is located in the dummy's thorax, which consists of six bands that simulate human ribs. Since the mid-2000s, industry and NHTSA have been aware of a signal noise artifact in the signals from the accelerometers in the thorax during sled and crash tests originating in the spine box. The source of the noise is fasteners that become loose during normal use. In 2011 SAE published an information report for a spine box modification (SAE J2915 AUG2011, *HIII5F Spine Box Update to Eliminate Noise*).

We propose to adopt the SAE modification, details of which are specified within engineering drawings provided in the J2915 information report. The proposed revisions would add plates to the side of the spine box, with bolts countersunk into the plate to remove any play from the assembly. The modification does not affect or change the dummy's performance in any way (other than eliminate the potential for noise). The improved spine box addresses a shortcoming in the ATD's design that had to be addressed by end users disassembling the dummy, re-torquing the relevant fasteners by hand before each test, and re-qualifying the dummy as needed. The improved spine box increases the quality of data and reduces maintenance and testing time.

#### *Lead Time*

NHTSA proposes a 45-day effective date following date of publication of a final rule to make available ATDs with the new chest jacket and spine box for use in agency testing. Manufacturers wishing to test with the proposed jacket and spine box should have no difficulty obtaining the necessary parts. We believe that the chest jackets that are currently being manufactured to meet the SAE J2921 specifications would also meet the proposed specifications. We also believe that the parts to implement

the spine box fix are available, as are newly-manufactured replacement spine boxes that incorporate the fix.

#### *Petition for Rulemaking*

In 2014, the Alliance of Automobile Manufacturers (Alliance) petitioned NHTSA to incorporate the new SAE jacket into Part 572 per SAE Information Report J2921 and revise the spine box as described in SAE Information Report J2915.<sup>2</sup> NHTSA subsequently sent a letter to the Alliance asking for clarification on several points. The Alliance responded to NHTSA's request with a supplemental letter dated May 11, 2015.<sup>3</sup> The contents of this response are discussed in more detail in subsequent sections of this notice. NHTSA has granted this petition and today's NPRM commences rulemaking on the issues presented by the petition.

## **II. Chest Jacket**

### *a. Background*

Today's NPRM proposes changes to the Hybrid III 5th percentile small female (HIII-5F) test dummy. The HIII-5F was added to Part 572 in 2000.<sup>4</sup> The HIII-5F is used in frontal compliance crash tests and air bag static deployment tests, certification to which is required for certain vehicles by FMVSS No. 208, "Occupant crash protection." The dummy is described in 49 CFR part 572 Subpart O. This subpart contains regulatory text describing the qualification procedures and requirements for the dummy. Subpart O also incorporates several other documents by reference. Those documents describe the physical make-up of the dummy, and include a parts list, a set of engineering drawings, and a document entitled, "Procedures for Assembly, Disassembly, and Inspection" (PADI). These documents can be found in Docket NHTSA-2000-6940 (available at [www.regulations.gov](http://www.regulations.gov)).

The HIII-5F chest jacket is a sleeveless foam-filled vinyl zippered jacket that represents human flesh, including female breasts. The chest jacket is zipped onto the dummy and covers the entire thorax, including the shoulder assembly. It is currently specified in the parts and drawings document in drawings 880105-355-E, 880105-356, 880105-423, and 880105-

<sup>2</sup> Letter from Scott Schmidt, Alliance, to NHTSA (Feb. 21, 2014). The Alliance consisted of: BMW Group; Chrysler Group LLC, Ford Motor Company; General Motors Company; Jaguar Land Rover; Mazda; Mercedes-Benz USA; Mitsubishi Motors; Porsche; Toyota; Volkswagen Group of America and Volvo Cars.

<sup>3</sup> Letter from Scott Schmidt, Alliance, to NHTSA (May 11, 2015).

<sup>4</sup> 65 FR 10968 (Mar. 1, 2000).

<sup>1</sup> The Society of Automotive Engineers (now SAE International). SAE is an organization that develops technical standards based on best practices.

424, with a call-out to it in drawing 880105–300.

This NPRM proposes changes to the chest jacket specifications to address known issues with the shape and availability of the jacket.

*b. Existing Jackets Do Not Meet the Current Part 572 Specifications*

The chest jacket, along with the HIII–5F, was developed under the auspices of SAE.<sup>5</sup> At the time Subpart O was created in 2000, jackets were being produced by FTSS. Soon thereafter, Applied Safety Technologies Corporation, which later became Denton, began to manufacture HIII–5F dummies and jackets.

The jackets FTSS and Denton produced did not conform to all aspects of the Part 572 specifications; in addition, jackets produced by each manufacturer also differed from each other. Both Transport Canada and the Alliance found dimensional differences between the two brands of jackets. In particular, the breast location differed, and the Denton jacket was longer.<sup>6</sup> Transport Canada's research also found that neither jacket matched the Part 572 specifications, though the Denton jacket dimensions were generally closer.<sup>7</sup> For example, the breasts on the FTSS jacket were lower than in the codified specifications.<sup>8</sup> Both Transport Canada and the Alliance concluded that the codified jacket specifications did not contain sufficient information about the shape and placement of the breasts to assure uniformity in the production of jackets between jacket manufacturers.<sup>9</sup>

The differences between the FTSS and Denton jackets, and between those jackets and the Part 572 specifications, are the result of a variety of factors. For one, the Subpart O jacket drawing, which consists of two sheets, contains errors and ambiguities. The dimensions for the breast locations are not consistent between the two sheets, and the overall shape is not consistent, either. These inconsistencies and ambiguities contributed to dimensional differences between the FTSS and Denton jackets.

In addition, design choices by FTSS and Denton also contributed to the discrepancies. When NHTSA added the

dummy and jacket to Part 572 in 2000, the engineering drawings for the jacket came from SAE. However, the jacket specifications did not match the actual jacket that FTSS was making. During the dummy development period, FTSS made a manufacturing decision to lower the breasts to change the lay of the shoulder belt.<sup>10</sup> FTSS later informed NHTSA that it had also increased the jacket depth by ½ inch to improve fit.<sup>11</sup> These changes were not reflected in the specifications that were ultimately incorporated by reference in Part 572 in 2000 (8801054–355–E, Rev. D). With respect to the Denton jacket, discrepancies between it and the Part 572 specifications arose after Subpart O was established, when Denton began producing dummies and jackets using their own molding processes. The Denton jacket more closely matched the Subpart O drawing than FTSS's, but did not conform wholly to it.

In 2003, FTSS submitted a petition for rulemaking to revise the jacket dimensions to correspond to the dimensions of the jackets then being produced by FTSS.<sup>12</sup> NHTSA denied this petition.<sup>13</sup> The agency stated that while dummies with the FTSS and Denton jackets performed somewhat differently than dummies with jackets that conformed with the Part 572 specifications, the dimensional differences did not have a significant effect on dummy performance as long as the seat belt was properly positioned.<sup>14</sup>

However, studies of the jacket by Transport Canada and the Alliance in the mid-2000s found that FTSS and Denton dummies performed differently in the types of testing specified in FMVSS No. 208.<sup>15</sup> FMVSS No. 208 specifies a variety of different dynamic (crash) and static (out-of-position) requirements using the HIII–5F.<sup>16</sup> Transport Canada's research found that the FTSS and Denton dummies performed differently with respect to chest deflection in both full-scale rigid barrier crash tests and in out-of-position testing. It concluded that the

dimensional differences between the FTSS and Denton jackets “influences belt placement and affects contact with airbag modules during out-of-position testing . . . these differences confound the interpretation of chest response and adversely affect the validity of the test instrument.”<sup>17</sup> The Alliance in a 2006 letter to NHTSA similarly reported research by vehicle manufacturers demonstrating that “significant variations in chest jacket dimensions between the Denton and FTSS ATD[s] . . . may produce different test results when evaluated in the NHTSA–1 & NHTSA–2 Out-of-Position Driver FMVSS 208 Tests.”<sup>18</sup>

*c. Development of the SAE J2921 Jacket Specifications (SAE Jacket)*

These differences between the FTSS and Denton jackets led SAE, in 2006, to establish a task force to develop a harmonized jacket (for ease of reference, referred to in this document as the “SAE jacket”). The main goal of the task force was to develop a jacket design such that both FTSS and Denton could produce a single, interchangeable jacket compatible with both companies' versions of the HIII–5F. The task force also developed a device (referred to as a mandrel) to check jacket fit as the jacket ages (it is known that the jacket shrinks over time).

In 2010, FTSS and Denton merged to form Humanetics. Humanetics continued the jacket harmonization work of its predecessor companies. However, the merger meant that Humanetics was the only dummy manufacturer involved with drafting the SAE information report. Therefore, what began as an effort to specify the design of a “harmonized” jacket that could be produced by any manufacturer became an effort for Humanetics to simply design and produce a jacket that could fit existing Denton and FTSS dummies as well as newly manufactured Humanetics dummies.

During jacket development, Humanetics (under the auspices of SAE) refined the jacket design to account for various issues. NHTSA testing of early iterations of the jacket showed that an HIII–5F dummy fitted with it did not pass the Part 572 Subpart O torso flexion qualification test. (The results of this testing are discussed below in Section IV.) Humanetics addressed this issue by tapering the thickness of the

<sup>10</sup> 71 FR 45427 (Aug. 9, 2006) (notice of denial of petition for rulemaking).

<sup>11</sup> Letter from FTSS to NHTSA (Aug. 28, 2006) (responding to NHTSA's notice of denial).

<sup>12</sup> Letter from FTSS to NHTSA (dated December 30, 2003).

<sup>13</sup> 71 FR 45427 (Aug. 9, 2006).

<sup>14</sup> *Id.* See also letter from FTSS to NHTSA (Aug. 28, 2006).

<sup>15</sup> Tylko et al. (Nov. 2006), *supra*, p. 390; letter from the Alliance (Jan. 31, 2006), *supra*, p. 8. See also Tylko et al., 2006, A Comparison of Hybrid III 5th Female Dummy Chest Responses in Controlled Sled Trials, SAE Technical Paper Series, 2006–01–0455.

<sup>16</sup> See, e.g., S15 (rigid barrier test requirements); S25 (out-of-position requirements).

<sup>5</sup> The Society of Automotive Engineers (now SAE International). SAE is an organization that develops technical standards based on best practices.

<sup>6</sup> Letter from the Alliance to NHTSA (Jan. 31, 2006) (Alliance letter), p. 8; Suzanne Tylko et al., 2006, The Effect of Breast Anthropometry on the Hybrid III 5th Female Chest Response, Stapp Car Crash Journal, Vol. 50 (Nov. 2006), p. 390.

<sup>7</sup> Tylko et al. 2006, *supra*, p. 392.

<sup>8</sup> *Id.* at p. 392.

<sup>9</sup> *Id.*, Alliance letter, p. 6.

<sup>17</sup> Tylko et al. 2006, The Effect of Breast Anthropometry on the Hybrid III 5th Female Chest Response, Stapp Car Crash Journal, Vol. 50 (Nov. 2006), *supra*, p. 393.

<sup>18</sup> Alliance letter to NHTSA (Jan. 31, 2006), *supra*, pp. 1, 9. In 2005 the Alliance presented these issues to NHTSA and documented them in a 2006 letter.



jacket around the lower circumference where it interacts with the pelvis flesh.

SAE published an information report for the jacket in 2013 (SAE J2921 JAN2013 *supra*). The SAE jacket is intended to be compatible with all existing dummy brands (although, as explained later in this preamble, a dummy might need some tuning or refurbishing to meet Subpart O qualification requirements with the jacket). The J2921 jacket is currently offered for sale by Humanetics and JASTI-USA, Inc., the U.S. affiliate of JASTI Co., LLC, a manufacturer of dummies and test equipment headquartered in Japan.

#### *d. NHTSA Enforcement Policy To Address Chest Jacket Issues*

Since the introduction of the HIII-5F in 2000, the available jackets brands (principally from FTSS and Denton) did not match each other, and neither exactly matched the Part 572 specifications. Such differences can lead to different compliance test results with different jackets.

In 2006, the Alliance requested that NHTSA, in its compliance testing program, use the same dummy brand (Denton or FTSS) the vehicle manufacturer used in its certification of a particular make/model. NHTSA adopted this requested practice by maintaining qualified dummies (and jackets) from both FTSS and Denton and has tracked which brand was used in the certification of vehicles the agency tests.

Recent events render this approach obsolete and necessitate further action by NHTSA. After the merger of FTSS and Denton, Humanetics indicated that it would maintain production of the FTSS and Denton brand versions of the jackets so that they could be used as spare parts on the existing FTSS and Denton dummies.<sup>19</sup> However, in 2015 Humanetics discontinued production of the original FTSS and Denton chest jacket designs. According to its product catalog, Humanetics now sells only the SAE jacket, identified as part number 880105-355-H.<sup>20</sup> This is the part number of the engineering drawing of the jacket that appears in SAE J2921.

Over the past few years, NHTSA has received requests from several vehicle manufacturers for NHTSA to conduct its compliance tests using the SAE jacket.

NHTSA did not agree to these requests, and instead required manufacturers to identify an FTSS or Denton jacket for NHTSA to use in its compliance testing. However, because chest jackets shrink or otherwise fall out of specification or wear out with age, NHTSA's stock of FTSS and Denton jackets is running out, and NHTSA has only a limited supply. The Alliance has informed NHTSA that its members are facing the same issue. Thus, the issues of jacket availability and which jacket designs are acceptable for use in compliance tests have become more urgent.

Today's proposal is intended to resolve these issues by commencing amending the Part 572 specifications for the jacket to include the specifications set out in J2921. The proposal also includes a few specifications we developed that are intended to ensure that jackets produced by different manufacturers perform equivalently on all dummy brands. We believe that new jackets currently produced by Humanetics meet both the specifications in J2921 and the additional specifications.

#### *e. Proposed Modifications To Adopt the SAE Jacket*

We propose to amend the chest jacket specifications in Subpart O. The proposed changes reflect the J2921 jacket design in which the breast contours are blended more gradually into the torso, compared to the current Subpart O design where the breast contours are more sharply defined.

We propose to adopt the specifications in SAE J2921 (Figures 4–6, which are engineering drawings of the SAE jacket design). However, we also propose adding additional specifications for the jacket's contour that are not contained in SAE J2921. Our proposed additional specifications for the jacket's contour adds breadth, depth, and circumference dimensions at different section levels of the jacket on the main assembly drawing of the dummy (880105-000, Rev. J, Sheet 5). Dimensions are specified for a jacket worn on a dummy, *i.e.*, measurements would be recorded on the jacket as worn on a dummy positioned on the same flat-back bench as what is currently shown on 880105-000, Rev. J, Sheet 5. The additional dimensional specifications are intended to define the outer shape of the thorax and to preclude belt routing discrepancies. The information includes additional views of the chest jacket at various cross sections.

We tentatively believe these additional specifications are necessary to ensure a sufficiently low level of

variation between jackets produced by different manufacturers. We note that the jacket drawing contained within SAE J2921 JAN2013 has less specificity than the current Subpart O drawing, 880105-355-E, Rev. D. In the final J2921 report, there are no dimensions, reference or otherwise, defining the breast size or the arm hole size and location. Also, the taper shown in J2921 (added after the 2011 draft to mitigate binding in the torso flexion test) is pictorial only, with no dimensions. The SAE report also does not indicate whether the specifications are for the jacket on its own or as fitted on a dummy. The agency is concerned that this overall lack of specificity could result in the production of jackets of vastly different shapes, but still meeting the drawing specifications of J2921. As was the case with the old FTSS and Denton jackets and the current Part 572 specifications, this lack of specificity could lead to differences in performance between dummies, which this proposal intends to resolve.

We also tentatively conclude that the proposed jacket specifications would encompass existing jackets that have been built to the SAE J2921 specifications; the proposed specifications were developed in light of such existing jackets. However, we believe that the older FTSS or Denton jackets would not conform to the proposed specifications (for example, the circumference at the different section levels).

NHTSA proposes to amend the Subpart O regulatory text to incorporate by reference new versions of the drawing package, parts list and PADI. These changes are described in more detail in a separate document being placed in the docket for this rulemaking.<sup>21</sup> That document also includes the engineering drawings identified above.

To summarize the changes to the new drawing package, the drawings in which the chest jacket is currently specified (880105-355-E, 880105-356, 880105-423, and 880105-424) would be replaced with:

- 880105-355-H, Rev B, Chest Flesh Assembly, Sheet 1
- 880105-355-H, Rev B, Chest Flesh Assembly, Sheet 2
- 880105-356-H, Rev C, Sternum Pad The Chest Flesh Assembly (880105-355-H, Sheets 1 and 2) and the Sternum

<sup>19</sup> The Brand Harmonization of the Hybrid III 5th Small Female Crash Test Dummy 880105-000, The ATD Harmonization Task Group, Humanetics Innovative Solutions, Inc., July 2012.

<sup>20</sup> Hybrid-III 5th Small Female Dummy, 880105-000-H Brand Harmonized Parts Catalog, Humanetics Innovative Solutions, Inc., August 2018.

<sup>21</sup> Engineering Change Proposal, Revision K, Hybrid III 5th Percentile Female Test Dummy, Part 572, Subpart O, Changes to: Parts List, Engineering Drawing Package, Procedure for the Assembly, Disassembly, and Inspection (PADI), Subpart O Regulatory Text, National Highway Traffic Safety Administration, November 2019.



Pad (880105–356–H) are derived from the reprints of drawings contained in SAE J2921 (Jan 2013). We would also revise drawing 800105–000, Complete Assembly, 5th Female, Rev J, Sheet 5 to add jacket dimensions at various cross sections, and revise the call-out to the jacket in drawing 880105–300 to reference the new drawing. We would also make some corresponding changes to the PADI.

NHTSA tentatively concludes that the proposed jacket specification will assure uniformity in the form, fit, and function of the HIII–5F. Based on testing the agency conducted with the SAE chest jacket (see section IV below, *Testing of the SAE jacket and spine box*), NHTSA tentatively concludes that dummies fitted with jackets built to the proposed specifications would pass the Subpart O qualification tests and would not result in different compliance test outcomes. This applies to both newly manufactured dummies as well as older, existing dummies fitted with the new jacket. When a new jacket is fitted to an existing (old) dummy (made by either FTSS and Denton), we believe there will be no significant change in performance in static out-of-position air bag deployment tests and in full scale vehicle crash tests, assuming the Subpart O qualification requirements are met. (Although, as discussed in the section below, when an existing FTSS or Denton dummy is fitted with a new jacket, the dummy may need to be retuned or refurbished in order to conform to all Subpart O qualification requirements. Such retuning or refurbishing is expected when fitting a new part to an existing dummy generally.)

We seek comment on the proposed specifications, including the proposed additional specifications. We seek information and data on whether existing jackets built to SAE J2921 on existing dummies will meet the proposed specifications. NHTSA also seeks comment on what (if any) additional information, such as tolerance specifications, is needed to fully specify the jacket in order to ensure that jackets produced by different manufacturers perform equivalently. We also seek comment on the proposed approach of specifying dimensions for the jacket as fitted on a dummy, including whether additional Subpart O qualification tests are necessary.

We will continue to collect measurement data on newly purchased jackets to check whether the dimensions and tolerances specified herein (including those derived from J2921 drawings and the new section

dimensions added by NHTSA) are being met by SAE jackets already in the field. We will also examine all measurement data provided to us. For the final rule, we may adjust the dimensions and tolerances to assure that jackets in the field achieve an acceptable degree of conformity while still assuring a high level of uniformity.

#### *f. Other Issues*

##### **1. Mandrel**

SAE J2921 describes a mandrel to assess the fit of the jacket (because jackets tend to shrink over time, the mandrel was developed to assess jacket fit as it ages). There are reference marks on the back, bottom, and top of the mandrel that serve as indicators that the jacket has shrunk to the point where a replacement is recommended.

Use of the mandrel, if implemented in Subpart O, would constitute a new qualification requirement with a new test procedure. However, J2921 does not provide a test protocol or an objective fit criterion. Also, while J2921 depicts a drawing of the mandrel, it does not provide details or dimensions on the shape of the mandrel.

In its supplemental submission to NHTSA, the Alliance clarified that it was not requesting that the agency specify use of the mandrel; instead, the mandrel is an optional inspection device for test labs and is not intended for inclusion in Subpart O. NHTSA has considered the need for the mandrel and has tentatively decided not to incorporate the mandrel or the fit check procedure outlined in J2921. We seek comment on this.

##### **2. Dummy Refurbishment and Tuning of Ribs**

When a new jacket is introduced, a dummy on which it is installed may need some amount of refurbishment or tuning in order to pass the Subpart O qualification tests.

The degree to which the dummy needs refurbishment may vary. Refurbishment refers to replacing damaged parts with new parts. Some individual dummies require more new parts than others to pass the qualification tests with the SAE jacket. In its testing, NHTSA replaced parts such as the upper leg flesh, the thorax bib, and the molded pelvis. NHTSA found that FTSS dummies required more frequent refurbishment than Denton dummies. In addition, Information Report SAE J2921 states that when a new jacket is fitted to an older dummy, the thickness of rib damping material may need to be retuned for the dummy to conform to the

Part 572 thorax assembly qualification requirements. In its supplemental submission, the Alliance describes a procedure for tuning the ribs by shaving off damping material. The amount of tuning varies depending on the dummy brand and the specific jacket.

In its own testing, rather than shaving damping material, NHTSA simply replaced the ribs (along with other parts) when the agency retrofitted the J2921 jacket to one of its older dummies. Nonetheless, under certain conditions, shaving the damping material remains an option if end-users so desire. Shaving off damping material acts to lower the force generated in the torso impact qualification test. Because there is no easy way for end-users to add damping material, ribs must be replaced if the force is too low. A replacement rib must have an ample thickness of damping material in order to be shaved.

The need to refurbish or tune existing dummies to obtain passing qualification results is not out of the ordinary. To put this in perspective, whenever a dummy of any type is assembled (not just a HIII–5F) it must usually be adjusted to some degree in order to conform to all Part 572 qualification requirements. After repeated use in full scale vehicle tests, a part may need to be replaced if it has become worn or damaged. When a new part is introduced (such as the jacket of the HIII–5F), replacement of other parts is sometimes needed so that the dummy can pass all qualification requirements.

### **III. Spine Box**

#### *a. Background*

The spine box of the HIII–5F is the dummy's steel backbone. It is located in the dummy's thorax, which consists of six bands that simulate human ribs. The bands are made of spring steel, and a thick layer of graphite is bonded to each band to provide damping when the bands are deflected, thus giving them humanlike properties. On the posterior aspect of the thorax, the bands are affixed to the spine box. The spine box is currently specified in the parts and drawings document in drawings 880105–1000, and SA572–S28 with call-outs in 880105–300 and the PADI (pg. 21).

In the mid-2000s, the SAE Task Force began an effort—in parallel with its efforts on the chest jacket—to find and eliminate a source of signal noise that sometimes emanated from the HIII–5F spine box. Alliance members determined that the noise was caused by loosening of six socket head cap screws attaching the spine box to the lower spine. Due to a design shortcoming, repeated crash testing loosened the

screws so that they rattled against the inner walls of the through holes. This led to artifacts in the signals of the accelerometers in the thorax during sled and crash tests. The problem affected FTSS and Denton units alike. Testing laboratories have been addressing this problem by disassembling the dummy and inspecting and tightening the screws routinely.

As a long-term solution, SAE developed an alteration to improve the spine box. Specifically, it recommended adding plates to the side of the spine box, with bolts countersunk into the plate to remove any play from the assembly. The alteration prevents the screws from loosening and eliminates the signal noise. NHTSA and others tested the new spine box fix as it was being developed. (This research is discussed below.) In 2011 SAE published an information report for the spine box modification (SAE J2915 AUG2011, *supra*).

#### *b. Proposed Modifications*

We propose to change the spine box specifications to permanently fix the signal noise problem. The new versions of the drawing package, parts list and PADI proposed for incorporation by reference include the SAE J2915 specifications for the improved spine box. The proposed revisions would add plates to the side of the spine box, with bolts countersunk into the plate to remove any play from the assembly. We propose to replace the current spine box drawings with the following:

- 880105–1045, Rev C, Hybrid III 5th Female Thoracic Spine Upgrade, Sheets 1–3.
- 880105–1047, HIII–5F Plate, Thoracic Spine Upgrade
- SID–070–6, Rev B, DOT–SID, Modified 5/16–18x5/8” SHCS

All three drawings are derived from the reprints of drawings contained within SAE J2915 (Jan 2011). We discuss the changes in detail in the document docketed for this NPRM, *supra*.<sup>22</sup>

The modification would increase the quality of data and reduce maintenance

and testing time. The modification does not affect or change the dummy's performance in any way (other than eliminate the potential for noise).<sup>23</sup>

#### **IV. Testing of the SAE Jacket and Spine Box**

NHTSA and others tested the SAE jacket and spine box to assess ATD performance with the new components. NHTSA's evaluation of the jacket and spine box was presented at the 2011 ESV Conference and in a 2011 paper. The agency conducted several types of tests using HIII–5F dummies retrofitted with jackets built to the then-most current version of the SAE specifications being developed (SAE J2921 was still in draft status); one jacket was made by FTSS, and one was made by Denton). Industry also evaluated the jacket and spine box. The results of this research are briefly summarized below.

##### *a. Chest Jacket*

##### **1. NHTSA Evaluation**

In 2011 NHTSA published a study that evaluated preliminary versions of the SAE jacket produced by FTSS and Denton.<sup>24</sup> It compared the dimensions of the jackets and evaluated the performance of dummies fitted with the jackets in sled tests, out-of-position tests, and some of the Subpart O qualification tests. It found that dummies fitted with jackets built to the SAE design under development performed essentially the same as dummies fitted with pre-existing FTSS and Denton (non-SAE) jackets with respect to dummy injury metrics and other responses (with one exception).

<sup>23</sup> We note that the current Subpart O ATD can be a valid test dummy without installing the new spine box, *i.e.*, users can address the signal noise problem by disassembling the dummy and inspecting and tightening the screws by hand on a routine basis. However, NHTSA believes that these efforts must be taken regularly to ensure that the ATD's thoracic data are not affected by the spine box signal noise, and that test evaluators should carefully review test data for signs of artifacts in the signals of the thorax accelerometers. As an alternative to checking bolt tightness on existing units or replacing the entire spine box, end-users, at their discretion, may opt to modify (rather than replace) their dummy's spine box as prescribed by SAE J2915. However, NHTSA's proposal does not include specifications for the modification.

<sup>24</sup> McFadden J.D., Striklin J.L. (2011), Evaluation of the Hybrid III 5th female modified chest jacket and spine box, Paper No. 11–0334, 2011 ESV Conference.

The study found that the two brands of preliminary SAE jackets were identical in appearance (with some slight variations) and compared well to a draft version of the SAE drawings.

Qualification tests prescribed in Subpart O, including those most likely to be influenced by the jacket (the thorax impact test and the quasi-static torso flexion test) were also carried out. All of those Subpart O qualification requirements were met for all dummy configurations with one exception: When either an FTSS dummy or a Denton dummy was fitted with the SAE jacket, the dummy did not meet the pull force requirement for the torso flexion test. During the flexion test, the jacket tended to bind at the waist when the dummies were pitched forward into the 45-degree test position. The added resistance due to the binding caused the pull force to exceed the specified limit of 390 N. The study concluded that further work on the jacket was needed to address the torso flexion test results. The SAE jacket was subsequently redesigned to address this.

NHTSA also conducted sled tests similar in severity to a frontal rigid barrier crash test (35 mph, peak acceleration of 28 Gs) and static, low-risk out-of-position air bag deployments. NHTSA found that dummies fitted with the jackets built to the SAE design under development performed essentially the same as dummies fitted with pre-existing FTSS and Denton jackets with respect to dummy injury metrics and other responses, including those most likely to be affected by the chest jacket (chest deflection and acceleration).

When SAE finalized the jacket design and issued SAE J2921 in 2013, NHTSA purchased new jackets (from Humanetics and JASTI–USA) to ensure they would fit properly on the agency's existing FTSS and Denton HIII–5F dummies, and that “passing” results could be obtained in the torso flexion and thorax impact qualification tests. In all instances, the agency was able to demonstrate passing results for both these qualification tests (some dummy refurbishment was needed to pass the test, but as noted above, refurbishment of an ATD when a new part is fitted is a common operating procedure). See Table 2.

<sup>22</sup> Engineering Change Proposal, Revision K, Hybrid III 5th Percentile Female Test Dummy, Part 572, Subpart O, Changes to: Parts List, Engineering Drawing Package, Procedure for the Assembly, Disassembly, and Inspection (PADI), Subpart O Regulatory Text, National Highway Traffic Safety Administration, November 2019.

TABLE 2—NHTSA TORSO FLEXION TESTS, 2013–14

Dummy mfg	Dummy serial No.	Jacket	Trial	Test site	Initial angle (deg)	Return angle difference, final—init. (deg)	Max force @45 deg during 10 sec (N)	Rotation rate (deg/sec)	Test date
					[1 to 20]	[– 8 to +8]	[320 to 390]	[0.5 to 1.5]	
FTSS refurb .....	F416	HIS DM9396	1	VRTC	15.4	3.6	331	1.03	5/28/2013
			2	VRTC	15.3	3.8	325	0.98	5/28/2013
			3	VRTC	16.4	2.7	352	0.96	5/28/2013
FTSS refurb .....	F416	HIS DM9432	1	VRTC	15.3	3.8	324	0.97	5/28/2013
			2	VRTC	16.1	3.1	345	0.95	5/28/2013
			3	VRTC	15.8	3.4	346	0.98	5/28/2013
FTSS refurb .....	F416	JASTI 129	1	VRTC	14.7	4.5	363	0.97	5/28/2013
			2	VRTC	15.2	4.2	355	0.94	5/28/2013
			3	VRTC	15.5	4.1	355	0.99	5/29/2013
FTSS refurb .....	F515	JASTI 129	1	TRC	16.3	2.8	326	0.94	5/6/2014
			2	TRC	16.4	3.0	324	0.96	5/6/2014
			3	TRC	16.4	3.6	343	0.91	5/6/2014
FTSS refurb .....	F515	HIS DM9369	1	TRC	15.6	4.1	389	0.91	5/6/2014
			2	TRC	15.8	4.1	352	0.92	5/7/2014
			3	TRC	15.9	3.9	337	0.88	5/7/2014
Denton refurb .....	D137	HIS DM9432	1	TRC	13.7	3.5	374	1.04	7/15/2014
			2	TRC	14.1	3.5	377	1.02	7/15/2014
			3	TRC	14.0	3.6	367	1.01	7/15/2014
Denton refurb .....	D137	JASTI 129	1	TRC	12.7	5.1	360	0.87	7/16/2014
			2	TRC	13.3	4.5	359	0.94	7/17/2014
			3	TRC	14.2	3.9	353	0.96	7/18/2014

**Note:** Jackets reflect the design described in the final version of SAE J2921 (2013).

In summary, these tests demonstrated that old dummies (FTSS and Denton versions) that were fitted with the SAE jacket would pass the Subpart O qualification requirements. Once an older dummy was retrofitted with a new J2921 jacket, all parts on the dummy conformed dimensionally to the proposed Subpart O engineering drawings.

NHTSA did not perform re-tests of the sled and out-of-position test series performed for the 2011 study with the final version of the SAE jacket. The final revision only reduced the length of the sternal pad and tapered the lower portion of the jacket. These changes affect the dummy response in extreme thorax flexion as seen in the torso flexion qualification test. Because this condition was not manifested in either the sled or out-of-position test series, NHTSA believes the effects of the taper and shorter sternal pad would have been negligible. Nonetheless, NHTSA believes that the revisions to the jacket design were necessary; when extreme flexion does occur, the torso response must be preserved.

## 2. Industry Evaluation

The Alliance's supplement to its rulemaking petition and SAE J2921 also indicate that the SAE jacket performs equivalently to the Denton and FTSS jackets.

The SAE report shows that the SAE jacket has not affected thorax biofidelity. It shows that the force vs. deflection plots for the 6.7 m/s thorax impact tests with the SAE jackets were

within the biofidelity corridors that served as design targets for the original dummy design. The plots demonstrate that the SAE jacket has not affected dummy response.

The Alliance submitted information in its supplemental letter demonstrating that the SAE jacket can pass the Subpart O thorax impact tests. However, we note that both the Alliance and SAE J2921 indicate that the thickness of rib damping material may need to be adjusted for the dummy to conform to the Part 572 qualification requirement for the thorax assembly when a new SAE jacket is placed on an old dummy. The Alliance, in its supplemental submission, clarified how and why this adjustment is made. Due to high batch-to-batch variability of the rib damping material, the dynamic performance of the rib is specified and not the thickness. New ribs are shipped with the expectation that some tuning (shaving down some rib damping material) is required to bring the dummy into acceptable performance corridors depending upon the chest jacket used. The interchangeability varies with the brand and dummy condition, so adjustments may be necessary when switching jackets.

The testing also indicated that the final version of the SAE jacket could pass the Subpart O torso flexion test. Testing by both SAE and Alliance members found, as did NHTSA, that the first iteration of the SAE jacket (made in 2011) registered high pull forces in the torso flexion test. Testing of the final version of the jacket showed, however,

that it was able to pass the torso flexion test. Both SAE J2921 and the Alliance's supplemental submission indicate that when a new SAE jacket is fitted to an older dummy, some refurbishment of the dummy may be needed in order for it and the new jacket to perform properly.

## b. Spine Box

NHTSA's 2011 study showed that the spine modification had completely eliminated the noise emanating from the chest without affecting the response of the dummy in any other way. The study found that the spine boxes manufactured by different manufacturers were identical, suggesting that the spine box alterations are sufficiently specified. The study also concluded that the spine box was durable.

Testing undertaken for the SAE task force and reported in SAE J2915 also showed that the new spine box had equivalent performance to the existing spine box and did not loosen over repeated testing.

## V. Lead Time

NHTSA proposes to make the changes effective 45 days after publication of a final rule. This means that Subpart O—the specifications for the chest jacket and spine box—will be changed on that date. FMVSS No. 208 specifies that NHTSA is to use the Subpart O dummy in its compliance tests. Thus, starting on the effective date of the final rule, under FMVSS No. 208 the HIII 5th percentile adult female dummy would be used

with the new SAE jacket and spine box in NHTSA's tests.<sup>25</sup>

NHTSA believes the 45-day lead time would be sufficient because we do not believe that testing under FMVSS No. 208 would be significantly affected by the final rule. Vehicle manufacturers already use the SAE jacket on the ATD. Moreover, because none of the dummy jackets that are currently in use correspond to the existing Subpart O specifications, there should be no issue with taking an existing dummy out of conformity with the implementation of this rule. We also believe that jackets built to SAE J2921 that are currently used in the field would conform to the proposed specifications. The improved spine box is not expected to affect dummy performance because the revision only acts to remove the unwanted artifact of loose bolts rattling.

Manufacturers wishing to test with the proposed jacket and spine box should have no difficulty obtaining the necessary parts. NHTSA asked the Alliance to assess the cost and availability of obtaining the parts associated with the proposed changes. In its supplemental letter, the Alliance indicated that all parts associated with the proposed jacket and spine box changes are available, and there should not be any difficulties meeting anticipated demand.

We also tentatively conclude that a shortened lead time is desirable because the proposed changes are beneficial for testing laboratories. We believe that the proposed jacket and spine box changes would likely lead to diminished laboratory technician workload. A common jacket design would eliminate the need to deal with multiple jacket versions. The new spine box would also lighten laboratory workload by eliminating the need to re-torque the bolts between tests. With respect to levels of effort and technician training needed to modify and maintain the new jacket and spine box, the Alliance indicated in its supplemental letter that both modifications are well within the technical competency of existing laboratory technicians. It also stated that the introduction of the new parts will not create any significant increases in the workload necessary to maintain the dummies.

## VI. Housekeeping Amendments

The agency proposes the following housekeeping and other amendments to Subpart O.

1. NHTSA proposes to amend the title of Subpart O to add the word "adult" between "5th percentile" and "female" for clarity.

2. The agency proposes to remove the words "Alpha Version" from the title of Subpart O. During adoption of some of the subparts of Part 572 NHTSA had decided that referring to the alpha, beta, etc., "versions" of the test dummies would better distinguish a current version of an ATD from a previous version. The agency later decided this naming convention was not helpful and has not followed it. Accordingly, we would like to remove "Alpha Version" from the title of Subpart O since the naming convention is no longer used.

3. This NPRM proposes to revise Subpart O's references to SAE J211 parts 1 and 2 and to SAE J1733 to refer to the most up-to-date versions of the standards. SAE J211 is revised with improved diagrams for defining the dummy coordinate system, and corrections to minor mistakes in print. New information and recommendations for data system grounding, sensor cable shielding, and minimizing the effects of transducer resonance are included. Clarifications on data processing are also included. J1733 is revised with improved diagrams for defining the dummy coordinate system (for the HIII-5F, the system itself is unchanged).

## VII. Regulatory Analyses and Notices

*Executive Order 12866, Executive Order 13563, and DOT Order 2100.6*

We have considered the potential impact of this proposed rule under Executive Orders 12866 and 13563, and DOT Order 2100.6, and have determined that it is nonsignificant. This rulemaking document was not reviewed by the Office of Management and Budget (OMB) under E.O. 12866. We have considered the qualitative costs and benefits of this NPRM under the principles of E.O. 12866.

As stated in 49 CFR 572.3, *Application*, Part 572 does not in itself impose duties or liabilities on any person. It only serves to describe the test tools that measure the performance of occupant protection systems. Thus, this Part 572 proposed rule itself does not impose any requirements on anyone. Businesses are affected only if they choose to manufacture or test with the dummy. Because the economic impacts of this rule are minimal, no further regulatory evaluation is necessary.

This NPRM proposes changes to the specifications of the HIII-5F chest jacket and spine box. For entities testing with the dummy, the proposed revisions are intended to resolve issues with the fit

and availability of the jacket and a noise artifact from the spine box. Neither change would impose new requirements on vehicle manufacturers.

With respect to benefits, the dummy would not change in any way other than to improve its usability and objectivity. This rulemaking benefits the public by specifying a more objective test tool, which lessens the burden of dummy end-users in performing tests and interpreting test results. It also benefits vehicle manufacturers by providing certainty about which test jacket and spine box NHTSA will use in compliance tests with the HIII 5th percentile adult female ATD, and assurance about the continued availability of the jacket. This rulemaking benefits NHTSA as the agency would no longer have to maintain test jackets of different designs and take steps to match the compliance test jacket with that specified by the vehicle manufacturers. Specifying the new test jacket and spine box ensures the long-term availability of a test jacket for compliance tests.

The costs associated with this rulemaking are limited to those associated with acquiring new dummy parts. We tentatively conclude that the proposed changes would not necessitate the purchasing of any parts that would not have been purchased in the normal course of business in the absence of the proposed changes.

We do not believe the proposed chest jacket changes would impose any additional costs compared to what would have been expended if we did not adopt the proposed changes. Because a chest jacket eventually wears out, it must be replaced. Dummy refurbishments and part replacements are a routine part of ATD testing. The agency understands that industry has essentially run out of its supply of the older FTSS and Denton jackets. We further understand that industry has been replacing worn-out FTSS and Denton jackets with new jackets built to the SAE J2921 specifications. While the FTSS and Denton jackets are not consistent with the proposed specifications, we believe that chest jackets built to the SAE J2921 specifications would meet the proposed specifications. Because industry and testing labs need to replace the chest jacket in the regular course of business—regardless of whether the proposed changes are adopted—and the only available replacement chest jackets conform to the proposed specifications, we believe the proposed chest jacket

<sup>25</sup> In its February 21, 2014 petition, the Alliance recommended that compliance with the new specifications should be optional for a period of five years. NHTSA seeks comment on whether this is still necessary or appropriate.

specifications would not impose any additional costs on industry.<sup>26</sup>

The revised spine box, which is not typically replaced during routine maintenance, costs about \$600. End users do not have to purchase a revised spine box. They can compensate for the design shortcoming of the current spine box by disassembling the dummy and re-torquing the relevant fasteners by hand before each test.

#### *Executive Order 13771*

Executive Order 13771, titled “Reducing Regulation and Controlling Regulatory Costs,” directs that, unless prohibited by law, whenever an executive department or Agency publicly proposes for notice and comment or otherwise promulgates a new regulation, it shall identify at least two existing regulations to be repealed. In addition, any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs. Only those rules deemed significant under section 3(f) of Executive Order 12866, “Regulatory Planning and Review,” are subject to these requirements. As discussed above, this rule is not a significant rule under Executive Order 12866 and, accordingly, is not subject to the offset requirements of 13771.

#### *Executive Order 13609: Promoting International Regulatory Cooperation*

The policy statement in section 1 of Executive Order 13609 provides, in part:

The regulatory approaches taken by foreign governments may differ from those taken by U.S. regulatory agencies to address similar issues. In some cases, the differences between the regulatory approaches of U.S. agencies and those of their foreign counterparts might not be necessary and might impair the ability of American businesses to export and compete internationally. In meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can identify approaches that are at least as protective as those that are or would be adopted in the absence of such cooperation. International regulatory cooperation can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements.

<sup>26</sup> For the case of the HIII–5F, a new jacket costs about \$850. If a new jacket is installed on an existing dummy, additional refurbishments or tuning of that dummy may be needed in order for it to pass the Subpart O qualification tests. Depending on the condition and age of the dummy, several other parts may need to be replaced at a cost of up to \$10,000. However, dummy refurbishments and part replacements are an inherent part of testing and many of the additional parts are often replaced on a regular schedule. In other words, some of the parts would eventually be replaced, and the costs of the replacement parts can be amortized over a number of tests.

The proposed revisions are intended to resolve issues with the fit and availability of the jacket and a noise artifact from the spine box. Neither change would impose new requirements on vehicle manufacturers. NHTSA does not believe the proposal would lead to any reduction in harmonization.

#### *Executive Order 13132 (Federalism)*

Executive Order 13132 requires agencies to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that 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.”

NHTSA has analyzed this proposed amendment in accordance with the principles and criteria set forth in E.O. 13132. The agency has determined that this proposal does not have sufficient federalism implications to warrant consultation and the preparation of a federalism assessment.

#### *National Environmental Policy Act*

NHTSA has analyzed this proposal for the purposes of the National Environmental Policy Act and determined that it will not have any significant impact on the quality of the human environment.

#### *Executive Order 12988 (Civil Justice Reform)*

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, “Civil Justice Reform” (61 FR 4729, February 7, 1996) requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement.

Pursuant to this Order, NHTSA notes as follows. The issue of preemption is discussed above in connection with E.O. 13132. NHTSA notes further that there

is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

#### *Regulatory Flexibility Act*

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions), unless the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The Small Business Administration’s regulations at 13 CFR part 121 define a small business, in part, as a business entity “which operates primarily within the United States.” (13 CFR 121.105(a)).

NHTSA has considered the effects of this rulemaking under the Regulatory Flexibility Act. I hereby certify that this rulemaking action would not have a significant economic impact on a substantial number of small entities. This action would not have a significant economic impact on a substantial number of small entities because the revisions to the test dummy would not impose any requirements on anyone. NHTSA would use the revised ATD in agency testing but would not require anyone to manufacture the dummy or to test motor vehicles or motor vehicle equipment with it. Further, small vehicle manufacturers that choose to test with the 5th percentile adult female dummy would not be significantly impacted by this rulemaking. The proposal would simply replace the chest jacket and spine box now used with the test dummy with more up-to-date equipment. Since chest jackets must periodically be replaced on the test dummy because they wear out, this amendment would not significantly affect end users of the ATD (they will continue to do what they already do). Similarly, the change to the new spine box would not significantly affect small vehicle manufacturers. It entails a simple one-time replacement where the old part would be switched out with the new.

#### *Incorporation by Reference*

Under regulations issued by the Office of the Federal Register (1 CFR 51.5(a)), an agency, as part of a proposed rule that includes material incorporated by reference, must summarize material that

is proposed to be incorporated by reference and must discuss the ways the material proposed to be incorporated by reference is reasonably available to interested parties or how the agency worked to make materials available to interested parties.

This proposed rule would incorporate by reference updated versions of a parts list, drawings, and a manual into 49 CFR part 572, subpart O. This material is published by NHTSA (with permission from SAE International). The contents of the documents are summarized in Sections II.e and III.b, above, and a draft of the documents that would be incorporated by reference has been placed in the docket for this rulemaking for interested parties to review.

This proposed rule would also incorporate updated versions of SAE Recommended Practice J211/1 parts 1 and 2 and SAE J1733. Older versions of these documents are already incorporated by reference into Subpart O. The changes in the updated versions are summarized in Section VI, above. The version currently incorporated by reference is available in SAE International's online reading room.<sup>27</sup> The updated version is available for review at NHTSA and is available for purchase from SAE International.

#### *National Technology Transfer and Advancement Act*

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Public Law 104–113), “all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.” Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as SAE. The NTTAA directs this Agency to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

SAE has published information reports on the HIII 5th percentile adult female's chest jacket and spine box which today's proposal incorporates in full. The foregoing sections of this document discuss in detail SAE's work in these areas: SAE J2921 (Chest Jacket) and SAE J2915 (Spine Box). To the

extent the NPRM has a few specifications beyond SAE J2921, we explain our belief that they are necessary to ensure a sufficient level of uniformity between jackets produced by different manufacturers going forward, and to prevent discrepancies in jacket designs from reoccurring in the future.

In addition, the following voluntary consensus standards have been used in developing this NPRM:

- SAE Recommended Practice J211/1\_201403 (March 2014), “Electronic Instrumentation;”
- SAE Recommended Practice J211/2\_201406 (June 2014), “Photographic Instrumentation”; and
- SAE J1733\_201811 (November 2018), “Sign Convention for Vehicle Crash Testing.”

#### *Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. This rulemaking would not establish any new information collection requirements.

#### *Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) (UMRA) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditures by States, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted annually for inflation with base year of 1995). Adjusting this amount by the implicit gross domestic product price deflator for 2013 results in \$142 million (109.929/75.324 = 1.42). The assessment may be included in conjunction with other assessments, as it is here.

This proposed rule would not impose any unfunded mandates under the UMRA. This proposed rule does not meet the definition of a Federal mandate because it does not impose requirements on anyone. It amends 49 CFR part 572 by adding specifications for a new test jacket and spine box for the 5th percentile adult female dummy that NHTSA uses in agency compliance tests. This NPRM would affect only those businesses that choose to manufacture or test with the dummy. This proposed rule is not likely to result in expenditures by State, local or tribal governments of more than \$100 million annually.

#### *Plain Language*

Executive Order 12866 and E.O. 13563 require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this proposal.

#### *Regulation Identifier Number (RIN)*

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

#### *Privacy Act*

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

### **VIII. Public Participation**

#### *How do I prepare and submit comments?*

- To ensure that your comments are correctly filed in the Docket, please include the Docket Number found in the heading of this document in your comments.

- Your comments must not be more than 15 pages long.<sup>28</sup> NHTSA established this limit to encourage you to write your primary comments in a concise fashion. However, you may

<sup>27</sup> <https://www.sae.org/standards/reading-room>.

<sup>28</sup> 49 CFR 553.21.

attach necessary additional documents to your comments, and there is no limit on the length of the attachments.

- If you are submitting comments electronically as a PDF (Adobe) file, NHTSA asks that the documents be submitted using the Optical Character Recognition (OCR) process, thus allowing NHTSA to search and copy certain portions of your submissions.
- Please note that pursuant to the Data Quality Act, in order for substantive data to be relied on and used by NHTSA, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, NHTSA encourages you to consult the guidelines in preparing your comments. DOT's guidelines may be accessed at <https://www.transportation.gov/regulations/dot-information-dissemination-quality-guidelines>.

#### *Tips for Preparing Your Comments*

When submitting comments, please remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions you make and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- To ensure that your comments are considered by the agency, make sure to submit them by the comment period deadline identified in the **DATES** section above.

For additional guidance on submitting effective comments, visit: [https://www.regulations.gov/docs/Tips\\_For\\_Submitting\\_Effective\\_Comments.pdf](https://www.regulations.gov/docs/Tips_For_Submitting_Effective_Comments.pdf).

*How can I be sure that my comments were received?*

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

*How do I submit confidential business information?*

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to the docket at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512)

*Will the agency consider late comments?*

We will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that the docket receives after that date. If the docket receives a comment too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

*How can I read the comments submitted by other people?*

You may read the comments received by the docket at the address given above under **ADDRESSES**. The hours of the docket are indicated above in the same location. You may also see the comments on the internet. To read the comments on the internet, go to <http://www.regulations.gov>. Follow the online instructions for accessing the dockets.

Please note that even after the comment closing date, we will continue to file relevant information in the docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material. You can arrange with the docket to be notified when others file comments in the docket. See [www.regulations.gov](http://www.regulations.gov) for more information.

#### **List of Subjects in 49 CFR Part 572**

Motor vehicle safety, Incorporation by reference.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 572 as follows:

#### **PART 572—ANTHROPOMORPHIC TEST DEVICES**

- 1. The authority citation for Part 572 continues to read as follows:

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.95.

- 2. Revise the heading of Subpart O to read as follows:

#### **Subpart O—Hybrid III 5th Percentile Adult Female Test Dummy**

- 3. Revise § 572.130 to read as follows:

##### **§ 572.130 Incorporation by reference.**

(a) Certain material is incorporated by reference (IBR) into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, NHTSA must publish a document in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the Department of Transportation, Docket Operations, Room W12-140, 1200 New Jersey Avenue SE, Washington DC 20590, telephone 202-366-9826, and is available from the sources listed in the following paragraphs. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email [fedreg.legal@nara.gov](mailto:fedreg.legal@nara.gov) or go to <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(b) NHTSA Technical Information Services, 1200 New Jersey Ave. SE, Washington, DC 20590, telephone 202-366-5965.

(1) A parts/drawing list entitled: "Hybrid III 5th Percentile Adult Female Crash Test Dummy Parts List, ([date to be determined])," IBR approved for § 572.131.

(2) A drawings and specification package entitled "Parts List and Drawings, Part 572 Subpart O Hybrid III Fifth Percentile Adult Female Crash Test Dummy (HIII-5F) Revision K ([date to be determined])," IBR approved for § 572.131, and consisting of:

(i) Drawing No. 880105-100X, Head Assembly, IBR approved for §§ 572.131, 572.132, 572.133, 572.134, 572.135, and 572.137;

(ii) Drawing No. 880105-250, Neck Assembly, IBR approved for §§ 572.131, 572.133, 572.134, 572.135, and 572.137;

(iii) Drawing No. 880105-300, Upper Torso Assembly, IBR approved for §§ 572.131, 572.134, 572.135, and 572.137;

(iv) Drawing No. 880105-450, Lower Torso Assembly, IBR approved for

§§ 572.131, 572.134, 572.135, and 572.137;

(v) Drawing No. 880105–560–1, Complete Leg Assembly—left, IBR approved for §§ 572.131, 572.135, 572.136, and 572.137;

(vi) Drawing No. 880105–560–2, Complete Leg Assembly—right, IBR approved for §§ 572.131, 572.135, 572.136, and 572.137;

(vii) Drawing No. 880105–728–1, Complete Arm Assembly—left, IBR approved for §§ 572.131, 572.134, and 572.135 as part of the complete dummy assembly;

(viii) Drawing No. 880105–728–2, Complete Arm Assembly—right, IBR approved for §§ 572.131, 572.134, and 572.135 as part of the complete dummy assembly.

(3) A procedures manual entitled “Procedures for Assembly, Disassembly, and Inspection (PADI) Subpart O Hybrid III Fifth Percentile Adult Female Crash Test Dummy (HIII–5F) Revision K ([*date to be determined*]),” IBR approved for § 572.132.

(c) SAE International, 400 Commonwealth Drive, Warrendale, PA 15096, call 1–877–606–7323.

(1) SAE Recommended Practice J211/1\_201403, “Instrumentation for Impact

Test—Part 1, Electronic Instrumentation,” (March 2014), IBR approved for § 572.137;

(2) SAE Recommended Practice J211/2\_201406, “Instrumentation for Impact Tests—Part 2, Photographic Instrumentation,” (June 2014), IBR approved for § 572.137; and

(3) SAE J1733\_201811, “Sign Convention for Vehicle Crash Testing,” (November 2018), IBR approved for § 572.137.

■ 4. Amend § 572.131 by revising paragraph (a)(2) introductory text to read as follows:

**§ 572.131 General description.**

(a) \* \* \*

(2) Parts List and Drawings, Part 572 Subpart O Hybrid III Fifth Percentile Adult Female Crash Test Dummy (HIII 5F), Revision K ([*date to be determined*]) (all incorporated by reference, see § 572.130).

\* \* \* \* \*

■ 5. Amend § 572.137 by revising paragraph (m) introductory text, and paragraph (n) to read as follows:

**§ 572.137 Test conditions and instrumentation.**

\* \* \* \* \*

(m) The outputs of acceleration and force-sensing devices installed in the dummy and in the test apparatus specified by this part shall be recorded in individual data channels that conform to SAE Recommended Practice J211/1\_201403, “Instrumentation for Impact Test—Part 1, Electronic Instrumentation,” and SAE Recommended Practice J211/2\_201406, “Instrumentation for Impact Tests—Part 2, Photographic Instrumentation” (incorporated by reference, see § 572.130), except as noted, with channel classes as follows:

\* \* \* \* \*

(n) Coordinate signs for instrumentation polarity shall conform to SAE J1733\_201811, “Sign Convention for Vehicle Crash Testing,” (incorporated by reference, see § 572.130).

\* \* \* \* \*

Issued in Washington, DC, under authority delegated in 49 CFR 1.95 and 501.4.

**James Clayton Owens,**

*Acting Administrator.*

[FR Doc. 2019–27210 Filed 12–23–19; 8:45 am]

**BILLING CODE 4910–59–P**



# Notices

Federal Register

Vol. 84, No. 247

Thursday, December 26, 2019

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

December 19, 2019.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by January 27, 2020 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW, Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: [OIRA\\_Submission@OMB.EOP.GOV](mailto:OIRA_Submission@OMB.EOP.GOV) or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs

potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

### Rural Business Cooperative Service

*Title:* Rural Cooperative Development Grants—7 CFR 4284–F.

*OMB Control Number:* 0570–0006.

*Summary of Collection:* Section 310B of the Consolidated Farm and Rural Development Act (as amended) (Pub. L. 107–171) authorizes the Rural Cooperative Development Grants (RCDG) program. The program is administered through State Rural Development Offices on behalf of the Rural Business Cooperative Service (RBS). The primary objective of the program is to improve the economic condition of rural areas through cooperative development. Grant funds are awarded on a competitive basis non-profit corporations or institutions of higher education, based on specific selection criteria.

*Need and Use of the Information:* Information is collected by RBS and Rural Development State and Area office staff, as delegated, from applicants and grantees. RBS will use the information collected to evaluate the applicant's ability to carry out the purposes of the program. Grantees are required to submit financial status and performance reports to confirm funds are being expended as approved and requests for advance or reimbursement to request payment. If this information were not collected, RBS cannot be assured that the applicants meet the statutory requirements for eligibility, that it is awarding funds to qualified applicants, and that grantees are providing services in accordance with the approved grant agreement.

*Description of Respondents:* Not for profit institutions.

*Number of Respondents:* 55.

*Frequency of Responses:* Record keeping; Reporting: On occasion.

*Total Burden Hours:* 7,264.

**Ruth Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2019–27778 Filed 12–23–19; 8:45 am]

**BILLING CODE 3410–XY–P**

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

December 19, 2019.

The Department of Agriculture has submitted the following information collection requirement(s) to Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by January 27, 2020 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW, Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: [OIRA\\_Submission@OMB.EOP.GOV](mailto:OIRA_Submission@OMB.EOP.GOV) or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

**30-Day Federal Register Notice***Rural Utility Service*

*Title:* Rural Energy Savings Program.

*OMB Control Number:* 0572–0151.

*Summary of Collection:* The Rural Utilities Service (RUS), a Rural Development agency of the U.S. Department of Agriculture, provides Rural Energy Saving Program (RESP) loans to eligible entities that agree to, in turn, make loans to qualified consumers for energy efficiency measures, including cost effective energy and renewable energy systems. Since its inception in 2016, the RESP has evolved. New and clarifying authorities have been added to the program including changes made by the Agriculture Improvement Act of 2018 (Pub. L. 115–334) which reauthorized the implementation of the RESP. Title VI, subtitle C, Section 6303 of the Agriculture Improvement Act of 2018 introduced several amendments to Section 6407 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8107a).

*Need and Use of the Information:* The application process consists of two steps. Step 1: An applicant seeking financing must submit a Letter of Intent to apply in an electronic Portable Document Format (pdf). The Letter of Intent contains the tax identification number, legal name and organization status; verification of rural status (counties to be served and populations); financial status; point of contact; description of program; implementation plan; and a list of eligible energy efficiency measures to be implemented. Step 2: RESP application—after review of the letter of intent, RUS notifies the eligible entity if it is invited to submit the loan application. Required application information is used to determine a borrower's ability to meet financial obligations, includes analyses and document review of the applicant's historical, current, and projected costs, revenues, cash flows, assets, and other factors that may be relevant on a case by case basis. The collection of information is essential to the mission of the agency and the RESP, and is necessary so that RUS can establish applicant and project eligibility.

*Description of Respondents:*

Businesses or other for-profit; Not-for-profit institutions.

*Number of Respondents:* 17.

*Frequency of Responses:* Reporting: On occasion.

*Total Burden Hours:* 1,046.

**Ruth Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2019–27775 Filed 12–23–19; 8:45 am]

**BILLING CODE 3410–15–P**

**DEPARTMENT OF AGRICULTURE****Submission for OMB Review; Comment Request**

December 19, 2019.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by January 27, 2020 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725–17th Street NW, Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA\_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it

displays a currently valid OMB control number.

**Rural Housing Service**

*Title:* Multi-Family Housing Preservation and Revitalization Restructuring Demonstration Program (MPR).

*OMB Control Number:* 0575–0190.

*Summary of Collection:* The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 (Pub. L. 109–97) provides funding for, and authorizes the Rural Housing Service (RHS) to conduct a demonstration program for the preservation and revitalization of the Section 515 Multi-Family Housing portfolio. Section 515 of the Housing Act of 1949 provides Rural Development the authority to make loans for low-income Multi-Family Housing and related facilities.

The Consolidated Appropriations Act, 2016, (Pub. L. 114–113) authorized USDA to conduct A demonstration program for the preservation and revitalization of the Sections 514, 515, and 516 multi-family rental housing properties to restructure existing USDA/ Multi-Family Housing (MFH) loans to ensure the project has sufficient resources to provide safe and affordable housing for low-income residents and farm laborers.

*Need and Use of the Information:* RHS will collect information from the proposer to evaluate the strengths and weaknesses to which the proposal concept possesses or lacks to select the most feasible proposals that will enhance the Agency's chances in accomplishing the demonstration objective. The information will be utilized to sustain and modify RHS' current policies pertaining to revitalization and preservation of affordable rental housing in rural areas.

*Description of Respondents:*

Individuals or Households; Not-for-profit institutions; State, Local, or Tribal Government.

*Number of Respondents:* 1,500.

*Frequency of Responses:*

Recordkeeping; Reporting: Annually.

*Total Burden Hours:* 25,293.

**Ruth Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2019–27773 Filed 12–23–19; 8:45 am]

**BILLING CODE 3410–XV–P**

**DEPARTMENT OF AGRICULTURE****Food and Nutrition Service****Agency Information Collection  
Activities: Proposed Collection;  
Comment Request—Information  
Collection for the Child and Adult Care  
Food Program**

**AGENCY:** Food and Nutrition Service,  
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 revision of a currently approved information collection.

**DATES:** Written comments must be received on or before February 24, 2020.

**ADDRESSES:** Comments may be sent to Andrea Farmer, Community Meals Branch, Policy and Program Development Division, Child Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, 1320 Braddock Place, Alexandria, VA 22314. Comments may also be submitted via fax to the attention of Andrea Farmer at 703-305-6294 or via email to [Andrea.Farmer@usda.gov](mailto:Andrea.Farmer@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 Andrea Farmer, Community Meals Branch, Policy and Program Development Division, Child Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, 1320 Braddock Place, Alexandria, VA 22314.

**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:* 7 CFR part 226, Child and Adult Care Food Program (CACFP).

*Form Number:* None.

*OMB Number:* 0584-0055.

*Expiration Date:* February 29, 2020.

*Type of Request:* Revision of a currently approved collection.

*Abstract:* Section 17 of the Richard B. Russell National School Lunch Act (NSLA), as amended, (42 U.S.C. 1766), authorizes the CACFP to provide cash reimbursement and commodity assistance, on a per meal basis, for food service to children in nonresidential child care centers and family day care homes, and to eligible adults in nonresidential adult day care centers. The USDA, through FNS, has established application, monitoring, and reporting requirements to manage the CACFP effectively. The purpose of this submission to OMB is to obtain approval to continue the discussed information collection. States and service institutions participating in the CACFP will submit to FNS account and record information reflecting their efforts to comply with statutory and regulatory Program requirements. Examples of data collected and reported with this collection include, but are not limited to: Applications and supporting documents; records of enrollment; records supporting the free and reduced price eligibility determinations; daily records indicating numbers of program participants in attendance and the number of meals served by type and category; and receipts, invoices and other records of CACFP costs and documentation of non-profit operation of food service.

This is a revision of a currently approved information collection (ICR). Section 17 of the National School Lunch Act, as amended (42 U.S.C. 1766), authorizes the Child and Adult Care Program (CACFP). Under this Program, the Secretary of Agriculture is authorized to provide cash reimbursement and commodity assistance, on a per meal basis, for food service to children in nonresidential child care centers and family or group day care homes, and to eligible adults in nonresidential adult day care centers. This renewal revises reporting and recordkeeping burden and adds public disclosure burden not captured in the previous ICR.

Reporting and recordkeeping burden had to be adjusted because of decreases in the number of sponsoring organizations and facilities, and an increase in the number of enrolled participants who are required to submit information. In order to ensure that the ICR adequately represents the reporting burden associated with operating CACFP, FNS included the requirement that State agencies must comply with policy, instructions, guidance, and handbooks issued by USDA. Similarly, FNS also adjusted the burden hours associated with reviewing materials to comply with all regulations issued by USDA for institutions. In the past, reviewing policy, instructions, guidance, and handbooks were burden implied with implementing CACFP, however, it was not included in the burden table. Adding the hours it would take to review materials is important because it allows USDA to capture the burden of operating CACFP. FNS also separated out burden associated with the serious deficiency process for new, renewing, and participating institutions. Finally, in this revision, FNS included the reporting burden for State agencies and institutions associated with submitting documents of corrective action and other records related to operating the program such as administrative budget, notice of proposed suspension, and notice of corrective actions.

In this renewal, FNS added public disclosure burden associated with requirements regarding public notification about the CACFP, which have been a part of the CACFP regulations but were not included in the burden estimates for the currently approved information collection. FNS also included public disclosure burden for State agencies per policy guidance, which allows State agencies to issue media releases on behalf of the institutions. Public disclosure burden hours for State agencies were not captured in the past. However, through feedback from State agencies, FNS adjusted the burden hours because FNS learned that many State agencies issue a public notice on behalf of their institutions.

The current OMB inventory for this collection includes reporting and recordkeeping burden that consists of 2,481,136 hours. As explained above, due to a combination of decreased respondents and additional public disclosure and reporting requirements, program burden increased from 2,481,136 hours to 3,703,593 hours. The recordkeeping burden decreased from 610,724 hours to 568,460 hours. In contrast, the reporting burden increased

from 1,870,412 hours to 3,132,359 hours, and the public disclosure burden increased from zero hours to 2,773 hours. The average burden per response and the annual burden hours for reporting and recordkeeping are explained below and summarized in the charts that follow.

*Affected Public:* Respondent groups identified include: (1) 56 State agencies, (2) 26,002 institutions, (3) 165,717

facilities (includes 96,778 family day care homes and 68,939 sponsored center facilities), and (4) 3,240,194 households.

*Estimated Number of Respondents:* 3,443,062.

*Estimated Number of Responses per Respondent:* 4.081.

*Estimated Total Annual Responses:* 14,049,884.920.

*Estimated Time per Response:* 0.264 hrs.

*Estimated Total Annual Burden on Respondents:* 3,703,593.386 hrs.

*Current OMB Inventory:* 2,481,135.751 hrs.

*Difference (Burden Revisions Requested):* 1,222,457.64 hrs.

Refer to Table 1 below for estimated total annual burden for each type of respondent.

TABLE 1—PUBLIC DISCLOSURE BURDEN

Respondent	Estimated number of respondents	Responses annually per respondent	Total annual responses	Estimated avg. number of hours per response	Estimated total hours
<b>Reporting Burden:</b>					
State agencies/Local/Tribal Governments .....	56	568.161	31,817.000	0.134	4,248.562
Institution .....	26,002	30.393	790,266.000	1.854	1,465,046.812
Businesses (Facility) .....	165,717	12.000	1,988,604.000	0.396	787,485.000
Household .....	3,240,194	3.256	10,549,145.920	0.083	875,579.111
Total Estimated Reporting Burden .....	3,431,969	3.893	13,359,832.920	0.234	3,132,359.486
<b>Recordkeeping Burden:</b>					
State agencies/Local/Tribal Governments .....	56	27.000	1,512.000	1.370	2,072.000
Institutions .....	22,130	8.147	180,296.000	0.384	69,237.650
Businesses (Facility) .....	165,717	3.000	497,151.000	1.000	497,151.000
Total Estimated Recordkeeping Burden .....	187,903	3.613	678,959.000	0.837	568,460.650
<b>Public Disclosure Burden:</b>					
State agencies/Local/Tribal Governments .....	28	1.000	28.000	0.250	7.000
Institution .....	11,065	1.000	11,065.000	0.250	2,766.250
Total Estimated Public Disclosure Burden .....	11,093	1.000	11,093.000	0.250	2,773.250
<b>Total of Reporting, Recordkeeping, and Public Disclosure:</b>					
Total .....	3,443,062	4.081	14,049,884.920	0.264	3,703,593.386

Dated: December 16, 2019.

**Pamilyn Miller,**

*Administrator, Food and Nutrition Service.*

[FR Doc. 2019-27764 Filed 12-23-19; 8:45 am]

**BILLING CODE 3410-30-P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Tennessee Advisory Committee

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Notice of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights and the Federal Advisory Committee Act, that the Tennessee Advisory Committee will hold a public meeting on Friday,

January 10, 2020, at 12:30 p.m. Central Time, to continue discussion of its report on legal financial obligations.

*Public Call Information:* Dial: 800-367-2403; Conference ID: 3970860.

#### FOR FURTHER INFORMATION CONTACT:

David Mussatt (Supervisory Chief, Regional Programs Unit) at [dmussatt@usccr.gov](mailto:dmussatt@usccr.gov) or (312) 353-8311.

**SUPPLEMENTARY INFORMATION:** This meeting is available to the public through the following toll-free call-in number: 800-367-2403, conference ID number: 3970860. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing

impairments may also follow the proceedings by first calling the Federal Relay Service at 1-800-877-8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, John C. Kluczynski Federal Building, 230 S. Dearborn St., Suite 2120, Chicago, IL 60604. They may be faxed to the Commission at (312) 353-8324, or emailed to [dmussatt@usccr.gov](mailto:dmussatt@usccr.gov). Persons who desire additional information may

contact the Regional Programs Unit at (312) 353–8311.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meetings at <https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzm9AAA>. Please click on the “Committee Meetings” tab. Records generated from these meetings may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meetings. Persons interested in the work of this Committee are directed to the Commission’s website, <https://www.usccr.gov>, or may contact the Regional Programs Unit at the above email or street address.

#### Agenda

- I. Opening Remarks
- II. Discussion of Legal Financial Obligations Report
- III. Public Comments
- IV. Adjournment

Dated: December 19, 2019.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2019–27830 Filed 12–23–19; 8:45 am]

BILLING CODE P

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[S–215–2019]

#### Approval of Subzone Expansion; Flemish Master Weavers; Sanford, Maine

On October 18, 2019, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the City of Waterville, grantee of FTZ 186, requesting an expansion of Subzone 186A subject to the existing activation limit of FTZ 186 on behalf of Flemish Master Weavers, in Sanford, Maine.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (84 FR 57391–57392, October 25, 2019). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR 400.36(f)), the application to expand Subzone 186A was approved on December 13, 2019, subject to the FTZ Act and the Board’s regulations, including Section 400.13,

and further subject to FTZ 186’s 2,000-acre activation limit.

Dated: December 13, 2019.

**Elizabeth Whiteman,**

*Acting Executive Secretary.*

[FR Doc. 2019–27795 Filed 12–23–19; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[B–76–2019]

#### Foreign-Trade Zone (FTZ) 27—Boston, Massachusetts; Notification of Proposed Production Activity; Waters Technologies Corporation (Chromatography Tubing Assemblies); Milford, Massachusetts

Waters Technologies Corporation (Waters) submitted a notification of proposed production activity to the FTZ Board for its facility in Milford, Massachusetts. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on December 13, 2019.

The applicant indicates that it will be submitting a separate application for FTZ designation at the company’s facility under FTZ 27. The facility is used for the production of chromatography tubing assemblies. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status component and the specific finished product described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Waters from customs duty payments on the foreign-status component used in export production. On its domestic sales, for the foreign-status component noted below, Waters would be able to choose the duty rate during customs entry procedures that applies to chromatography tubing assemblies (duty-free). Waters would be able to avoid duty on the foreign-status component which becomes scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The component/material sourced from abroad is stainless steel seamless tubing (duty-free). The request indicates that stainless steel seamless tubing is subject to special duties under Section 232 of the Trade Expansion Act of 1962 (Section 232) and Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 232 and Section 301

decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board’s Executive Secretary and sent to: [ftz@trade.gov](mailto:ftz@trade.gov). The closing period for their receipt is February 4, 2020.

A copy of the notification will be available for public inspection in the “Reading Room” section of the FTZ Board’s website, which is accessible via [www.trade.gov/ftz](http://www.trade.gov/ftz).

For further information, contact Diane Finver at [Diane.Finver@trade.gov](mailto:Diane.Finver@trade.gov) or (202) 482–1367.

Dated: December 13, 2019.

**Elizabeth Whiteman,**

*Acting Executive Secretary.*

[FR Doc. 2019–27797 Filed 12–23–19; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[B–77–2019]

#### Foreign-Trade Zone (FTZ) 65—Panama City, Florida; Notification of Proposed Production Activity; Oceaneering International, Inc.; (Sub-Sea Distribution Parts and Systems); Panama City, Florida

Oceaneering International, Inc. (Oceaneering Intl.) submitted a notification of proposed production activity to the FTZ Board for its facility in Panama City, Florida. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on December 11, 2019.

The Oceaneering Intl. facility is located within FTZ 65. The facility will be used for the production and repair of sub-sea distribution parts and systems. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Oceaneering Intl. from customs duty payments on the foreign-status components used in export production. On its domestic sales, for the foreign-status materials/components noted below, Oceaneering Intl. would be able to choose the duty rates during customs entry procedures that apply to: Hydraulic hoses; extruded stainless steel tubes; electrical cable caps; electrical cables; subsea umbilicals;

umbilical termination assemblies; and, subsea umbilicals containing fiber optic cables (duty rate ranges from duty-free to 5.3%). Oceaneering Intl. would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components and materials sourced from abroad include: Hydraulic fluids; lubricating oils (synthetic; petroleum; resin); ethylene glycol mixes; paints; caulking sealants; propylene resins; nylon pellets; elastomeric resin stiffeners; elastomeric resin covers; polyurethane resin cable connectors; plastic components (cable and hose tubing; sleeves; fittings; cylindrical strips; umbilical protection shrouds; seals; sleeves to protect bending damage); tape components (electrical plastic; duct; fiberglass; electrical steel; galvanized steel); bungee cords; hydraulic hoses; rubber o-rings; rubber straps; strong synthetic plastic polymers; stainless steel components (seamless super-duplex tubing; flanges; fasteners; hex bolts); steel components (pipe fittings; hex bolts; bolts assemblies; studs; locknuts; lugnuts; hex nuts; washers; hangers); soft copper cables; nickel alloy strips; titanium banding; lifting components (roller assemblies; roller packers; assemblies; apparatuses); electronic systems; valve remote control units; electrical apparatus harnesses; underwater electrical connectors; electric components (cables; test plugs; test plug pins; test receptacles); electrical copper wires; cable end test plugs; cable end test receptacles; umbilical termination assemblies; fiber optic cables; syntactic foam buoyancy modules; and, pressure transmitters (duty rate ranges from duty free to 7.0% or \$0.84/BBL). The request indicates that certain materials/components may be subject to special duties under Section 232 of the Trade Expansion Act of 1962 (Section 232) or Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 232 and Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: [ftz@trade.gov](mailto:ftz@trade.gov). The closing period for their receipt is February 4, 2020.

A copy of the notification will be available for public inspection in the "Reading Room" section of the Board's website, which is accessible via [www.trade.gov/ftz](http://www.trade.gov/ftz).

For further information, contact Juanita Chen at [juanita.chen@trade.gov](mailto:juanita.chen@trade.gov) or 202-482-1378.

Dated: December 18, 2019.

**Andrew McGilvray,**  
Executive Secretary.

[FR Doc. 2019-27798 Filed 12-23-19; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[S-223-2019]

#### Approval of Subzone Status; Commerce Warehouse Group, LLC; Rock Hill, South Carolina

On October 30, 2019, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the South Carolina State Ports Authority, grantee of FTZ 38, requesting subzone status subject to the existing activation limit of FTZ 38, on behalf of Commerce Warehouse Group, LLC, in Rock Hill, South Carolina.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (84 FR 59615, November 5, 2019). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR 400.36(f)), the application to establish Subzone 38Q was approved on December 18, 2019, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 38's 2,000-acre activation limit.

Dated: December 18, 2019.

**Andrew McGilvray,**  
Executive Secretary.

[FR Doc. 2019-27796 Filed 12-23-19; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Advisory Committee on Supply Chain Competitiveness: Notice of Public Meetings

**AGENCY:** International Trade Administration, U.S. Department of Commerce.

**ACTION:** Notice of open meetings.

**SUMMARY:** This notice sets forth the schedule and proposed topics of discussion for upcoming public meetings of the Advisory Committee on

Supply Chain Competitiveness (Committee).

**DATES:** The meetings will be held on January 15, 2020, from 12:00 p.m. to 3:00 p.m., and January 16, 2020, from 9:00 a.m. to 4:00 p.m., Eastern Daylight Time (EDT).

**ADDRESSES:** The meetings will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Research Library (Room 1894), Washington, DC 20230.

#### FOR FURTHER INFORMATION CONTACT:

Richard Boll, Office of Supply Chain, Professional & Business Services (OSCPBS), International Trade Administration. Phone: (202) 482-1135 or email: [richard.boll@trade.gov](mailto:richard.boll@trade.gov).

#### SUPPLEMENTARY INFORMATION:

**Background:** The Committee was established under the discretionary authority of the Secretary of Commerce and in accordance with the Federal Advisory Committee Act (5 U.S.C. App.). It provides advice to the Secretary of Commerce on the necessary elements of a comprehensive policy approach to supply chain competitiveness and on regulatory policies and programs and investment priorities that affect the competitiveness of U.S. supply chains. For more information about the Committee visit: <http://trade.gov/td/services/oscpb/supplychain/acsccl/>.

**Matters to Be Considered:** Committee members are expected to continue to discuss the major competitiveness-related topics raised at the previous Committee meetings, including trade and competitiveness; freight movement and policy; trade innovation; regulatory issues; finance and infrastructure; and workforce development. The Committee's subcommittees will report on the status of their work regarding these topics. The agenda may change to accommodate other Committee business. The Office of Supply Chain, Professional & Business Services will post the final detailed agendas on its website, <http://trade.gov/td/services/oscpb/supplychain/acsccl/>, at least one week prior to the meeting.

The meetings will be open to the public and press on a first-come, first-served basis. Space is limited. The public meetings are physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Richard Boll, at (202) 482-1135 or [richard.boll@trade.gov](mailto:richard.boll@trade.gov), at least five (5) business days before the meeting.

Interested parties may submit written comments to the Committee at any time

before and after the meeting. Parties wishing to submit written comments for consideration by the Committee in advance of this meeting must send them to the Office of Supply Chain, Professional & Business Services, 1401 Constitution Ave. NW, Room 11014, Washington, DC 20230, or email to [richard.boll@trade.gov](mailto:richard.boll@trade.gov).

For consideration during the meetings, and to ensure transmission to the Committee prior to the meetings, comments must be received no later than 5:00 p.m. EST on January 6, 2020. Comments received after January 6, 2020, will be distributed to the Committee, but may not be considered at the meetings. The minutes of the meetings will be posted on the Committee website within 60 days of the meeting.

Dated: December 19, 2019.

**Maureen Smith,**

*Director, Office of Supply Chain.*

[FR Doc. 2019-27793 Filed 12-23-19; 8:45 am]

BILLING CODE 3510-DR-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-881, C-580-882]

#### **Certain Cold-Rolled Steel Flat Products From the Republic of Korea: Affirmative Final Determinations of Circumvention of the Antidumping Duty and Countervailing Duty Orders**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) determines that imports of certain cold-rolled steel flat products (CRS), produced in the Socialist Republic of Vietnam (Vietnam) using carbon hot-rolled steel (HRS) manufactured in the Republic of Korea (Korea), are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on CRS from Korea.

**DATES:** Applicable December 26, 2019.

**FOR FURTHER INFORMATION CONTACT:** Tyler Weinhold or Fred Baker, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1121 or (202) 482-2924, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On July 10, 2019, Commerce published the *Preliminary*

*Determinations*<sup>1</sup> of circumvention of the *CRS Orders*.<sup>2</sup> A summary of the events that occurred since Commerce published the *Preliminary Determinations*, as well as a full discussion of the issues raised by parties for these final determinations, may be found in the Issues and Decision Memorandum.<sup>3</sup> The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and it is available to all parties in the Central Records Unit, Room B8024 of the main 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 electronic versions of the Issues and Decision Memorandum are identical in content.

#### **Scope of the Orders**

The products covered by these orders are certain cold-rolled (cold-reduced), flat-rolled steel products, whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. For a complete description of the scope of the orders, *see* the Issues and Decision Memorandum.

#### **Scope of the Anti-Circumvention Inquiries**

These anti-circumvention inquiries cover CRS produced in Vietnam using HRS substrate manufactured in Korea and subsequently exported from Vietnam to the United States (merchandise under consideration). These final rulings apply to all

<sup>1</sup> *Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Affirmative Preliminary Determination of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 84 FR 32875 (July 10, 2019) (*Preliminary Determinations*), and accompanying Preliminary Decision Memorandum (Preliminary Decision Memorandum).

<sup>2</sup> *See Certain Cold-Rolled Steel Flat Products from Brazil, India, the Republic of Korea, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for Brazil and the United Kingdom and Antidumping Duty Orders*, 81 FR 64432 (September 20, 2016); *see also Certain Cold-Rolled Steel Flat Products from Brazil, India, and the Republic of Korea: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order (the Republic of Korea) and Countervailing Duty Orders (Brazil and India)*, 81 FR 64436 (September 20, 2016) (collectively, *CRS Orders*).

<sup>3</sup> *See* Memorandum, "Issues and Decision Memorandum for Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders on Certain Cold-Rolled Steel Flat Products from the Republic of Korea," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

shipments of merchandise under consideration entered on or after the date of the initiation of these inquiries. Importers and exporters of CRS produced in Vietnam using HRS manufactured in Vietnam or third countries, and who qualify to participate in the certification process, must certify that the HRS processed into CRS in Vietnam did not originate in Korea, as provided for in the certifications attached to this **Federal Register** notice. Otherwise, their merchandise may be subject to antidumping and countervailing duties.

#### **Methodology**

Commerce is conducting these anti-circumvention inquiries in accordance with section 781(b) of the Tariff Act of 1930, as amended (the Act). Because Vietnam is a non-market economy country within the meaning of section 771(18) of the Act, Commerce calculated the value of certain processing and merchandise using factors of production and market economy values, as discussed in section 773(c) of the Act.<sup>4</sup> *See* Preliminary Decision Memorandum for a full description of the methodology. We have continued to apply this methodology for our final determination.

#### **Analysis of Comments Received**

All issues raised in the case and rebuttal briefs by parties in these inquiries are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix I.

#### **Final Affirmative Determinations of Circumvention**

We determine that exports to the United States of CRS produced in Vietnam from HRS substrate manufactured in Korea are circumventing the *CRS Orders*. We therefore find it appropriate to determine that this merchandise falls within the *CRS Orders*, and to instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of any entries of CRS from Vietnam produced using HRS substrate manufactured in Korea.

<sup>4</sup> *See, e.g., Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review*, 81 FR 71071 (October 14, 2016) and accompanying Preliminary Decision Memorandum at 3, unchanged in *Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 18611 (April 20, 2017).



## Continuation of Suspension of Liquidation

As stated above, Commerce has made an affirmative determination of circumvention of the *CRS Orders* by exports to the United States of CRS produced in Vietnam using Korean-origin HRS substrate. This circumvention finding applies to CRS produced by any Vietnamese company using Korean-origin HRS substrate. In accordance with 19 CFR 351.225(l)(3), Commerce will direct CBP to continue to suspend liquidation and to require a cash deposit of estimated duties on unliquidated entries of CRS produced in Vietnam using Korean-origin HRS substrate that were entered, or withdrawn from warehouse, for consumption on or after August 2, 2018, the date of initiation of these anti-circumvention inquiries.<sup>5</sup>

The suspension of liquidation and cash deposit instructions will remain in effect until further notice. In order to prevent evasion, and because the AD and CVD rates established in the *CRS China Circumvention Final* are higher than the rates established for CRS from Korea, Commerce will instruct CBP to suspend liquidation and collect cash deposits in the following manner.<sup>6</sup> In the situation where no certification regarding the origin of the substrate is maintained for an entry, and AD/CVD orders from two countries (China or Korea) potentially apply to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD rate established for the China-wide entity (199.76 percent) and the China CVD all-others rate (256.44 percent), pursuant to the *CRS China Circumvention Final*. In the situation where a certification is maintained for the AD/CVD orders on CRS from China (stating that the merchandise was not produced from HRS from China), but no other certification is maintained, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD and CVD all-others rates (*i.e.*, 20.33 percent and 3.89 percent, respectively) applicable to the AD/CVD orders on CRS from Korea.<sup>7</sup>

<sup>5</sup> See *Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 83 FR 37790 (August 2, 2018).

<sup>6</sup> See *Certain Cold-Rolled Steel Flat Products from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders*, 83 FR 23891 (May 23, 2018) (*CRS China Circumvention Final*).

<sup>7</sup> See *CRS Orders*.

CRS produced in Vietnam from HRS substrate that is not of Korean-origin is not subject to these inquiries. Therefore, cash deposits are not required for such merchandise. However, CRS produced in Vietnam from HRS from China is subject to the AD/CVD orders on CRS from China. If an importer imports CRS from Vietnam and claims that the CRS was produced from non-Korean HRS substrate, in order not to be subject to cash deposit requirements, the importer and exporter are required to meet the certification and documentation requirements described in Appendix II. Exporters of CRS produced in Vietnam from non-Korean origin HRS substrate must prepare and maintain an Exporter Certification and documentation supporting the Exporter Certification (*see* Appendix IV). In addition, importers of such CRS must prepare and maintain an Importer Certification (*see* Appendix III) as well as documentation supporting the Importer Certification. In addition to the Importer Certification, the importer must also maintain a copy of the Exporter Certification (*see* Appendix IV) and relevant supporting documentation from its exporter of CRS produced from non-Korean-origin HRS substrate.

For these final determinations, we determine that the following companies are not eligible for the certification process: 190 Steel Pipe Co. Ltd., Central Vietnam Metal Corp., Hoa Phat Steel Pipe Co., POSCO E&C, POSCO SS Vina, POSCO VST, VSC—POSCO Steel Corporation, Prima Commodities Co., Southern Steel Sheet Co., Ltd., Tan Thanh Quyen Steel Co., Thai Nguyen Iron and Steel Corp., Thong Nhat Flat Steel, Van Loi Co. Ltd., Vietnam Germany Steel JSC, Vietnam Steel Corp., Vietnam Steel Pipe, Vina Kyoei Steel Ltd., Vinda Iron & Steel Co. Ltd., and VNSTEEL—Phu My Flat Steel Co. Accordingly, importers of CRS from Vietnam that is produced and/or exported by these ineligible companies are similarly ineligible for the certification process with regard to those imports. Additionally, exporters are not eligible to certify shipments of merchandise produced by the above-listed companies. Accordingly, Hoa Phat Group Joint Stock Company and Hoa Phat Steel Sheet are not eligible to certify shipments of CRS produced by Hoa Phat Steel Pipe Co.<sup>8</sup>

## Notification Regarding Administrative Protective Orders

This notice will serve as the only reminder to all parties subject to

<sup>8</sup> See Issues and Decision Memorandum at Comment 11.

administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/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 sanctionable violation.

## Notification to Interested Parties

These determinations are issued and published in accordance with section 781(b) of the Act and 19 CFR 351.225(f).

Dated: December 13, 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 Orders
- IV. Scope of the Anti-Circumvention Inquiries
- V. Changes Since the Preliminary Determination
- VI. Statutory Framework
- VII. Statutory Analysis
- VIII. Discussion of the Issues
  - Comment 1: Whether Companies That Did Not Receive Commerce's Quantity and Value (Q&V) Questionnaire Should Be Permitted to Participate in the Certification Process.
  - Comment 2: Whether Commerce Abused Its Discretion in Rejecting the Q&V Questionnaire Responses of Certain Companies
  - Comment 3: Whether Commerce Should Not Apply AFA to SSSC
  - Comment 4: Whether Commerce Lacks Statutory Authority to Apply AFA Where Respondents Did Not Deprive Commerce of Information Regarding Its Ability to Trace Inputs.
  - Comment 5: Whether Commerce's Use of AFA Impermissibly Departs Without Explanation from Its Decision in the China Anti-Circumvention Inquiry
  - Comment 6: Whether Precluding Certain Importers and Exporters from Participating in the Certification Process is Inappropriate and Unfairly Punishes Importers
  - Comment 7: Whether Commerce Should Allow Additional Time for Completing Certifications for Pre-Preliminary Determination Entries
  - Comment 8: Whether a Country-Wide Determination is Justified
  - Comment 9: Whether Commerce's Interpretation of Section 781(b) of the Act Applies to the CRS Production Process in Vietnam and Expands the Scope of the Orders
  - Comment 10: Whether Commerce Should Amend the Exporter Certification Language to Prevent Funneling



- Comment 11: Whether to Apply AFA to Certain Vietnamese Producers That Are Affiliated with Those That Are Deemed Non-Responsive
- Comment 12: Whether Commerce Should Preclude Companies that Failed to Cooperate in Both the CRS from China and CRS from Korea Inquiries from Participating in the Certification Regime
- Comment 13: Whether to Apply the Highest of the Petition Rate or Investigation Calculated Rate as the Cash Deposit Rate for Non-Responsive Companies
- Comment 14: Whether POSCO Vietnam's History Demonstrates that It Cannot Be Viewed as Circumventing
- Comment 15: Whether POSCO Vietnam's Operations Confirm that the Process of Assembly or Completion Is Not Minor or Insignificant
- Comment 16: Analysis of Patterns of Trade
- Comment 17: Whether the Value Added in Vietnam Is Significant
- Comment 18: Whether Commerce Should Rely on AFA to Value POSCO Vietnam's Scrap Offset
- Comment 19: Whether Commerce Should Account for POSCO Vietnam's Failure to Disclose Corporate Affiliations in Its Final Determination

## IX. Recommendation

## Appendix II

### Certification Requirements

If an importer imports certain cold-rolled steel flat products (CRS) from the Socialist Republic of Vietnam (Vietnam) and claims that the CRS was not produced from hot-rolled steel substrate (substrate) manufactured in Korea, the importer is required to complete and maintain the importer certification attached hereto as Appendix III and all supporting documentation. Where the importer uses a broker to facilitate the entry process, it should obtain the entry number from the broker. Agents of the importer, such as brokers, however, are not permitted to make this certification on behalf of the importer.

The exporter is required to complete and maintain the exporter certification, attached as Appendix IV, and is further required to provide the importer a copy of that certification and all supporting documentation.

As discussed in the Issues and Decisions Memorandum, for these final determinations, we are extending the period for completing certifications for shipments and/or entries during the August 2, 2018 through July 18, 2019 period established in the *Preliminary Determinations*. Accordingly, for shipments and/or entries on or after August 2, 2018 through July 18, 2019 for which certifications are required, importers and exporters should complete the required certification within 30 days of the publication of these final determinations notice in the **Federal Register**.

For companies that were not eligible to certify pursuant to the *Preliminary Determinations*, but are now eligible pursuant to the final determinations, we are also extending the period for completion of their certifications for shipments and/or

entries from August 2, 2018 through the date of **Federal Register** publication of the final determinations until 30 days after publication of these determinations.

Accordingly, where appropriate, the relevant bullet in the certification should be edited to reflect that the certification was completed within the time frame specified above. For example, the bullet in the importer certification that reads: "This certification was completed at or prior to the time of Entry," could be edited as follows: "The imports referenced herein entered before July 19, 2019. This certification was completed on mm/dd/yyyy, within 30 days of the **Federal Register** notice publication of the final determinations of circumvention." Similarly, the bullet in the exporter certification that reads, "This certification was completed at or prior to the time of shipment," could be edited as follows: "The shipments/products referenced herein shipped before July 19, 2019. This certification was completed on mm/dd/yyyy, within 30 days of the **Federal Register** notice publication of the final determinations of circumvention." For such entries/shipments, importers and exporters each have the option to complete a blanket certification covering multiple entries/shipments, individual certifications for each entry/shipment, or a combination thereof.

For shipments and/or entries on or after the date of publication of this notice in the **Federal Register**, for which certifications are required, importers should complete the required certification at or prior to the date of Entry and exporters should complete the required certification and provide it to the importer at or prior to the date of shipment.

For shipments and/or entries made on or after 10 days after the date of publication of these final determinations, parties should use the exporter and importer certifications contained below that incorporate additional information that was not in the preliminary determinations certifications. Specifically, the exporter certification now requires identification of the producer of the merchandise being exported to the United States, and also notes that CVD deposits may be required in addition to AD deposits as a result of the failure to maintain the required certification or the inability to substantiate the claims made in the certification. Similarly, the importer certification also notes that CVD deposits may be required in addition to AD deposits as a result of the failure to maintain the required certification or the inability to substantiate the claims made in the certification. The importer and Vietnamese 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 U.S. Customs and Border Protection (CBP) as part of the entry process at this time. However, the importer and the exporter will be required to present the certifications and supporting documentation, to Commerce and/or 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.

In the situation where no certification is maintained for an entry, and AD/CVD orders from two countries (China or Korea) potentially apply to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the *CRS China Circumvention Final* rates (*i.e.*, the AD rate established for the China-wide entity (199.76 percent) and the CVD rate established for China all-others rate (256.44 percent)).<sup>9</sup> In the situation where a certification is maintained for the AD/CVD orders on CRS from China (stating that the merchandise was not produced from HRS from China), but no other certification is provided, then Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD and CVD all-others rates (*i.e.*, 20.33 percent and 3.89 percent, respectively) applicable to the AD/CVD orders on CRS from Korea.<sup>10</sup>

## Appendix III

### Importer Certification

I hereby certify that:

- My name is {INSERT COMPANY OFFICIAL'S NAME HERE} and I am an official of {INSERT NAME OF IMPORTING COMPANY};

- I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the cold-rolled steel flat products produced in Vietnam that entered under entry number(s) {INSERT ENTRY NUMBER(S)} and are covered by this certification. "Direct personal knowledge" refers to facts the certifying party is expected to have in its own records. For example, 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 products covered by this certification. "Personal knowledge" includes facts obtained from another party, (*e.g.*, correspondence received by the importer (or exporter) from the producer regarding the source of the input used to produce the imported products);

- These cold-rolled steel flat products produced in Vietnam do not contain hot-rolled steel substrate produced in Korea:

- I understand that {INSERT NAME OF IMPORTING COMPANY} 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, productions 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

<sup>9</sup> See *CRS China Circumvention Final*.

<sup>10</sup> See *CRS Orders*.

any litigation in the United States courts regarding such entries;

- I understand that {INSERT NAME OF IMPORTING COMPANY} 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 NAME OF IMPORTING COMPANY} 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 NAME OF IMPORTING COMPANY} 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 liquidation has not become final) for which these requirements were not met and
  - the requirement that the importer post applicable antidumping/countervailing duty (AD and/or CVD) cash deposits equal to the rates as 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 or prior to the time of Entry; 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 materially false statements to the U.S. government.

Signature

\_\_\_\_\_  
Name of Company Official

\_\_\_\_\_  
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 cold-rolled steel flat products that were sold to the United States under invoice number(s) INSERT INVOICE NUMBER(S). "Direct personal knowledge" refers to facts the certifying party is expected to have in its own books and records. For example, an exporter should have "direct personal knowledge" of the producer's identity and location.
- The {MERCHANDISE} covered by this certification was produced by {NAME OF PRODUCING COMPANY}, located at

{ADDRESS OF PRODUCING COMPANY};  
for each additional company, repeat: {NAME OF PRODUCING COMPANY}, located at {ADDRESS OF PRODUCING COMPANY}.

- These cold-rolled steel flat products produced in Vietnam do not contain hot-rolled steel substrate produced in Korea;
  - I understand that {INSERT NAME OF EXPORTING COMPANY} 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, productions 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 NAME OF EXPORTING COMPANY} must provide this Exporter Certification to the U.S. importer by the time of shipment;
  - I understand that {INSERT NAME OF EXPORTING COMPANY} is required to 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/countervailing duty (AD and/or 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 materially false statements to the U.S. government.
- Signature

\_\_\_\_\_  
Name of Company Official

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

[FR Doc. 2019–27816 Filed 12–23–19; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–583–856]

### Certain Corrosion-Resistant Steel Products From Taiwan: Affirmative Final Determination of Circumvention Inquiry on the Antidumping Duty Order

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) determines that imports of certain corrosion-resistant steel products (CORE), completed in the Socialist Republic of Vietnam (Vietnam) using carbon hot-rolled steel (HRS) and/or cold-rolled steel (CRS) flat products manufactured in Taiwan, are circumventing the antidumping duty (AD) order on CORE from Taiwan.

**DATES:** Applicable December 26, 2019.

**FOR FURTHER INFORMATION CONTACT:** Shanah Lee or Peter Zukowski, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6386 and (202) 482–0189, respectively.

### SUPPLEMENTARY INFORMATION:

#### Background

On July 11, 2019, Commerce published the *Preliminary Determination*<sup>1</sup> of circumvention of the *Taiwan CORE Order*.<sup>2</sup> A summary of 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 IDM.<sup>3</sup> The IDM 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 <https://>

<sup>1</sup> See *Certain Corrosion-Resistant Steel Products from Taiwan: Affirmative Preliminary Determination of Anti-Circumvention Inquiry on the Antidumping Duty Order*, 84 FR 32864 (July 10, 2019) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

<sup>2</sup> See *Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders*, 81 FR 48390 (July 25, 2016) (*Taiwan CORE Order*).

<sup>3</sup> See Memorandum, "Issues and Decision Memorandum for Anti-Circumvention Inquiry on the Antidumping Duty Order on Certain Corrosion-Resistant Steel Products from Taiwan," dated concurrently with, and hereby adopted by, this notice (IDM).

*access.trade.gov*, and it is available to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the IDM can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the IDM are identical in content.

### Scope of the Order

The products covered by this order are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. For a complete description of the scope of the order, *see* the IDM.

### Scope of the Anti-Circumvention Inquiry

This anti-circumvention inquiry covers CORE completed in Vietnam from HRS and/or CRS substrate manufactured in Taiwan and subsequently exported from Vietnam to the United States (merchandise under consideration). This final ruling applies to all shipments of merchandise under consideration entered on or after the date of the initiation of this inquiry. Importers and exporters of CORE produced in Vietnam using: (1) HRS manufactured in Vietnam or third countries, (2) CRS manufactured in Vietnam using HRS produced in Vietnam or third countries, or (3) CRS manufactured in third countries, must certify that the HRS and/or CRS processed into CORE in Vietnam did not originate in Taiwan, as provided for in the certifications attached to the **Federal Register** notice. Otherwise, their merchandise may be subject to antidumping duties.

### Methodology

Commerce is conducting this anti-circumvention inquiry in accordance with section 781(b) of the Tariff Act of 1930, as amended (the Act). Because Vietnam is a non-market economy, within the meaning of section 771(18) of the Act,<sup>4</sup> Commerce calculated the value of certain processing and merchandise using factors of production

and market economy values, as discussed in section 773(c) of the Act. *See* Preliminary Decision Memorandum for a full description of the methodology. We have continued to apply this methodology for our final determination.

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this inquiry are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix I.

Based on our analysis of the comments received and our findings at verification, we made certain changes to the value of further processing calculation, value of input purchases from Taiwan, and pattern of trade analysis since the *Preliminary Determination*. These changes are discussed in the IDM. *See* the “Changes since the *Preliminary Determination*” section.

### Final Affirmative Determination of Circumvention

We determine that exports to the United States of CORE produced in Vietnam from HRS or CRS substrate manufactured in Taiwan are circumventing the *Taiwan CORE Order*. We therefore find it appropriate to determine that this merchandise falls within the *Taiwan CORE Order*, and to instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of any entries of CORE from Vietnam produced using HRS or CRS substrate manufactured in Taiwan.

### Continuation of Suspension of Liquidation

As stated above, Commerce has made an affirmative determination of circumvention of the *Taiwan CORE Order* by exports to the United States of CORE produced in Vietnam using Taiwan-origin HRS or CRS substrate. This circumvention finding applies to CORE produced by any Vietnamese company using Taiwan-origin HRS or CRS substrate. In accordance with 19 CFR 351.225(1)(3), Commerce will direct CBP to continue to suspend liquidation and to require a cash deposit of estimated duties on unliquidated entries of CORE produced in Vietnam using Taiwan-origin HRS or CRS substrate that were entered, or withdrawn from warehouse, for consumption on or after August 2, 2018, the date of initiation of this anti-circumvention inquiry.

The suspension of liquidation and cash deposit instructions will remain in effect until further notice. In order to prevent evasion, and because the AD

and countervailing duty (CVD) rates established in *China CORE Circumvention Determination*<sup>5</sup> are higher than the rates established for CORE from Korea and Taiwan, and the rates established for CORE from Korea are higher than the AD rate established for CORE from Taiwan, Commerce will instruct CBP to suspend liquidation and collect cash deposits in the following manner. In the situation where no certification regarding the origin of the substrate is maintained for an entry, and AD/CVD orders from three countries (China, Korea, or Taiwan) potentially apply to that entry, Commerce will instruct CBP to suspend the entry and collect cash deposits at the AD rate established for the China-wide entity (199.43 percent) and the CVD rate established for the China all-others rate (39.05 percent) pursuant to the *China Core Circumvention Determination*.<sup>6</sup> In the situation where a certification is maintained for the AD/CVD orders on CORE from China (stating that the merchandise was not produced from HRS and/or CRS from China), but no other certification is maintained, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD and CVD all-others rates (*i.e.*, 8.31 percent and 1.19 percent, respectively) applicable to the AD/CVD orders on CORE from Korea.<sup>7</sup> In the situation where a certification is maintained for the AD order on CORE from China (stating that the merchandise was not produced from HRS and/or CRS from China), and for the AD order on CORE from Korea (stating that the merchandise was not produced from HRS and/or CRS from Korea), but no other certification is maintained, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD all-

<sup>5</sup> *See Certain Corrosion-Resistant Steel Products from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders*, 83 FR 23895 (May 23, 2018) (*China CORE Circumvention Determination*).

<sup>6</sup> *Id.*

<sup>7</sup> *See Certain Corrosion-Resistant Steel Flat Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Amended Final Affirmative Antidumping Duty Determination for India and Taiwan, and Antidumping Duty Orders*, 81 FR 48390 (July 25, 2016). The “all-others rate” was subsequently amended as the result to litigation. *See Certain Corrosion-Resistant Steel Products from the Republic of Korea: Notice of Court Decision Not in Harmony with Final Determination of Investigation and Notice of Amended Final Results*, 83 FR 39054 (August 8, 2018); *see also Certain Corrosion-Resistant Steel Products from India, Italy, Republic of Korea, and the People's Republic of China: Countervailing Duty Order*, 81 FR 48387 (July 25, 2016) (collectively, *Korea CORE Orders*).

<sup>4</sup> *See, e.g., Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review*, 81 FR 24797 (October 14, 2016) unchanged in *Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Final Results Antidumping Administrative Review; 2014–2015*, 82 FR 18611 (April 20, 2017).

others rate (*i.e.*, 3.66 percent) applicable to the AD order on CORE from Taiwan.

CORE produced in Vietnam from HRS or CRS substrate that is not of Taiwan-origin is not subject to this inquiry. Therefore, cash deposits are not required for such merchandise. However, CORE produced in Vietnam from HRS and/or CRS from China is subject to the AD/CVD orders on CORE from China, and CORE produced in Vietnam from HRS and/or CRS from Korea is subject to the AD order on CORE from Korea. If an importer imports CORE from Vietnam and claims that the CORE was produced from non-Taiwanese HRS or CRS substrate, in order not to be subject to cash deposit requirements, the importer and exporter are required to meet the certification and documentation requirements described in Appendix II. Exporters of CORE produced in Vietnam from non-Taiwan-origin HRS or CRS substrate must prepare and maintain an Exporter Certification and documentation supporting the Exporter Certification (*see* Appendix IV). In addition, importers of such CORE must prepare and maintain an Importer Certification (*see* Appendix III) as well as documentation supporting the Importer Certification. In addition to the Importer Certification, the importer must also maintain a copy of the Exporter Certification (*see* Appendix IV) and relevant supporting documentation from its exporter of CORE produced from non-Taiwan-origin HRS or CRS substrate.

For this final determination, we determine that the following companies are not eligible for the certification process: 190 Steel Pipe Co. Ltd.; Chinh Dai Steel Limited; Hoa Phat Steel Pipe; Perstima Viet Nam; Prima Commodities Co.; Thong Nhat Flat Steel; Trung Nguyen Steel Co.; Vietnam Germany Steel JSC; Vietnam Steel Corp.; Thai Nguyen Iron and Steel Corp.; Vina Kyoei Steel Ltd.; and Vietnam Steel Pipe. Accordingly, importers of CORE from Vietnam produced and/or exported by these ineligible companies are similarly ineligible for the certification process with regard to those imports. Additionally, exporters are not eligible to certify shipments of merchandise produced by the above-listed companies. Accordingly, Hoa Phat Group Joint Stock Company and Hoa Phat Steel Sheet are not eligible to certify shipments of CORE produced by Hoa Phat Steel Pipe.<sup>8</sup>

### Notification Regarding Administrative Protective Orders

This notice will serve as the only reminder to all parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/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 sanctionable violation.

### Notification to Interested Parties

This determination is issued and published in accordance with section 781(b) of the Act and 19 CFR 351.225(f).

Dated: December 13, 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 Order
- IV. Scope of the Anti-Circumvention Inquiry
- V. Changes Since the *Preliminary Determination*
- VI. Statutory Framework
- VII. Statutory Analysis
- VIII. Discussion of the Issues
  - Comment 1: Whether Companies That Did Not Receive Commerce's Quantity and Value (Q&V) Questionnaire Should Be Permitted to Participate in the Certification Process
  - Comment 2: Whether Commerce Abused Its Discretion in Rejecting the Q&V Questionnaire Responses of Certain Companies
  - Comment 3: Whether Commerce Lacks Statutory Authority to Apply AFA Where Respondents Did Not Deprive Commerce of Information Regarding Its Ability To Trace Inputs
  - Comment 4: Whether Commerce's Use of AFA Impermissibly Departs Without Explanation from Its Decision in the China Anti-Circumvention Inquiry
  - Comment 5: Whether Precluding Certain Importers and Exporters from Participating in the Certification Process is Inappropriate and Unfairly Punishes Importers
  - Comment 6: Whether Commerce Should Allow Additional Time for Completing Certification for Pre-Preliminary Determination Entries
  - Comment 7: Whether a Country-Wide Determination is Justified
  - Comment 8: Whether Commerce's Interpretation of Section 781(b) of the Act Applies to the CORE Production Process in Vietnam and Expands the Scope of the *Taiwan CORE Order*

Comment 9: Whether Commerce Should Amend the Exporter Certification Language to Prevent Funneling

Comment 10: Whether to Apply AFA to Certain Vietnamese Producers that are Affiliated with Those that are Deemed Non-Responsive

Comment 11: Whether Commerce Should Preclude Companies that Failed to Cooperate in Both the CORE from China and CORE from Taiwan Inquiries from Participating in the Certification Regime

Comment 12: Whether to Apply the Highest of the Petition Rate or Investigation Calculated Rate as the Cash Deposit Rate for Non-Responsive Companies

Comment 13: Whether CSVC's Manufacturing Operations in Vietnam Constitute Circumvention Under the Statutory Criteria Established in Section 781(b)(2) of the Act

Comment 14: Whether Nam Kim Should Be Eligible for Certification

IX. Recommendation

### Appendix II

#### Certification Requirements

If an importer imports certain corrosion-resistant steel products (CORE) from the Socialist Republic of Vietnam (Vietnam) and claims that the CORE was not produced from hot-rolled steel and/or cold-rolled steel substrate (substrate) manufactured in Taiwan, the importer is required to complete and maintain the importer certification attached hereto as Appendix III and all supporting documentation. Where the importer uses a broker to facilitate the entry process, it should obtain the entry number from the broker. Agents of the importer, such as brokers, however, are not permitted to make this certification on behalf of the importer.

The exporter is required to complete and maintain the exporter certification, attached as Appendix IV, and is further required to provide the importer a copy of that certification and all supporting documentation.

As discussed in the Issues and Decisions Memorandum, for this final determination, we are extending the period for completing certifications for shipments and/or entries during the August 2, 2018 through July 18, 2019 period established in the *Preliminary Determination*. Accordingly, for shipments and/or entries on or after August 2, 2018 through July 18, 2019 for which certifications are required, importers and exporters should complete the required certification within 30 days of the publication of this final determination notice in the **Federal Register**.

For companies that were not eligible to certify pursuant to the *Preliminary Determination*, but are now eligible pursuant to the final determination, we are also extending the period for completion of their certifications for shipments and/or entries from August 2, 2018 through the date of **Federal Register** publication of the final determination until 30 days after publication of this determination.

Accordingly, where appropriate, the relevant bullet in the certification should be edited to reflect that the certification was

<sup>8</sup> See IDM at Comment 9.

completed within the time frame specified above. For example, the bullet in the importer certification that reads: “This certification was completed at or prior to the time of Entry,” could be edited as follows: “The imports referenced herein entered before July 19, 2019. This certification was completed on mm/dd/yyyy, within 30 days of the **Federal Register** notice publication of the final determination of circumvention.” Similarly, the bullet in the exporter certification that reads, “This certification was completed at or prior to the time of shipment,” could be edited as follows: “The shipments/products referenced herein shipped before July 19, 2019. This certification was completed on mm/dd/yyyy, within 30 days of the **Federal Register** notice publication of the final determination of circumvention.” For such entries/shipments, importers and exporters each have the option to complete a blanket certification covering multiple entries/shipments, individual certifications for each entry/shipment, or a combination thereof.

For shipments and/or entries on or after the date of publication of this notice in the **Federal Register**, for which certifications are required, importers should complete the required certification at or prior to the date of Entry and exporters should complete the required certification and provide it to the importer at or prior to the date of shipment.

For shipments and/or entries made on or after 10 days after the date of publication of this final determination, exporters should use the certification contained below that incorporates additional information that was not in the preliminary determination certification. Specifically, the certification now requires identification of the producer of the merchandise being exported to the United States. The importer and Vietnamese 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 U.S. Customs and Border Protection (CBP) as part of the entry process at this time. However, the importer and the exporter will be required to present the certifications and supporting documentation, to Commerce and/or 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.

In the situation where no certification is maintained for an entry, and AD/CVD orders from three countries (China, Korea, or Taiwan) potentially apply to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the *CORE China Circumvention Final* rates (*i.e.*, the AD rate established for the China-wide entity (199.43 percent) and the CVD rate established for China all-others rate

(39.05 percent)).<sup>9</sup> In the situation where a certification is maintained for the AD/CVD orders on CORE from China (stating that the merchandise was not produced from HRS and/or CRS from China), but no other certification is maintained, then Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD and CVD all-others rates (*i.e.*, 8.31 percent and 1.19 percent, respectively) applicable to the AD/CVD orders on CORE from Korea. In the situation where a certification is maintained for the AD order on CORE from China (stating that the merchandise was not produced from HRS and/or CRS from China), and for the AD order on CORE from Korea (stating that the merchandise was not produced from HRS and/or CRS from Korea), but no other certification is maintained, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD all-others rate (*i.e.*, 3.66 percent) applicable to the AD order on CORE from Taiwan.

### Appendix III

#### Importer Certification

I hereby certify that:

- My name is {INSERT COMPANY OFFICIAL'S NAME HERE} and I am an official of {INSERT NAME OF IMPORTING COMPANY};
- I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the corrosion-resistant steel products produced in Vietnam that entered under entry number(s) {INSERT ENTRY NUMBER(S)} and are covered by this certification. “Direct personal knowledge” refers to facts the certifying party is expected to have in its own records. For example, 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 products covered by this certification. “Personal knowledge” includes facts obtained from another party, (*e.g.*, correspondence received by the importer (or exporter) from the producer regarding the source of the input used to produce the imported products);
- These corrosion-resistant steel products produced in Vietnam do not contain hot-rolled steel and/or cold-rolled steel substrate produced in Taiwan;
- I understand that {INSERT NAME OF IMPORTING COMPANY} 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, productions 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 NAME OF IMPORTING COMPANY} 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 NAME OF IMPORTING COMPANY} 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 NAME OF IMPORTING COMPANY} 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 liquidation has not become final) for which these requirements were not met and
  - the requirement that the importer post applicable antidumping duty (AD) cash deposits equal to the rates as 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 or prior to the time of Entry; 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 materially false statements to the U.S. government.

Signature

Name of Company Official

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 corrosion-resistant steel products that were sold to the United States under invoice number(s) INSERT INVOICE NUMBER(S). “Direct personal knowledge” refers to facts the certifying party is expected to have in its own books and records. For example, an exporter should have “direct personal knowledge” of the producer's identity and location.
- The {MERCHANDISE} covered this certification was produced by {NAME OF PRODUCING COMPANY}, located at {ADDRESS OF PRODUCING COMPANY}; for each additional company, repeat: {NAME OF PRODUCING COMPANY}, located at {ADDRESS OF PRODUCING COMPANY}.

<sup>9</sup> See *CORE China Circumvention Final*, 83 FR at 23896.

• These corrosion-resistant steel products produced in Vietnam do not contain hot-rolled steel and/or cold-rolled steel substrate produced in Taiwan:

• I understand that {INSERT NAME OF EXPORTING COMPANY} 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, productions 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 NAME OF EXPORTING COMPANY} must provide this Exporter Certification to the U.S. importer by the time of shipment;

• I understand that {INSERT NAME OF EXPORTING COMPANY} is required to 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) cash deposits equal to the rates as determined by Commerce;

• This certification was completed at or prior to the time of shipment;

• 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 materially false statements to the U.S. government. Signature

\_\_\_\_\_  
Name of Company Official

\_\_\_\_\_  
Title

[FR Doc. 2019-27815 Filed 12-23-19; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-523-813, A-580-903]

#### Polyethylene Terephthalate Sheet From the Republic of Korea and the Sultanate of Oman: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**DATES:** Applicable December 26, 2019.

#### FOR FURTHER INFORMATION CONTACT:

Laurel LaCivita at (202) 482-4243 or Katherine Sliney at (202) 482-2437 (Republic of Korea (Korea)); Matthew Renkey at (202) 482-2312 or Javier Barrientos at (202) 482-2243 (Sultanate of Oman (Oman)), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### Background

On August 19, 2019, the Department of Commerce (Commerce) initiated less-than-fair-value (LTFV) investigations of imports of polyethylene terephthalate sheet from Korea and Oman.<sup>1</sup> Currently, the preliminary determinations are due no later than January 6, 2020.

##### Postponement of Preliminary Determinations

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in an LTFV investigation within 140 days after the date on which Commerce initiated the investigation. However, section 733(c)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 190 days after the date on which Commerce initiated the investigation if: (A) the petitioner makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.<sup>2</sup>

On December 3, 2019, the petitioners<sup>3</sup> submitted a timely request that Commerce postpone the preliminary determinations in these LTFV investigations.<sup>4</sup> The petitioners stated that a postponement is necessary to

<sup>1</sup> See *Polyethylene Terephthalate Sheet from the Republic of Korea, Mexico, and the Sultanate of Oman: Initiation of Less-Than-Fair-Value Investigations*, 84 FR 44854 (August 27, 2019).

<sup>2</sup> See 19 CFR 351.205(e).

<sup>3</sup> The petitioners are Advanced Extrusion Inc., Ex-Tech Plastics, Inc., and Multi-Plastics Extrusions, Inc. (collectively, the petitioners).

<sup>4</sup> See Petitioners' Letter, "Polyethylene Terephthalate Sheet from Oman and Korea—Petitioners' Request to Postpone Preliminary Determinations," dated December 3, 2019.

provide Commerce with adequate time to solicit additional information from the respondents, to review supplemental questionnaire responses, and to consider petitioners' particular market situation allegation.<sup>5</sup>

For the reasons stated above and because there are no compelling reasons to deny the request, Commerce, in accordance with section 733(c)(1)(A) of the Act, is postponing the deadline for the preliminary determinations by 50 days (*i.e.*, 190 days after the date on which these investigations were initiated). As a result, Commerce will issue its preliminary determinations no later than February 25, 2020. In accordance with section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determinations of these investigations will continue to be 75 days after the date of the preliminary determinations, unless postponed at a later date.

##### Notification to Interested Parties

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: December 17, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2019-27694 Filed 12-23-19; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Advisory Committee on Supply Chain Competitiveness Charter Renewal

**AGENCY:** International Trade Administration, U.S. Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The Chief Financial Officer and Assistant Secretary for Administration, with the concurrence of the General Services Administration, renewed the Charter for the Advisory Committee on Supply Chain Competitiveness on November 14, 2019.

**DATES:** The Charter for the Advisory Committee on Supply Chain Competitiveness was renewed on November 14, 2019.

#### FOR FURTHER INFORMATION CONTACT:

Richard Boll, Supply Chain Team, Room 11014, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; phone 202-482-1135; email: [richard.boll@trade.gov](mailto:richard.boll@trade.gov).

<sup>5</sup> *Id.*

**SUPPLEMENTARY INFORMATION:** The Chief Financial Officer and Assistant Secretary for Administration, with the concurrence of the General Services Administration, renewed the Charter for the Advisory Committee on Supply Chain Competitiveness on November 14, 2019. This Notice is published in accordance with the Federal Advisory Committee Act (FACA) (Title 5, United States Code, Appendix 2, § 9). It has been determined that the Committee is necessary and in the public interest. The Committee was established pursuant to Commerce's authority under 15 U.S.C. 1512, established under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. app., and with the concurrence of the General Services Administration. The Committee provides advice to the Secretary on the necessary elements of a comprehensive policy approach to supply chain competitiveness designed to support U.S. export growth and national economic competitiveness, encourage innovation, facilitate the movement of goods, and improve the competitiveness of U.S. supply chains for goods and services in the domestic and global economy; and to provide advice to the Secretary on regulatory policies and programs and investment priorities that affect the competitiveness of U.S. supply chains. The total number of members that may serve on the Committee is a maximum of 45.

Dated: December 18, 2019.

**Maureen Smith,**

*Director, Office of Supply Chain and Professional & Business Services.*

[FR Doc. 2019-27792 Filed 12-23-19; 8:45 am]

**BILLING CODE 3510-DR-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Advisory Committee on Supply Chain Competitiveness Charter Renewal

**AGENCY:** International Trade Administration, U.S. Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The Chief Financial Officer and Assistant Secretary for Administration, with the concurrence of the General Services Administration, renewed the Charter for the Advisory Committee on Supply Chain Competitiveness on November 14, 2019.

**DATES:** The Charter for the Advisory Committee on Supply Chain Competitiveness was renewed on November 14, 2019.

**FOR FURTHER INFORMATION CONTACT:** Richard Boll, Supply Chain Team, Room 11014, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; phone 202-482-1135; email: [richard.boll@trade.gov](mailto:richard.boll@trade.gov).

**SUPPLEMENTARY INFORMATION:** The Chief Financial Officer and Assistant Secretary for Administration, with the concurrence of the General Services Administration, renewed the Charter for the Advisory Committee on Supply Chain Competitiveness on November 14, 2019. This Notice is published in accordance with the Federal Advisory Committee Act (FACA) (Title 5, United States Code, Appendix 2, § 9). It has been determined that the Committee is necessary and in the public interest. The Committee was established pursuant to Commerce's authority under 15 U.S.C. 1512, established under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. app., and with the concurrence of the General Services Administration. The Committee provides advice to the Secretary on the necessary elements of a comprehensive policy approach to supply chain competitiveness designed to support U.S. export growth and national economic competitiveness, encourage innovation, facilitate the movement of goods, and improve the competitiveness of U.S. supply chains for goods and services in the domestic and global economy; and to provide advice to the Secretary on regulatory policies and programs and investment priorities that affect the competitiveness of U.S. supply chains. The total number of members that may serve on the Committee is a maximum of 45.

Dated: December 18, 2019.

**Maureen Smith,**

*Director, Office of Supply Chain and Professional & Business Services.*

[FR Doc. 2019-27818 Filed 12-23-19; 8:45 am]

**BILLING CODE 3510-DR-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Renewal of Information Collection; Comment Request; Information Collection for Self-Certification to the EU-U.S. and Swiss-U.S. Privacy Shield Frameworks

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing

effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before February 24, 2020.

**ADDRESSES:** Direct all written comments to Towanda Carey, ITA Paperwork Clearance Officer, Department of Commerce, OCFAO, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at [PRComments@doc.gov](mailto:PRComments@doc.gov)). Comments will generally be posted without change. Please do not include information of a confidential nature, such as sensitive personal information or proprietary information. All Personally Identifiable Information (for example, name and address) voluntarily submitted may be publicly accessible.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to David Ritchie, Department of Commerce, International Trade Administration, via email at [privacyshield@trade.gov](mailto:privacyshield@trade.gov), or tel. 202-482-1512.

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

The United States, the European Union (EU), and Switzerland share the goal of enhancing privacy protection for their citizens but take different approaches to doing so. Given those differences, the Department of Commerce (DOC) developed the EU-U.S. and Swiss-U.S. Privacy Shield Frameworks (Privacy Shield) in consultation with the European Commission, the Swiss Administration, industry, and other stakeholders. Privacy Shield provides U.S. organizations a reliable mechanism for personal data transfers to the United States from the EU and Switzerland, while ensuring data protection that is consistent with EU and Swiss law.

The European Commission and Swiss Administration deemed the EU-U.S. Privacy Shield Framework and Swiss-U.S. Privacy Shield Framework adequate to enable data transfers under EU and Swiss law, respectively, on July 12, 2016 and on January 12, 2017. The DOC began accepting self-certification submissions for the EU-U.S. Privacy Shield on August 1, 2016, and for the Swiss-U.S. Privacy Shield on April 12, 2017. More information on the Privacy



Shield is available at: <https://www.privacyshield.gov/welcome>.

The DOC issued the Privacy Shield Principles under its statutory authority to foster, promote, and develop international commerce (15 U.S.C. 1512). The International Trade Administration (ITA) administers and supervises the Privacy Shield, including maintaining and making publicly available an authoritative list of U.S. organizations that have self-certified to the DOC. U.S. organizations submit information to ITA to self-certify their compliance with Privacy Shield.

U.S. organizations considering self-certifying to the Privacy Shield should review the Privacy Shield Framework. In summary, to participate, an organization must (a) be subject to the investigatory and enforcement powers of the Federal Trade Commission, the Department of Transportation, or another statutory body that will effectively ensure compliance with the Principles; (b) publicly declare its commitment to comply with the Principles; (c) publicly disclose its privacy policies in line with the Principles; and (d) fully implement them.

Self-certification is voluntary; however, an organization's failure to comply with the Principles after its self-certification is enforceable under Section 5 of the Federal Trade Commission Act prohibiting unfair and deceptive acts in or affecting commerce (15 U.S.C. 45(a)) or other laws or regulations prohibiting such acts.

To rely on the Privacy Shield for transfers of personal data from the EU and/or Switzerland, an organization must self-certify its adherence to the Principles to the DOC, be placed on the Privacy Shield List, and remain on the Privacy Shield List. To self-certify for the Privacy Shield, an organization must provide to the DOC the information specified in the Privacy Shield Principles via the self-certification form.

ITA has committed to follow up with organizations that have been removed from the Privacy Shield List. ITA sends questionnaires to organizations that fail to complete the annual certification or that have withdrawn from the Privacy Shield to verify whether they will return, delete, or continue to apply the Principles to the personal information that they received while they participated in the Privacy Shield. If personal information will be retained, ITA asks organizations to verify who within the organization will serve as an ongoing point of contact for Privacy Shield-related questions.

In addition, ITA has committed to conduct compliance reviews on an

ongoing basis, including through sending detailed questionnaires to participating organizations. Such compliance reviews take place when: (a) The DOC receives specific non-frivolous complaints about an organization's compliance with the Principles, (b) an organization does not respond satisfactorily to DOC inquiries for information relating to the Privacy Shield, or (c) there is credible evidence that an organization does not comply with its commitments under the Privacy Shield.

## II. Method of Collection

The Privacy Shield self-certification is submitted electronically by organizations through the DOC's Privacy Shield website (<https://www.privacyshield.gov/>). The Privacy Shield questionnaires and the corresponding responses provided by organizations are conveyed electronically via email or through the DOC's Privacy Shield website.

## III. Data

*OMB Control Number:* 0625–0276.

*Form Number(s):* None.

*Type of Review:* Regular submission.

*Affected Public:* Primarily businesses or other for-profit organizations.

*Estimated Number of Respondents:* 5,100.

*Estimated Time per Response:* 40 minutes.

*Estimated Total Annual Burden Hours:* 3,412.

*Estimated Total Annual Cost to Public:* \$7,173,250.

## IV. Request for Comments

*Comments are invited on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection;

they also will become a matter of public record.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2019–27736 Filed 12–23–19; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–583–853]

### Certain Crystalline Silicon Photovoltaic Products From Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2018–2019

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that producers/exporters subject to this review made sales of subject merchandise below normal value in the United States during the period of review (POR) February 1, 2018 through January 31, 2019. We invite interested parties to comment on these preliminary results.

**DATES:** Applicable December 26, 2019.

**FOR FURTHER INFORMATION CONTACT:** Thomas Martin or Maisha Cryor, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; (202) 482–3936 or (202) 482–5831, respectively.

### SUPPLEMENTARY INFORMATION:

#### Background

Commerce is conducting an administrative review of the antidumping duty (AD) order on certain crystalline silicon photovoltaic products (solar products) from Taiwan,<sup>1</sup> covering 36 respondents.<sup>2</sup> For a complete

<sup>1</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 18777 (May 2, 2019) (*Initiation Notice*).

<sup>2</sup> The *Initiation Notice* listed 40 companies in this administrative review, however: (1) Commerce collapsed Sino-American Silicon Products Inc. and Solartech Energy Corp. in the 2014–2016 administrative review of the order (see *Certain Crystalline Silicon Photovoltaic Products from Taiwan: Final Results of Antidumping Duty Administrative Review*; 2014–2016, 82 FR 31555 (July 7, 2017)); (2) Commerce listed “EEPVCORP.” and “EEPVCORP.” which refer to the same company; (3) Canadian Solar International, Ltd. and Canadian Solar International Limited refer to the same company; and (4) Canadian Solar Solution

Continued



description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.<sup>3</sup> A list of topics included in the Preliminary Decision Memorandum is included as an appendix to this notice.

On October 30, 2019, we extended the preliminary results of this review to no later than December 5, 2019.<sup>4</sup> On December 5, 2019, we extended the preliminary results of this review to no later than December 17, 2019.<sup>5</sup>

#### Scope of the Order<sup>6</sup>

The merchandise covered by this order is crystalline silicon photovoltaic cells, and modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials. Merchandise covered by this order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.8030, 8507.20.8040, 8507.20.8060, 8507.20.8090, 8541.40.6020, 8541.40.6030 and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the

written description of the scope is dispositive.

#### Preliminary Determination of No Shipments

Seven of the companies under review properly filed a statement that they made no shipments of subject merchandise to the United States during the POR.<sup>7</sup> Based on their certifications and our analysis of U.S. Customs and Border Protection (CBP) information, we preliminarily determine that these seven companies had no reviewable transactions during the POR. Consistent with our practice, we are not preliminarily rescinding the review with respect to these seven companies. Rather, we will complete the review for these companies and issue appropriate instructions to CBP based on the final results of this review.<sup>8</sup> For additional information regarding this determination, *see* the Preliminary Decision Memorandum.

#### Methodology

Commerce is conducting this review in accordance with section 751(a)(1) and (2) of Tariff Act of 1930, as amended (the Act). Export price and constructed export price were calculated in

accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary 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 <https://access.trade.gov> and is available to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, the complete Preliminary Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/index.html>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

#### Preliminary Results of the Review

We preliminarily determine the following weighted-average dumping margins exist for the POR:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Sino-American Silicon Products Inc., Solartech Energy Corp. and Sunshine PV Corporation <sup>9</sup> .....	2.57
Baoding Jiasheng Photovoltaic Technology Co. Ltd .....	2.57
Baoding Tianwei Yingli New Energy Resources Co., Ltd .....	2.57
Beijing Tianneng Yingli New Energy Resources Co. Ltd .....	2.57
Boviet Solar Technology Co., Ltd .....	2.57
Canadian Solar Solutions Inc .....	2.57
EEPV Corp .....	2.57
E-TON Solar Tech. Co., Ltd .....	2.57
Gintech Energy Corporation .....	2.57
Hainan Yingli New Energy Resources Co., Ltd .....	2.57
Hengshui Yingli New Energy Resources Co., Ltd .....	2.57
Inventec Energy Corporation .....	2.57
Inventec Solar Energy Corporation .....	2.57
KOOTATU Tech. Corp .....	2.57
Kyocera Mexicana S.A. de C.V .....	2.57
Lixian Yingli New Energy Resources Co., Ltd .....	2.57
Lof Solar Corp .....	2.57
Mega Sunergy Co., Ltd .....	2.57

Inc. is an erroneous spelling of Canadian Solar Solutions Inc. Regarding Canadian Solar International Limited and Canadian Solar Solutions Inc., *see* Canadian Solar et al.'s Letter, "Crystalline Silicon Photovoltaic Products from Taiwan, Case No. A-583-853: No Shipment Letter," dated May 31, 2019 (Canadian Solar No Shipments Letter) at n.1.

<sup>3</sup> *See* Memorandum, "Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Certain Crystalline Silicon Photovoltaic Products from Taiwan, 2018-2019," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>4</sup> *See* Memorandum, "Certain Crystalline Silicon Photovoltaic Products from Taiwan: Extension of Time Limit for Preliminary Results of Antidumping

Duty Administrative Review," dated October 30, 2019.

<sup>5</sup> *See* Memorandum, "Certain Crystalline Silicon Photovoltaic Products from Taiwan: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review," dated December 5, 2019.

<sup>6</sup> For the full text of the scope of the order, *see* the Preliminary Decision Memorandum.

<sup>7</sup> *See* certifications of no shipments filed by AU Optronics Corporation, Canadian Solar Inc., Canadian Solar International Limited, Canadian Solar Manufacturing (Changshu), Inc., Canadian Solar Manufacturing (Luoyang), Inc. and Vina Solar Technology Co., Ltd., dated May 31, 2019.

Regarding Motech Industries Ltd. *See* Motech Industries Ltd.'s Letter, "Certain Crystalline Silicon

Photovoltaic Products from Taiwan: Response to May 20, 2019 Questionnaire," dated June 17, 2019.

<sup>8</sup> *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-95 (October 24, 2011) and the "Assessment Rates" section, *infra*; *see also Certain Frozen Warmwater Shrimp from Thailand; Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, Preliminary Determination of No Shipments*; 2012-2013, 79 FR 15951, 15952 (March 24, 2014), unchanged in *Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review*; 2012-2013, 79 FR 51306, 51307 (August 28, 2014).

Exporter/producer	Estimated weighted-average dumping margin (percent)
Ming Hwei Energy Co., Ltd .....	2.57
Neo Solar Power Corporation .....	2.57
Shenzhen Yingli New Energy Resources Co., Ltd .....	2.57
Sunengine Corporation Ltd .....	2.57
Sunrise Global Solar Energy .....	2.57
Tianjin Yingli New Energy Resources Co., Ltd .....	2.57
TSEC Corporation .....	2.57
United Renewable Energy Co., Ltd .....	2.57
Win Precision Technology Co., Ltd .....	2.57
Yingli Energy (China) Co., Ltd .....	2.57
Yingli Green Energy International Trading Company Limited .....	2.57

### Assessment Rates

Upon issuance of the final results, Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.

Since the weighted-average dumping margin for the collapsed entity Sino-American Silicon Products Inc., Solartech Energy Corp. and Sunshine PV Corporation is not zero or *de minimis* (i.e., less than 0.5 percent), we will calculate importer-specific *ad valorem* AD assessment rates based on the ratio of the total amount of dumping calculated for the importers examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).<sup>9</sup> We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is above *de minimis* (i.e., 0.5 percent). Where either the respondent's weighted-average dumping margin is zero or *de minimis*,

or an importer-specific assessment rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review where applicable.

In accordance with Commerce's "automatic assessment" practice, for entries of subject merchandise during the POR produced by a respondent that did not know its merchandise was destined for the United States, we will instruct CBP to liquidate entries not reviewed at the all-others rate of 19.50 percent<sup>11</sup> if there is no rate for the intermediate company(ies) involved in the transaction.<sup>12</sup> We intend to issue instructions to CBP 15 days after publication of the final results of this review.

### Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of solar products from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for each company listed above<sup>13</sup> will be equal to the dumping

margins established in the final results of this review except if the ultimate rates are *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rates will be zero; (2) for merchandise exported by producers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the producer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of the proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 19.50 percent, the all-others rate established in the *Final Determination*. These deposit requirements, when imposed, shall remain in effect until further notice.

### Disclosure and Public Comment

Commerce will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within five days of the date of publication of these preliminary results.<sup>14</sup> Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.<sup>15</sup> Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with the argument: (1) A statement of the issue, (2) a summary of the argument,

<sup>9</sup> In the first administrative review of the order, Commerce collapsed Sino-American Silicon Products Inc. and Solartech Energy Corp. and treated the companies as a single entity for purposes of the proceeding. See *Certain Crystalline Silicon Photovoltaic Products from Taiwan: Final Results of Antidumping Duty Administrative Review*; 2014–2016, 82 FR 31555 (July 7, 2017). Because there were no changes to the facts which supported that decision since that determination was made, we continue to find that these companies are part of a single entity for this administrative review. In the final results of the third administrative review of this proceeding, we included Sunshine PV Corporation in the SAS–SEC entity. See *Certain Crystalline Silicon Photovoltaic Products from Taiwan: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments*; 2017–2018, 84 FR 39802 (August 12, 2019) and the accompanying Issues and Decision Memorandum at n.4.

<sup>10</sup> In these preliminary results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings*; *Final Modification*, 77 FR 8101 (February 14, 2012).

<sup>11</sup> See *Certain Crystalline Silicon Photovoltaic Products: Final Determination of Sales at Less Than Fair Value*, 79 FR 76966 (December 23, 2014) (*Final Determination*).

<sup>12</sup> For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

<sup>13</sup> As explained in the Preliminary Decision Memorandum, the collapsed entity consisting of Sino-American Silicon Products Inc., Solartech Energy Corp. and Sunshine PV Corporation dissolved during the period of review. Specifically, Solartech Energy Corp. and Sunshine PV Corporation ceased to exist. Therefore, the dumping margin established for the collapsed entity will be the cash deposit rate for Sino-American Silicon Products Inc.

<sup>14</sup> See 19 CFR 351.224(b).

<sup>15</sup> See 19 CFR 351.309(d).

and (3) a table of authorities.<sup>16</sup> All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, using Enforcement and Compliance's ACCESS system within 30 days of publication of this notice.<sup>17</sup> Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and location to be determined.<sup>18</sup> Parties should confirm by telephone the date, time, and location of the hearing.

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2), Commerce will issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their case briefs, within 120 days after issuance of these preliminary results.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

#### Notification to Interested Parties

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: December 16, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

#### Appendix

##### List of Topics Discussed in the Preliminary Decision Memorandum

##### I. Summary

- II. Background
- III. Scope of the Order
- IV. Companies Not Selected for Individual Examination
- V. Preliminary Determination of No Shipments
- VI. Discussion of the Methodology
- VII. Date of Sale
- VIII. Product Comparisons
- IX. Export Price
- X. Normal Value
- XI. Currency Conversion
- XII. Recommendation

[FR Doc. 2019-27804 Filed 12-23-19; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-983]

#### **Drawn Stainless Steel Sinks From the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2018-2019**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that certain companies made sales of subject merchandise at less than normal value. The period of review (POR) is April 1, 2018 through March 31, 2019. Interested parties are invited to comment on these preliminary results.

**DATES:** Applicable December 26, 2019.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Janz or Adam Simons, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2972 or (202) 482-6172, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

In June 2019, Commerce published a notice of initiation of an administrative review of the antidumping duty order on drawn stainless steel sinks from the People's Republic of China (China) covering the period April 1, 2018 through March 31, 2019, with respect to 30 companies.<sup>1</sup> In August 2019, as the result of a timely withdrawal request, we rescinded the review with respect to 18 of these companies.<sup>2</sup> Therefore, the

results of this review cover the twelve remaining companies.

#### **Scope of the Order**

The products covered by the order include drawn stainless steel sinks from China. Imports of subject merchandise are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7324.10.0000 and 7324.10.0010. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.<sup>3</sup>

#### **Methodology**

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum. The Preliminary 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 <https://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 Preliminary Decision Memorandum can be accessed directly at <https://enforcement.trade.gov/frn/summary/prc/prc-fr.htm>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content. A list of topics included in the Preliminary Decision Memorandum is provided as an appendix to this notice.

#### **China-Wide Entity**

In accordance with Commerce's policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity.<sup>4</sup> Because no party requested a review of the China-wide entity in this review, the entity is not

*Antidumping Duty Administrative Review; 2018-2019*, 84 FR 44847 (August 27, 2019).

<sup>3</sup> For a complete description of the Scope of the Order, see Memorandum, "Decision Memorandum for Preliminary Results of the Antidumping Duty Administrative Review: Drawn Stainless Steel Sinks from the People's Republic of China," issued concurrently with and hereby adopted by this notice (Preliminary Decision Memorandum).

<sup>4</sup> See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

<sup>16</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>17</sup> See 19 CFR 351.310(c).

<sup>18</sup> See 19 CFR 351.310.

<sup>1</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 27587 (June 13, 2019).

<sup>2</sup> See *Drawn Stainless Steel Sinks from the People's Republic of China: Partial Rescission of*

under review, and the entity's rate is not subject to change (*i.e.*, 76.45 percent).<sup>5</sup>

### Preliminary Results of Review

Commerce finds that the two mandatory respondents, Guangdong New Shichu Import and Export Company Limited (New Shichu) and KaiPing Dawn Plumbing Products, Inc. (KaiPing), have not established their eligibility for a separate rate and are considered to be part of the China-wide entity for these preliminary results. Additionally, because the following companies did not submit separate rate applications or certifications, we preliminarily determine they are ineligible for a separate rate and are part of the China-wide entity: B&R Industries Limited (B&R); Feidong Import and Export Co. Ltd. (Feidong); Guangdong G-Top Import & Export Co., Ltd. (G-Top); Jiangmen Pioneer Import & Export Co., Ltd. (Pioneer); Ningbo Afa Kitchen and Bath Co., Ltd. (Ningbo Afa); Xinhe Stainless Steel Products Co., Ltd.

(Xinhe); Yuyao Afa Kitchenware Co., Ltd. (Yuyao Afa); and Zhongshan Superte Kitchenware Co., Ltd. (Superte). Finally, because Zhuhai Kohler Kitchen & Bathroom Products Co. Ltd. failed to respond to Commerce's supplemental separate rate questionnaire, we preliminarily determine that this company is also ineligible for a separate rate and is part of the China-wide entity.

The statute and Commerce's regulations do not address what rate to apply to respondents who are not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for non-selected respondents that are not examined individually in an administrative review. Section 735(c)(5)(A) of the Act states that the all-others rate should be

calculated by averaging the weighted-average dumping margins for individually-examined respondents, excluding rates that are zero, *de minimis*, or based entirely on facts available. Section 735(c)(5)(B) of the Act provides that where all rates are zero, *de minimis*, or based entirely on facts available, Commerce may use "any reasonable method" for assigning a rate to non-examined respondents.

However, for these preliminary results, we have not calculated any individual rates or assigned a company-specific rate based on facts available. Therefore, consistent with our recent practice,<sup>6</sup> we preliminarily assigned to the non-individually examined company that demonstrated its eligibility for a separate rate the most recently assigned separate rate in this proceeding (*i.e.*, 1.78 percent).<sup>7</sup>

Commerce preliminarily determines that the following weighted-average dumping margin exists for the period April 1, 2018 through March 31, 2019:

Exporter	Weighted-average dumping margin (percent)
Jiangmen New Star Hi-Tech Enterprise Ltd .....	1.78

### Disclosure and Public Comment

Interested parties may submit case briefs no later than 30 days after the date of publication of this notice.<sup>8</sup> Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the time limit for filing case briefs.<sup>9</sup> Parties who submit case brief or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.<sup>10</sup> Case and rebuttal briefs should be filed using ACCESS.<sup>11</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically via ACCESS within 30 days after the date of publication of this notice.<sup>12</sup> Hearing

requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.<sup>13</sup>

An electronically-filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline.

Commerce intends to issue the final results of this administrative review, which will include the results of its analysis of all issues raised in the case briefs, not later than 120 days after the

date of publication of this notice, unless otherwise extended.<sup>14</sup>

### Assessment Rates

Upon completion of the administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.<sup>15</sup> For the final results, if we continue to treat the following companies as part of China-wide entity, we will instruct CBP to apply an *ad valorem* assessment rate of 76.45 percent to all entries of subject merchandise during the POR that were produced and/or exported by those companies: B&R; Feidong; G-Top; KaiPing; Koehler; New Shichu; Ningbo Afa; Pioneer; Superte; Xinhe; and Yuyao Afa. For the company receiving a separate rate, we intend to assign an assessment rate of 1.78 percent,

<sup>5</sup> The China-wide rate determined in the investigation was 76.53 percent. See *Drawn Stainless Steel Sinks from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 78 FR 21592 (April 11, 2013). This rate was adjusted for export subsidies and estimated domestic subsidy pass through to determine the cash deposit rate (76.45 percent) collected for companies in China-wide entity. See explanation in *Drawn Stainless Steel Sinks from the People's Republic of China: Investigation, Final Determination*, 78 FR 13019 (February 26, 2013).

<sup>6</sup> See, e.g., *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review: 2015–2016*, 81 FR 62717 (September 12, 2016), and accompanying Preliminary Decision Memorandum at 10–11, unchanged in *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review: 2015–2016*, 82 FR 11431 (February 23, 2017).

<sup>7</sup> See *Drawn Stainless Steel Sinks from the People's Republic of China: Final Results of*

*Antidumping Duty Administrative Review: 2017–2018*, 84 FR 38211 (August 6, 2019).

<sup>8</sup> See 19 CFR 351.309(c).

<sup>9</sup> See 19 CFR 351.309(d).

<sup>10</sup> See 19 CFR 351.309(c)(2).

<sup>11</sup> See 19 CFR 351.303.

<sup>12</sup> See 19 CFR 351.310(c).

<sup>13</sup> See 19 CFR 351.310(d).

<sup>14</sup> See section 751(a)(3)(A) of the Act.

<sup>15</sup> See 19 CFR 351.212(b)(1).

consistent with the methodology described above.

We intend to issue assessment instructions to CBP 15 days after the publication of the final results of this review.

### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the company listed above that has a separate rate, the cash deposit rate will be that rate established in the final results of this review (except that if the rate is zero or *de minimis*, then a cash deposit rate of zero will be established for that company); (2) for previously investigated or reviewed Chinese and non-Chinese exporters not listed above that have separate rates, the cash deposit rate will continue to be equal to the exporter-specific weighted-average dumping margin published of the most recently-completed segment of this proceeding; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for China-wide entity, 76.45 percent; and (4) for all exporters of subject merchandise which are not located in China and which are not eligible for a separate rate, the cash deposit rate will be the rate applicable to Chinese exporter(s) that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties.

### Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 18, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

### Appendix

#### List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of Methodology
- V. Recommendation

[FR Doc. 2019-27805 Filed 12-23-19; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-878; C-580-879]

#### Certain Corrosion-Resistant Steel Products From the Republic of Korea: Affirmative Final Determinations of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department Commerce (Commerce) determines that imports of certain corrosion-resistant steel products (CORE), produced in the Socialist Republic of Vietnam (Vietnam) using carbon hot-rolled steel (HRS) and/or cold-rolled steel flat products (CRS) manufactured in the Republic of Korea (Korea), are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on CORE from Korea.

**DATES:** Applicable December 26, 2019.

**FOR FURTHER INFORMATION CONTACT:** Chien-Min Yang, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-5484.

#### SUPPLEMENTARY INFORMATION:

#### Background

On July 10, 2019, Commerce published the *Preliminary Determinations*<sup>1</sup> of circumvention of the Korea CORE Orders.<sup>2</sup> A summary of

<sup>1</sup> See *Certain Corrosion-Resistant Steel Products from Republic of Korea: Affirmative Preliminary Determination of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 84 FR 32871 (July 10, 2019) (*Preliminary Determinations*) and accompanying Preliminary Decision Memorandum.

<sup>2</sup> See *Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China,*

the events that occurred since Commerce published the *Preliminary Determinations*, as well as a full discussion of the issues raised by parties for these final determinations, may be found in the Issues and Decision Memorandum.<sup>3</sup> The IDM is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and it is available to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the IDM can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the IDM are identical in content.

### Scope of the Orders

The products covered by these orders are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. For a complete description of the scope of the orders, see the IDM.<sup>4</sup>

### Scope of the Anti-Circumvention Inquiries

These anti-circumvention inquiries cover CORE produced in Vietnam from HRS or CRS substrate input manufactured in Korea and subsequently exported from Vietnam to the United States (merchandise under consideration). These final rulings apply to all shipments of merchandise under consideration on or after the date of initiation of these inquiries. Importers and exporters of CORE produced in Vietnam using: (1) HRS manufactured in Vietnam or third countries; (2) CRS manufactured in Vietnam using HRS produced in Vietnam or third countries; and/or (3) CRS manufactured in third countries, and who qualify to

*the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders*, 81 FR 48390 (July 25, 2016); and *Certain Corrosion-Resistant Steel Products from India, Italy, Republic of Korea and the People's Republic of China: Countervailing Duty Order*, 81 FR 48387 (July 25, 2016) (collectively, *Korea CORE Orders*).

<sup>3</sup> See Memorandum, "Issues and Decision Memorandum for Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders on Certain Corrosion-Resistant Steel Products from the Republic of Korea," dated concurrently with, and hereby adopted by, this notice (IDM).

<sup>4</sup> See IDM.

participate in the certification process, must certify that the HRS or CRS processed into CORE in Vietnam did not originate in Korea, as provided for in the certifications attached to the **Federal Register** notice. Otherwise, their merchandise may be subject to antidumping and countervailing duties in these inquiries.

### Methodology

Commerce is conducting these anti-circumvention inquiries in accordance with section 781(b) of the Tariff Act of 1930, as amended (the Act).

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in these inquiries are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix I.

### Final Affirmative Determinations of Circumvention

We determine that exports to the United States of CORE produced in Vietnam from HRS or CRS substrate manufactured in Korea are circumventing the *Korea CORE Orders*. We therefore find it appropriate to determine that this merchandise falls within the *Korea CORE Orders*, and to instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of any entries of CORE from Vietnam produced using HRS or CRS substrate manufactured in Korea.

### Continuation of Suspension of Liquidation

As stated above, Commerce has made affirmative determinations of circumvention of the *Korea CORE Orders* by exports to the United States of CORE produced in Vietnam using Korea-origin HRS or CRS substrate. This circumvention finding applies to CORE produced by any Vietnamese company using Korea-origin HRS or CRS substrate. In accordance with 19 CFR 351.225(l)(3), Commerce will direct CBP to continue to suspend liquidation and to require a cash deposit of estimated duties on unliquidated entries of CORE produced in Vietnam using Korea-origin HRS or CRS substrate that were entered, or withdrawn from warehouse, for consumption on or after August 2, 2018, the date of initiation of these anti-circumvention inquiries.<sup>5</sup>

The suspension of liquidation and cash deposit instructions will remain in

effect until further notice. In order to prevent evasion, and because the AD and CVD rates established in *China CORE Anti-Circumvention Finals* are higher than the rates established for CORE from Korea and Taiwan, and the rates established for CORE from Korea are higher than the AD rate established for CORE from Taiwan, Commerce will instruct CBP to suspend liquidation and collect cash deposits in the following manner. In the situation where no certification regarding the origin of the substrate is maintained for an entry, and AD/CVD orders from three countries (China, Korea, or Taiwan) potentially apply to that entry, Commerce will instruct CBP to suspend the entry and collect cash deposits at the AD rate established for the China-wide entity (199.43 percent) and the CVD rate established for the China all-others rate (39.05 percent), pursuant to the *China CORE Circumvention Finals*.<sup>6</sup> In the situation where a certification is maintained for the AD/CVD orders on CORE from China (stating that the merchandise was not produced from HRS and/or CRS from China), but no other certification is maintained, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD and CVD all-others rates (i.e., 8.31 percent and 1.19 percent, respectively) applicable to the AD/CVD orders on CORE from Korea.<sup>7</sup>

CORE produced in Vietnam from HRS or CRS substrate that is not of Korean origin is not subject to these inquiries. Therefore, cash deposits are not required for such merchandise. However, CORE produced in Vietnam from HRS and/or CRS from China is subject to the AD/CVD orders on CORE from China, and CORE produced in Vietnam from HRS and/or CRS from

Taiwan is subject to the AD order on CORE from Taiwan. If an importer imports CORE from Vietnam and claims that the CORE was produced from non-Korean HRS or CRS substrate, in order not to be subject to cash deposit requirements, the importer and exporter are required to meet the certification and documentation requirements described in Appendix II. Exporters of CORE produced in Vietnam from non-Korea-origin HRS or CRS substrate must prepare and maintain an Exporter Certification supporting the Exporter Certification (see Appendix IV). In addition, importers of such CORE must prepare and maintain an Importer Certification (see Appendix III) as well as documentation supporting the Importer Certification. In addition to the Importer Certification, the importer must also maintain a copy of the Exporter Certification (see Appendix IV) and relevant supporting documentation from its exporter of CORE produced from non-Korea-origin HRS or CRS substrate.

For these final determinations, we determine that the following companies are not eligible for the certification process: 190 Steel Pipe Co., Ltd.; Chinh Dai Steel Limited; Dai Thien Loc Corporation; Formosa Ha Tinh Corporation; Hoa Phat Steel Pipe Co.; Hoa Sen Group; Persstima Viet Nam; Prima Commodities Co.; Thai Nguyen Iron and Steel Corp.; Thong Nhat Flat Steel; Ton Dong A Corp.; Trung Nguyen Steel Co, Ltd.; Vietnam Germany Steel JSC; Vietnam Steel Corp.; Vietnam Steel Pipe; Vian Kyoei Steel Ltd.; Vina One Steel Manufacturing; NS BlueScope Vietnam Ltd.; and Southern Steel Sheet Co., Ltd. Accordingly, importers of CORE from Vietnam that is produced and/or exported by these ineligible companies are similarly ineligible for the certification process with regard to those imports. Additionally, exporters are not eligible to certify shipments of merchandise produced by the above-listed companies. Accordingly, Hoa Phat Group Joint Stock Company and Hoa Phat Steel Sheet are not eligible to certify shipments of CRS produced by Hoa Phat Steel Pipe Co.<sup>8</sup>

### Notification Regarding Administrative Protective Orders

This notice will serve as the only reminder to all parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/

<sup>5</sup> See *Certain Corrosion-Resistant Steel Products from the Republic of Korea and Taiwan: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 83 FR 37785 (August 2, 2018) (*Initiation Notice*).

<sup>6</sup> See *Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders*, 81 FR 48390 (July 25, 2016); and *Certain Corrosion-Resistant Steel Products from India, Italy, Republic of Korea and the People's Republic of China: Countervailing Duty Order*, 81 FR 48387 (July 25, 2016) (collectively, *China CORE Orders*).

<sup>7</sup> See *Certain Corrosion-Resistant Steel Flat Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Amended Final Affirmative Antidumping Duty Determination/or India and Taiwan, and Antidumping Duty Orders*, 81 FR 48390 (July 25, 2016). The "all others rate" was subsequently amended as the result of litigation. See *Certain Corrosion-Resistant Steel Products from the Republic of Korea: Notice of Court Decision Not in Harmony with Final Determination of Investigation and Notice of Amended Final Results*, 83 FR 39054 (August 8, 2018); see also *Certain Corrosion-Resistant Steel Products from India, Italy, Republic of Korea, and the People's Republic of China: Countervailing Duty Order*, 81 FR 48387 (July 25, 2016) (collectively, *Korea CORE Orders*).

<sup>8</sup> See IDM at Comment 11.

destruction or 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 sanctionable violation.

### Notification to Interested Parties

These determinations are issued and published in accordance with section 781(b) of the Act and 19 CFR 351.225(f).

Dated: December 13, 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 Korea Core Orders
- IV. Scope of the Anti-Circumvention Inquiries
- V. Changes Since the Korea Core Anti-Circumvention Preliminary Determination
- VI. Statutory Framework
- VII. Use of Facts Available and Facts Available With an Adverse Inference
- VIII. Anti-Circumvention Determinations
- IX. Discussion of the Issues
  - Comment 1: Whether Companies That Did Not Receive Commerce's Quantity and Value (Q&V) Questionnaire Should Be Permitted to Participate in the Certification Process
  - Comment 2: Whether Commerce Lacks Statutory Authority to Apply AFA Where Respondents Did Not Deprive Commerce of Information Regarding Its Ability to Trace Inputs
  - Comment 3: Whether Commerce's Use of AFA Impermissibly Departs Without Explanation from Its Decision in the China Anti-Circumvention Inquiries.
  - Comment 4: Whether Precluding Certain Importers and Exporters From Participating in the Certification Process is Inappropriate and Unfairly Punishes Importers
  - Comment 5: Whether Commerce Should Allow Additional Time for Completing Certification for Pre-Preliminary Determinations Entries
  - Comment 6: Whether Country-Wide Determinations Are Justified
  - Comment 7: Whether Commerce's Interpretation of Section 781(b) of the Act Supports the CORE Production Process in Vietnam and Expands the Scope of the Korea CORE Orders
  - Comment 8: Whether Commerce Should Amend the Exporter Certification Language to Prevent Funneling
  - Comment 9: Whether to Apply AFA to Certain Vietnamese Producers That Are Affiliated with Those That Are Deemed Non-Responsive
  - Comment 10: Whether Commerce Should Preclude Companies That Failed to Cooperate in Both the CORE from China and CORE from Taiwan Inquiries from Participating in the Certification Regime

- Comment 11: Whether to Apply the Highest the Petition Rate or Investigation Calculated Rate as the Cash Deposit Rate for Non-Responsive Companies
- Comment 12: Whether Commerce Should Continue to Apply AFA to SSSC
- Comment 13: Whether Commerce Should Apply Section 232 Duties Against the Vietnam CORE Products Found Using Korean Substrates
- X. Recommendation

### Appendix II

#### Certification Requirements

If an importer imports certain corrosion-resistant steel products (CORE) from the Socialist Republic of Vietnam (Vietnam) and claims that the CORE was not produced from hot-rolled steel and/or cold-rolled steel substrate (substrate) manufactured in Korea, the importer is required to complete and maintain the importer certification attached hereto as Appendix III and all supporting documentation. Where the importer uses a broker to facilitate the entry process, it should obtain the entry number from the broker. Agents of the importer, such as brokers, however, are not permitted to make this certification on behalf of the importer.

The exporter is required to complete and maintain the exporter certification, attached as Appendix IV, and is further required to provide the importer a copy of that certification and all supporting documentation.

As discussed in the Issues and Decision Memorandum for these final determinations, we are extending the period for completing certifications for shipments and/or entries during the August 2, 2018 through July 18, 2019 period established in the *Preliminary Determinations*. Accordingly, for shipments and/or entries on or after August 2, 2018 through July 18, 2019 for which certifications are required, importers and exporters should complete the required certification within 30 days of the publication of these final determinations notice in the **Federal Register**.

For companies that were not eligible to certify pursuant to the *Preliminary Determinations*, but are now eligible pursuant to the final determinations, we are also extending the period for completion of their certifications for shipments and/or entries from August 2, 2018 through the date of **Federal Register** publication of the final determinations until 30 days after publication of these determinations.

Accordingly, where appropriate, the relevant bullet in the certification should be edited to reflect that the certification was completed within the time frame specified above. For example, the bullet in the importer certification that reads: "This certification was completed at or prior to the time of Entry," could be edited as follows: "The imports referenced herein entered before July 19, 2019. This certification was completed on mm/dd/yyyy, within 30 days of the **Federal Register** notice publication of the final determinations of circumvention." Similarly, the bullet in the exporter certification that reads, "This certification was completed at or prior to the time of shipment," could be edited as follows: "The

shipments/products referenced herein shipped before July 19, 2019. This certification was completed on mm/dd/yyyy, within 30 days of the **Federal Register** notice publication of the final determinations of circumvention." For such entries/shipments, importers and exporters each have the option to complete a blanket certification covering multiple entries/shipments, individual certifications for each entry/shipment, or a combination thereof.

For shipments and/or entries on or after the date of publication of this notice in the **Federal Register**, for which certifications are required, importers should complete the required certification at or prior to the date of Entry and exporters should complete the required certification and provide it to the importer at or prior to the date of shipment.

For shipments and/or entries made on or after 10 days after the date of publication of these final determinations, parties should use the exporter and importer certifications contained below that incorporate additional information that was not in the preliminary determinations certifications. Specifically, the exporter certification now requires identification of the producer of the merchandise being exported to the United States and, also notes that CVD deposits may be required in addition to AD deposits as a result of the failure to maintain the required certification or the inability to substantiate the claims made in the certification. Similarly, the importer certification also notes that CVD deposits may be required in addition to AD deposits as a result of the failure to maintain the required certification or the inability to substantiate the claims made in the certification. The importer and Vietnamese 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 U.S. Customs and Border Protection (CBP) as part of the entry process at this time. However, the importer and the exporter will be required to present the certifications and supporting documentation, to Commerce and/or 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.

In the situation where no certification is maintained for an entry, and AD/CVD orders from three countries (China, Korea, or Taiwan) potentially apply to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the *China CORE Circumvention Final* rates (*i.e.*, the AD rate established for the China-wide entity (199.43 percent) and the CVD rate established for China all-others rate (39.05 percent)).<sup>9</sup> In the situation where a

<sup>9</sup> See *China CORE Circumvention Final*, 83 FR at 23896.



certification is maintained for the AD/CVD orders on CORE from China (stating that the merchandise was not produced from HRS and/or CRS from China), but no other certification is maintained, then Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD and CVD all-others rates (*i.e.*, 8.31 percent and 1.19 percent, respectively) applicable to the AD/CVD orders on CORE from Korea.<sup>10</sup>

### Appendix III

#### Importer Certification

I hereby certify that:

- My name is {INSERT COMPANY OFFICIAL'S NAME HERE} and I am an official of {INSERT NAME OF IMPORTING COMPANY};
- I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the corrosion-resistant steel products produced in Vietnam that entered under entry number(s) {INSERT ENTRY NUMBER(S)} and are covered by this certification. "Direct personal knowledge" refers to facts the certifying party is expected to have in its own records. For example, 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 products covered by this certification. "Personal knowledge" includes facts obtained from another party, (*e.g.*, correspondence received by the importer (or exporter) from the producer regarding the source of the input used to produce the imported products);

- These corrosion-resistant steel products produced in Vietnam do not contain hot-rolled steel and/or cold-rolled steel substrate produced in Korea;

- I understand that {INSERT NAME OF IMPORTING COMPANY} 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, productions 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 NAME OF IMPORTING COMPANY} 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 NAME OF IMPORTING COMPANY} 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 NAME OF IMPORTING COMPANY} 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 liquidation has not become final) for which these requirements were not met and

- the requirement that the importer post applicable antidumping/countervailing duty (AD and/or CVD) cash deposits equal to the rates as 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 or prior to the time of Entry; 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 materially false statements to the U.S. government.

Signature

NAME OF COMPANY OFFICIAL

TITLE

### 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 corrosion-resistant steel products that were sold to the United States under invoice number(s) INSERT INVOICE NUMBER(S). "Direct personal knowledge" refers to facts the certifying party is expected to have in its own books and records. For example, an exporter should have "direct personal knowledge" of the producer's identity and location.

- The {MERCHANDISE} covered this certification was produced by {NAME OF PRODUCING COMPANY}, located at {ADDRESS OF PRODUCING COMPANY}; for each additional company, repeat: {NAME OF PRODUCING COMPANY}, located at {ADDRESS OF PRODUCING COMPANY}.

- These corrosion-resistant steel products produced in Vietnam do not contain hot-rolled steel and/or cold-rolled steel substrate produced in Korea;

- I understand that {INSERT NAME OF EXPORTING COMPANY} 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, productions 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 NAME OF EXPORTING COMPANY} must provide this Exporter Certification to the U.S. importer by the time of shipment;

- I understand that {INSERT NAME OF EXPORTING COMPANY} is required to 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/antidumping duty (AD and/or 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 materially false statements to the U.S. government.

Signature

Name of Company Official

Title

Date

[FR Doc. 2019-27814 Filed 12-23-19; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-887]

#### Carbon and Alloy Steel Cut-to-Length Plate From the Republic of Korea: Final Results and Final Determination of No Shipments of Antidumping Duty Administrative Review; 2016-2018

**AGENCY:** Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty order on Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea. The period of review (POR) is November 14, 2016 through April 30, 2018. The review covers fourteen producer and/or exporters of the subject merchandise, including POSCO, POSCO Daewoo Corporation, and POSCO Processing & Service Co., Ltd. (which are part of the POSCO single entity), as well as eleven other

<sup>10</sup> See *China CORE Orders*.



companies not selected for individual examination. We determine that U.S. sales of subject merchandise by the POSCO single entity were made at prices below normal value (NV). Additionally, two companies, Hyundai Steel Corporation (Hyundai Steel) and Hyundai Glovis Co. Ltd. (Hyundai Glovis), were found to have no shipments during the POR.

**DATES:** Applicable December 26, 2019.

**FOR FURTHER INFORMATION CONTACT:**

Michael Bowen or William Horn, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482-0768 or (202) 482-4868, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**<sup>1</sup>

Commerce published the *Preliminary Results* on July 11, 2019.<sup>2</sup> For events subsequent to the *Preliminary Results*, see Commerce's Issues and Decision Memorandum.<sup>3</sup>

**Scope of the Order**

The merchandise subject to the *Order* is Carbon and Alloy Steel Cut-to-Length Plate. The product is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7225.40.1110, 7225.40.1180, 7225.40.3005, 7225.40.3050, 7226.20.0000, and 7226.91.5000.

The products subject to the investigations may also enter under the following HTSUS item numbers:

7208.40.6060, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.19.1500, 7211.19.2000, 7211.19.4500,

7211.19.6000, 7211.19.7590, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.10.000, 7214.30.0010, 7214.30.0080, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7225.11.0000, 7225.19.0000, 7225.40.5110, 7225.40.5130, 7225.40.5160, 7225.40.7000, 7225.99.0010, 7225.99.0090, 7206.11.1000, 7226.11.9060, 7229.19.1000, 7226.19.9000, 7226.91.0500, 7226.91.1530, 7226.91.1560, 7226.91.2530, 7226.91.2560, 7226.91.7000, 7226.91.8000, and 7226.99.0180. The HTSUS subheadings are provided for convenience and customs purposes only; the written product description of the scope of the *Order* is dispositive. For a complete description of the scope of the *Order*, see the *Preliminary Results*.<sup>4</sup>

**Analysis of Comments Received**

In the Issues and Decision Memorandum, we addressed all issues raised in the interested parties' case and rebuttal briefs. In the Appendix to this notice, we provide a list of the issues raised by the parties. 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 <https://access.trade.gov>, and ACCESS is available to all parties in the Central Records Unit (CRU), 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/index.html>. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

**Final Determination of No Shipments**

In the *Preliminary Results* we erroneously determined a weighted-average dumping margin for Hyundai Steel and Hyundai Glovis based on the rate determined for POSCO. In these final results we find that Hyundai Steel and Hyundai Glovis made no shipments during the POR.<sup>5</sup>

**Final Results of the Review**

As a result of this review, we determine the following weighted-average dumping margins exist for the POR:

<sup>4</sup> See *Preliminary Results*, and the accompanying PDM at 3-7.

<sup>5</sup> See Issues and Decision Memorandum at Comment 11.

Exporter or producer	Weighted-average dumping margin (percent)
POSCO single entity <sup>6</sup> .....	19.87
<i>Review-Specific Average Rate Applicable to the Following Companies</i> <sup>7</sup> :	
Buma Ce Co., Ltd .....	19.87
Dong Yang Steel Pipe Co., Ltd .....	19.87
Dongkuk Steel Mill Co., Ltd .....	19.87
Expeditors Korea Ltd .....	19.87
Haem Co., Ltd .....	19.87
J.I. Sea & Air Express Co., Ltd .....	19.87
Maxpeed Co., Ltd .....	19.87
Ramses Logistics Co., Ltd .....	19.87
Sumitomo Corp. Korea Ltd .....	19.87

**Assessment Rates**

Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with these final results of review.<sup>8</sup>

Pursuant to 19 CFR 351.212(b)(1), where the POSCO single entity reported the entered value of its U.S. sales, we calculated importer-specific *ad valorem* antidumping duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of such sales. Where the POSCO single entity did not report the entered value of its U.S. sales, we calculated importer-specific assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales and the total quantity of those sales, in accordance with 19 CFR 351.212(b)(1). Where we calculated a per-unit assessment rate, we also calculated an *ad valorem* importer-specific assessment rate based on estimated entered values with which to assess whether the per-unit assessment rate is *de minimis*. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate calculation in the final results of this review is not zero or *de minimis* (i.e., less than 0.5 percent). Where either the respondent's

<sup>1</sup> See *Certain Carbon and Alloy Steel Cut-To-Length Plate From Austria, Belgium, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, and Taiwan: Amended Final Affirmative Antidumping Determinations for France, the Federal Republic of Germany, the Republic of Korea and Taiwan, and Antidumping Duty Orders*, 82 FR 24096 (May 25, 2017) (*Order*).

<sup>2</sup> See *Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Preliminary Results of Antidumping Duty Review; 2016-2018*, 84 FR 34119 (July 17, 2019) (*Preliminary Results*), and the accompanying Preliminary Decision Memorandum (PDM).

<sup>3</sup> See Memorandum, "Issues and Decision Memorandum for the Final Results in the 2016-2018 Antidumping Duty Administrative Review of Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

<sup>6</sup> Commerce has determined that POSCO, POSCO Daewoo Corporation, POSCO Processing and Service Co., Ltd., Taechang Steel Co., Ltd., Winsteel Co., Ltd., Moonbae Steel Co., Ltd., Dae Dong Steel Co., Ltd., SPFC Co., Ltd., Steel Flower Co., Ltd., TC-TECH, Shinjin Esco Co., Ltd., POSCO Plantec, Ltd., POSCO Engineering and Construction Co., Ltd., Hi Steel Co., Ltd., Miju Steel, POSCO Eng., and Shilla Steel Co., Ltd. are affiliated pursuant to section 771(33)(E) of the Act, and further that these companies should be treated as a single entity (collectively, POSCO single entity) pursuant to 19 CFR 351.401(f). See Issues and Decision Memorandum at Comment 1.

<sup>7</sup> This rate is based on the rate for the sole respondent that was selected for individual review. See section 735(c)(5)(A) of the Act.

<sup>8</sup> See 19 CFR 351.212(b).

weight-averaged dumping margin is zero or *de minimis*, or an importer-specific *ad valorem* assessment rate is zero or *de minimis*,<sup>9</sup> we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

We intend to instruct CBP to take into account the “provisional measures deposit cap,” in accordance with 19 CFR 351.212(d).

For each company that was not selected for individual examination, we will instruct CBP to assess antidumping duties at a rate equal to the weighted-average dumping margin determined for that company in the final results of this review.

For each company which we determined had “no shipments” of the subject merchandise during the POR (*i.e.*, Hyundai Steel and Hyundai Glovis), we will instruct CBP to liquidate all POR entries associated with these companies at the all-others rate (*i.e.*, 7.10 percent)<sup>10</sup> established in the less-than-fair-value (LTFV) investigation if there is no rate for the intermediate company(ies) involved in the transaction, consistent with Commerce’s reseller policy.<sup>11</sup> We intend to issue instructions to CBP 15 days after the date of publication of the final results of this review.

#### Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for each company listed above will be equal to the weighted-average dumping margin established for that company in the final results of this administrative review; (2) for merchandise exported by a producer or exporter not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the producer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of the proceeding

for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 7.10 percent *ad valorem*, the all-others rate established in the LTFV investigation.<sup>12</sup>

These cash deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in Commerce’s presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

#### Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/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 sanctionable violation.

#### Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: December 16, 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. Changes from the Preliminary Results
- IV. Discussion of the Issues
  - Comment 1: Collapsing POSCO with Certain Affiliated Companies
  - Comment 2: Treatment of Collapsed Company Names
  - Comment 3: Double-Counting of Freight Revenue

- Comment 4: CEP Offset
- Comment 5: Sales to Affiliated Parties
- Comment 6: Miscellaneous Income Offset to General and Administrative Expenses
- Comment 7: Purchases from Affiliated Suppliers
- Comment 8: Costs Related to Greenhouse Gases
- Comment 9: Cost Averaging Adjustments
- Comment 10: Revaluation of Defective Slabs
- Comment 11: Hyundai’s No Shipment Claims

V. Recommendation

[FR Doc. 2019–27807 Filed 12–23–19; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648–XV159]

#### Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

**ACTION:** Notice of scheduled SEDAR 60 South Atlantic Red Porgy Assessment Webinar II.

**SUMMARY:** The SEDAR 60 assessment of the South Atlantic stock of Red Porgy will consist of a data webinar, an in-person workshop, and a series assessment webinars.

**DATES:** The SEDAR 60 Red Porgy Assessment Webinar II has been scheduled for Monday, February 6, 2020, from 9 a.m. to 12 p.m., EST.

#### ADDRESSES:

**Meeting address:** The meeting will be held via webinar. The webinar is open to members of the public. Registration is available online at: <https://attendee.gotowebinar.com/register/8550228332194135564>.

**SEDAR address:** South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405; [www.sedarweb.org](http://www.sedarweb.org).

#### FOR FURTHER INFORMATION CONTACT:

Kathleen Howington, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571–4366; email: [Kathleen.Howington@safmc.net](mailto:Kathleen.Howington@safmc.net).

**SUPPLEMENTARY INFORMATION:** The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions,

<sup>9</sup> See 19 CFR 351.106(c)(2).

<sup>10</sup> See Order, 84 FR at 24098.

<sup>11</sup> For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

<sup>12</sup> See Order, 84 FR at 24098.

have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop; (2) Assessment Process utilizing webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include: Data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion at the SEDAR 60 Red Porgy Assessment webinar II are as follows:

- Finalize modelling discussion.
- Review projection results and address the terms of reference.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

#### Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the South Atlantic Fishery Management Council

office (see **ADDRESSES**) at least 5 business days prior to the meeting.

*Note:* The times and sequence specified in this agenda are subject to change.

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

Dated: December 19, 2019.

**Tracey L. Thompson,**

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

[FR Doc. 2019-27812 Filed 12-23-19; 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:* American Lobster—Annual Trap Transfer Program.

*OMB Control Number:* 0648-0673.

*Form Number(s):* None.

*Type of Request:* Regular.

*Number of Respondents:* 102.

*Average Hours Per Response:* 10 minutes.

*Burden Hours:* 17.

*Needs and Uses:* NOAA's National Marine Fisheries Service (NMFS) collects annual application forms from lobster permit holders who wish to buy and/or sell Area 2, 3, or Outer Cape Area trap allocation through the Trap Transfer Program. The transfer applications are only accepted during a 2-month period (from August 1 through September 30) each year, and the revised allocations for each participating lobster permit resulting from the transfers become effective at the start of the following Federal lobster fishing year on May 1. Both the seller and buyer of the traps are required to sign the application form, which includes each permit holder's permit and vessel information, the number of traps sold, and the revised number of traps received by the buyer, inclusive of the amount removed according to the transfer tax. Both parties must sign the form as an agreement to the number of traps in the transfer. The parties must date the document and show that the transferring permit holder has sufficient allocation to transfer and the permit holder receiving the traps has sufficient

room under any applicable trap cap. This information allows NMFS to process and track transfers of lobster trap allocations through the Trap Transfer Program, and better enables the monitoring and management of the American lobster fishery as a whole.

*Affected Public:* Businesses or other for-profit organizations; Individuals or households; Federal government; and State, Local, or Tribal government.

*Frequency:* Once per transaction.

*Respondent's Obligation:* Required to obtain or retain benefits.

This information collection request may be viewed at [reginfo.gov](http://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](mailto:OIRA_Submission@omb.eop.gov) or fax to (202) 395-5806.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2019-27743 Filed 12-23-19; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XV153]

#### Pacific Fishery Management Council; Public Meetings and Hearings

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

**ACTION:** Notice of availability of reports; public meetings, and hearings.

**SUMMARY:** The Pacific Fishery Management Council (Pacific Council) has begun its annual preseason management process for the 2020 ocean salmon fisheries. This document announces the availability of Pacific Council documents, as well as the dates and locations of upcoming Pacific Council meetings and public hearings hosted by the Pacific Council. These documents and events comprise the Pacific Council's complete schedule for determining the annual proposed and final modifications to ocean salmon fishery management measures. The agendas for the March and April 2020 Pacific Council meetings will be published in subsequent **Federal Register** documents prior to the actual meetings.

**DATES:** Written comments on the salmon management alternatives must be received by 5 p.m. Pacific Standard Time, March 27, 2020.

**ADDRESSES:** Documents will be available from the Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384; telephone: (503) 820-2280 (voice) or (503) 820-2299 (fax). Written comments should be sent electronically to Mr. Phil Anderson, Chair, Pacific Fishery Management Council, via the Pacific Council's E-Portal by visiting <https://pfmc.psmfc.org>. Comments can also be submitted through the Federal Rulemaking E-Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments, and include the I.D. number in the subject line of the message. If you are unable to access either E-Portal, written comments may be mailed to Mr. Phil Anderson at the Pacific Fishery Management Council office address stated above. Written comments will then be entered into the Pacific Council's E-Portal by Council staff. For specific meeting and hearing locations, see **SUPPLEMENTARY INFORMATION**.

*Council address:* Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220.

**FOR FURTHER INFORMATION CONTACT:** Ms. Robin Ehlke, telephone: (503) 820-2280.

#### **SUPPLEMENTARY INFORMATION:**

#### **Tentative Schedule for Document Completion and Availability**

*February 14, 2020:* "Review of 2019 Ocean Salmon Fisheries, Stock Assessment and Fishery Evaluation Document for the Pacific Coast Salmon Fishery Management Plan" is scheduled to be posted on the Pacific Council website at <http://www.pcouncil.org>.

*February 28, 2020:* "Preseason Report I—Stock Abundance Analysis and Environmental Assessment Part 1 for 2020 Ocean Salmon Fishery Regulations" is scheduled to be posted on the Pacific Council website at <http://www.pcouncil.org>.

*March 20, 2020:* "Preseason Report II—Proposed Alternatives and Environmental Assessment Part 2 for 2020 Ocean Salmon Fishery Regulations". The report will include a description of the adopted salmon management alternatives and a summary of their biological and economic impacts. The public hearings schedule will also be included on the inside cover of the report and will be posted on the Pacific Council website at <http://www.pcouncil.org>.

*April 16, 2020:* "Preseason Report III—Council-Adopted Management Measures and Environmental Assessment Part 3 for 2020 Ocean Salmon Fishery Regulations" is scheduled to be posted on the Pacific Council website at <http://www.pcouncil.org>.

*May 1, 2020:* Federal regulations for 2020 ocean salmon regulations are published in the **Federal Register** and implemented.

#### **Meetings and Hearings**

*January 21–24, 2020:* The Salmon Technical Team (STT) will meet at the Pacific Council office in a public work session to draft "Review of 2019 Ocean Salmon Fisheries, Stock Assessment and Fishery Evaluation Document for the Pacific Coast Salmon Fishery Management Plan" and to consider any other estimation or methodology issues pertinent to the 2020 ocean salmon fisheries. The STT may also discuss additional topics and work as time allows, including but not limited to the Fishery Management Plan Amendment 20, the methodology review on Willapa Bay coho abundance forecasts, and Klamath Dam removal.

*February 18–21, 2020:* The STT will meet at the Pacific Council office in a public work session to draft "Preseason Report I—Stock Abundance Analysis and Environmental Assessment Part 1 for 2020 Ocean Salmon Fishery Regulations" and to consider any other estimation or methodology issues pertinent to the 2020 ocean salmon fisheries. The STT may also discuss additional topics as time allows, including but not limited to the Fishery Management Plan Amendment 20, the methodology review on Willapa Bay coho abundance forecasts, and Klamath Dam removal.

*March 23–24, 2020:* Public hearings will be held to receive comments on the proposed ocean salmon fishery management alternatives adopted by the Pacific Council. Written comments received at the public hearings and a summary of oral comments heard at the hearings will be provided to the Pacific Council at its April meeting.

All public hearings begin at 7 p.m. on the dates and locations specified below:

*March 23, 2020:* Chateau Westport, Beach Room, 710 West Hancock, Westport, WA 98595, telephone: (360) 268-9101.

*March 23, 2020:* Red Lion Hotel, South Umpqua Room, 1313 North Bayshore Drive, Coos Bay, OR 97420, telephone: (541) 267-4141.

*March 24, 2020:* Red Lion Hotel, Redwood Ballroom, 1929 4th Street,

Eureka, CA 95501, telephone: (707) 445-0844.

Although non-emergency issues not contained in the STT meeting agendas may come before the STT for discussion, those issues may not be the subject of formal STT action during these meetings. STT action will be restricted to those issues specifically listed in this document and to any issues arising after publication of this document requiring emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the STT's intent to take final action to address the emergency.

#### **Special Accommodations**

These public meetings and hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820-2280 (voice), or (503) 820-2299 (fax) at least ten days prior to the meeting date.

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

Dated: December 19, 2019.

**Tracey L. Thompson,**

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

[FR Doc. 2019-27810 Filed 12-23-19; 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:* Papahānaumokuākea Marine National Monument Permit Application and Reports for Permits.

*OMB Control Number:* 0648-0548.

*Form Number(s):* None.

*Type of Request:* Regular.

*Number of Respondents:* 411.

*Average Hours per Response:* Research, Conservation and Management and Education ("general" permits), 5 hours; Special Ocean Use permits, 10 hours; Native Hawaiian Practices permits, 8 hours; Recreation permits, 6 hours; permit amendment

requests and final reports, 10 hours; and annual reports, 5 hours.

*Burden Hours:* 1,343.

*Needs and Uses:* President Bush established the Papahānaumokuākea Marine National Monument (Monument) by issuing Presidential Proclamation 8031 (Proclamation) on June 15, 2006, (71 FR 36443, June 26, 2006) under the authority of the Antiquities Act (Act) (16 U.S.C. 431). The Proclamation reserves all lands and interests in lands owned or controlled by the Government of the United States in the Northwestern Hawaiian Islands (NWHI), including emergent and submerged lands and waters, out to a distance of approximately 50 nautical miles (nmi) from the islands. The boundaries of the Monument as described in Presidential Proclamation 8031 are 100 miles wide and extend approximately 1200 miles around coral islands, seamounts, banks, and shoals. The area includes the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve, the Midway Atoll National Wildlife Refuge, the Hawaiian Islands National Wildlife Refuge, and the Battle of Midway National Memorial.

The Proclamation includes restrictions and prohibitions regarding activities in the Monument consistent with the authority provided by the Act. The Proclamation prohibits access to the Monument except when passing through the Monument without interruption or as allowed under a permit issued by the agencies. Vessels passing through the Monument without interruption are required to notify the agencies upon entering into and leaving the Monument. Individuals wishing to access the Monument to conduct certain regulated activities must first apply for and be granted a permit issued by the agencies pursuant to the Proclamation. Applicants must also certify compliance with certain vessel monitoring system requirements.

The information submitted in permit applications will, in general, only be used at the time the application is submitted to make a final decision on the application. Some of the information may also be used subsequent to the initial decision making to inform management actions or decision making. For example, a survey of a project location by one permit applicant may be used by the agencies in the future to respond to a vessel grounding in the same area in addition to facilitating the agencies' decision on that application. Information submitted in a report will be used to periodically assess the permittee's compliance with permit terms and conditions and to

assist in evaluating the appropriateness of the permitted activity.

*Affected Public:* Individuals, non-profit institutions; Federal, State, local, government, Native Hawaiian organizations; business or other for-profit organizations.

*Frequency:* Permittees are required to submit a summary report due 30 days after the expiration of their permit; and an annual report due by 12/31 for each year their permit is active.

*Respondent's Obligation:* Required to retain benefits.

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,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2019-27738 Filed 12-23-19; 8:45 am]

**BILLING CODE 3510-NK-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XV158]

#### South Atlantic Fishery Management Council; Public Meeting

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

**ACTION:** Notice of a joint advisory panel meeting.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) will hold a joint meeting of its Law Enforcement Advisory Panel, Deepwater Shrimp Advisory Panel, and Shrimp Advisory Panel via webinar to discuss proposed management action in Shrimp Amendment 11.

**DATES:** The webinar meeting will be held on January 17, 2020, at 10 a.m.

**ADDRESSES:** *Council address:* South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

**FOR FURTHER INFORMATION CONTACT:** Kim Iverson, Public Information Officer, SAFMC; phone: (843) 571-4366 or toll free (866) SAFMC-10; fax: (843) 769-4520; email: *kim.iverson@safmc.net*.

**SUPPLEMENTARY INFORMATION:** The webinar meeting will begin at 10 a.m. Registration information will be posted on the Council's website at *https://safmc.net/safmc-meetings/current-advisory-panel-meetings/* as it becomes available.

#### Amendment 11 to the Shrimp Fishery Management Plan for the South Atlantic Region

The draft regulatory amendment addresses transit provisions for shrimp vessels through federal waters that are closed to shrimp harvest due to cold weather. Advisory panel members will receive an overview of the amendment from Council staff, discuss, and provide recommendations as appropriate.

#### Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 5 days prior to the public meeting.

*Note:* The times and sequence specified in this agenda are subject to change.

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

Dated: December 19, 2019.

**Tracey L. Thompson,**

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

[FR Doc. 2019-27811 Filed 12-23-19; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Proposed Information Collection; Comment Request; Chesapeake Bay Watershed Environmental Literacy Indicator Tool

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** To ensure consideration, written or on-line comments must be submitted on or before February 24, 2020.

**ADDRESSES:** Direct all written comments to Adrienne Thomas, PRA Officer, NOAA, 151 Patton Avenue, Room 159, Asheville, NC 28801 (or via the internet

at [PRAComments@doc.gov](mailto:PRAComments@doc.gov)). All comments received are part of the public record. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:**

Requests for additional information or copies of the information collection instrument and instructions should be directed to Shannon Sprague, NOAA Chesapeake Bay Office, 410 Severn Avenue, Suite 207, Annapolis, MD 21403, 410-267-5664 or [shannon.sprague@noaa.gov](mailto:shannon.sprague@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The Chesapeake Bay Watershed Environmental Literacy Indicator Tool (ELIT) was developed to monitor public school districts' capacity and progress towards meeting the environmental literacy goal of the 2014 Chesapeake Bay Watershed Agreement (<http://www.chesapeakebay.net/documents/ChesapeakeBayWatershedAgreementFINAL.pdf>): "Enable every student in the region to graduate with the knowledge and skills to act responsibly to protect and restore their local watershed." The signatories of the Agreement included the mayor of the District of Columbia and the governors of the states of Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia. The general statutory authority for this program is the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*

NOAA, on behalf of the Chesapeake Bay Program, will ask the state education agencies for Maryland, Pennsylvania, Delaware, Virginia, West Virginia, and the District of Columbia to survey their local education agencies (LEAs) to determine: (1) LEA capacity to implement a comprehensive and systematic approach to environmental literacy education, (2) student participation in Meaningful Watershed Educational Experiences during the school year, (3) sustainability practices at schools, and (4) LEA needs for improving environmental literacy education programming. LEAs (generally school districts, in some cases charter school administration) are asked to complete the survey on the status of their LEA on a set of key indicators for the four areas listed above. One individual from each LEA is asked to

complete this survey once every two years.

In addition to monitoring progress on the environmental literacy goal of the Chesapeake Bay Watershed Agreement, the information collected will inform several Chesapeake Bay Program partner agencies' work to support the school districts' environmental literacy education efforts.

The results of the biennial ELIT survey will be analyzed and reported to the internal stakeholders of the Chesapeake Bay Watershed Agreement. Participating states will receive a summarized report of findings for the full watershed, a summary of findings for their state, and comparisons of results between states. These aggregated results will be used by the state agencies to understand progress of their school districts over time, and to inform decision-making about strategies and priorities for future work with school districts.

The biennial reporting will also be used by the Chesapeake Bay Program to understand progress of school districts in the watershed, understand differences between jurisdictions, and guide strategy for providing targeted support in each state.

State agencies and other stakeholders will also have access to the responses of each public school district, which they will use to customize outreach and support to a particular school district, based on their status and needs.

**II. Method of Collection**

Respondents will submit their information electronically on web-based survey forms.

**III. Data**

*OMB Control Number:* 0648-0753.

*Form Number(s):* None.

*Type of Review:* Regular submission (extension of a current information collection).

*Affected Public:* State, Local, or Tribal government (local education agencies); Not-for-profit organizations (charter schools).

*Estimated Number of Respondents:* 983.

*Estimated Time per Response:* 1.5 hours.

*Estimated Total Annual Burden Hours:* 1,106.

*Estimated Total Annual Cost to Public:* \$0 in recordkeeping/reporting costs.

**IV. Request for Comments**

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2019-27745 Filed 12-23-19; 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:* Estuary Habitat Restoration Program Inventory.

*OMB Control Number:* 0648-0479.

*Form Number(s):* None.

*Type of Request:* Regular (extension of a currently approved collection).

*Number of Respondents:* 6.

*Average Hours per Response:* 4 hours for each new project; 2 hours for updates.

*Burden Hours:* 18.

*Needs and Uses:* The Estuary Restoration Act (ERA) of 2000 (Act) was signed into law in November 2000 and makes restoring our nation's estuaries a national priority by leveraging limited federal resources with state, local, and private funding. As part of the Act, the National Oceanic and Atmospheric Administration (NOAA) is required to develop and maintain a database of estuary restoration projects. The purpose of the database is to provide information to improve restoration methods, provide information for

reports transmitted to Congress (Section 108(b)), and track the acres of habitat restored. Project information collected and maintained is made available to the public through project summaries. The database contains project information for projects funded through the ERA that meet quality control requirements and data standards established under the Act. This information collection is a requirement only for those parties receiving ERA funds.

**Affected Public:** Not-for-Profit Institutions, and State, Local, or Tribal Government.

**Frequency:** Annual.

**Respondent's Obligation:** Mandatory.

This information collection request may be viewed at [reginfo.gov](http://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](mailto:OIRA_Submission@omb.eop.gov) or fax to (202) 395-5806.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2019-27735 Filed 12-23-19; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XV152]

#### South Atlantic Fishery Management Council; Public Hearings

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

**ACTION:** Notice of public hearings.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) will hold a series of public hearings via webinar pertaining to Framework Amendment 9 to the Fishery Management Plan for Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region. The amendment addresses commercial trip limits in the Atlantic Northern Zone for commercial Spanish mackerel.

**DATES:** The public hearings will be held via webinar on January 22 and 23, 2020. See **SUPPLEMENTARY INFORMATION**.

**ADDRESSES:** *Council address:* South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

**FOR FURTHER INFORMATION CONTACT:** Kim Iverson, Public Information Officer, SAFMC; phone: (843) 571-4366 or toll free (866) SAFMC-10; fax: (843) 769-4520; email: [kim.iverson@safmc.net](mailto:kim.iverson@safmc.net).

**SUPPLEMENTARY INFORMATION:** The public hearings will be conducted via webinar, accessible via the internet from the Council's website at <https://safmc.net/safmc-meetings/public-hearings-scoping-meetings/>. The public hearings will begin at 6 p.m. Registration for the webinars is required. Registration information will be posted on the Council's website as it becomes available. Public comments must be received by 5 p.m. on February 7, 2020.

#### Framework Amendment 9 to the Coastal Migratory Pelagics FMP

The draft amendment currently addresses commercial Spanish mackerel trip limits in the Atlantic Northern Zone (New York/Connecticut/Rhode Island line to the North Carolina/South Carolina line). Stakeholders have expressed concern about closures to commercial Spanish mackerel harvest in federal waters off the Atlantic Northern Zone. Framework Amendment 9 proposes a trip limit reduction in the Northern Zone to help extend the commercial Spanish mackerel season in federal waters.

During the public hearings, Council staff will present an overview of the amendment and will be available for informal discussions and to answer questions via webinar. Members of the public will have an opportunity to go on record to record their comments for consideration by the Council.

#### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) 3 days prior to the meeting.

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

Dated: December 19, 2019.

**Tracey L. Thompson,**

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

[FR Doc. 2019-27809 Filed 12-23-19; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XR080

#### Endangered and Threatened Species; Notice of Initiation of a 5-Year Review of Northwest Atlantic Ocean and Seven Foreign Distinct Population Segments of Loggerhead Sea Turtle

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce, and Fish and Wildlife Service (USFWS), Interior.

**ACTION:** Notice of initiation of 5-year review; request for information.

**SUMMARY:** NMFS and USFWS announce the initiation of a 5-year review for the following distinct population segments (DPS) of loggerhead sea turtle (*Caretta caretta*): The Mediterranean Sea DPS, the Northeast Atlantic Ocean DPS, the North Indian Ocean DPS, the South Pacific Ocean DPS, the Northwest Atlantic Ocean DPS, the South Atlantic Ocean DPS, the Southeast Indo-Pacific Ocean DPS, and the Southwest Indian Ocean DPS. NMFS and USFWS are required by the Endangered Species Act (ESA) to conduct 5-year reviews to ensure that the listing classifications of species are accurate. The 5-year review must be based on the best scientific and commercial data available at the time of the review. We request submission of any such information on these loggerhead DPSs, particularly information on the status, threats, and recovery of the DPSs that has become available since their listing on September 22, 2011 (76 FR 58868).

**DATES:** To allow us adequate time to conduct this review, we must receive your information no later than February 24, 2020.

**ADDRESSES:** You may submit information on this document, identified by NOAA-NMFS-2019-0150, by either of the following methods:

- **Electronic Submission:** Submit electronic information via the Federal e-Rulemaking Portal. Go to [www.regulations.gov](http://www.regulations.gov) and enter NOAA-NMFS-2019-0150. Click on the "Comment Now!" icon and complete the required fields. Enter or attach your comments.

- **Mail:** Submit written comments to Adrienne Lohe, Endangered Species Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13626, Silver Spring, MD 20910.

**Instructions:** Comments sent by any other method, to any other address or



individual, or received after the end of the specified period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive or protected information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous submissions (enter "N/A" in the required fields if you wish to remain anonymous).

**FOR FURTHER INFORMATION CONTACT:** Adrienne Lohe at the above address, by phone at (301) 427-8442 or [Adrienne.Lohe@noaa.gov](mailto:Adrienne.Lohe@noaa.gov).

**SUPPLEMENTARY INFORMATION:** This notice announces our review of the following loggerhead sea turtle DPSs: The endangered Mediterranean Sea DPS, the endangered Northeast Atlantic Ocean DPS, the endangered North Indian Ocean DPS, the endangered South Pacific Ocean, the threatened Northwest Atlantic Ocean DPS, the threatened South Atlantic Ocean DPS, the threatened Southeast Indo-Pacific Ocean DPS, and the threatened Southwest Indian Ocean DPS (76 FR 58868; September 22, 2011). It does not include the North Pacific Ocean DPS review, which we initiated in 2016 (81 FR 70394; October 12, 2016). Section 4(c)(2)(A) of the ESA requires that we conduct a review of listed species at least once every 5 years. This will be the first review of the Northwest Atlantic Ocean and foreign loggerhead DPSs since they were listed in 2011. The regulations in 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing species currently under active review. On the basis of such reviews under section 4(c)(2)(B), we determine whether any species should be removed from the list (*i.e.*, delisted) or reclassified from endangered to threatened or from threatened to endangered (16 U.S.C. 1533(c)(2)(B)). As described by the regulations in 50 CFR 424.11(e), the Secretary shall delist a species if the Secretary finds that, after conducting a status review based on the best scientific and commercial data available: (1) The species is extinct; (2) the species does not meet the definition of an endangered species or a threatened species; and/or (3) the listed entity does not meet the statutory definition of a species. Any change in Federal classification would require a separate rulemaking process.

Background information on all DPSs of loggerhead is available on the NMFS

website at: <https://www.fisheries.noaa.gov/species/loggerhead-turtle>.

#### Public Solicitation of New Information

To ensure that the reviews are complete and based on the best available scientific and commercial information, we are soliciting new information from the public, governmental agencies, Tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the status of all loggerhead DPSs other than the North Pacific Ocean DPS. Categories of requested information include: (1) Species biology including, but not limited to, population trends, distribution, abundance, demographics, and genetics; (2) habitat conditions including, but not limited to, amount, distribution, and important features for conservation; (3) status and trends of threats to the species and its habitats; (4) conservation measures that have been implemented that benefit the species, including monitoring data demonstrating effectiveness of such measures; (5) need for additional conservation measures; and (6) other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes and improved analytical methods for evaluating extinction risk.

If you wish to provide information for the reviews, you may submit your information and materials electronically or via mail (see **ADDRESSES** section). We request that all information be accompanied by supporting documentation such as maps, bibliographic references, or reprints of pertinent publications. We also would appreciate the submitter's name, address, and any association, institution, or business that the person represents; however, anonymous submissions will also be accepted.

**Authority:** 16 U.S.C. 1531 *et seq.*

Dated: December 18, 2019.

**Angela Somma,**

Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2019-27700 Filed 12-23-19; 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:** Marine Recreational Information Program Fishing Effort Survey.

**OMB Control Number:** 0648-0652.

**Form Number(s):** None.

**Type of Request:** Regular.

**Number of Respondents:** 114,868.

**Average Hours per Response:** 5 minutes.

**Burden Hours:** 9,687.

**Needs and Uses:** Marine recreational anglers are surveyed to collect catch and effort data, fish biology data, and angler socioeconomic characteristics. These data are required to carry out provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), as amended, regarding conservation and management of fishery resources.

Marine recreational fishing catch and effort data are collected through a combination of mail surveys, telephone surveys and on-site intercept surveys with recreational anglers. The Marine Recreational Information Program (MRIP) Fishing Effort Survey (FES) is a self-administered, household mail survey that samples from a residential address frame to collect data on the number of recreational anglers and the number of recreational fishing trips. The survey estimates marine recreational fishing activity for all coastal states from Maine through Mississippi, as well as Hawaii and Puerto Rico.

FES estimates are combined with estimates derived from complementary surveys of fishing trips, the Access-Point Angler Intercept Survey, to estimate total, state-level fishing catch, by species. These estimates are used in the development, implementation, and monitoring of fishery management programs by NOAA Fisheries, regional fishery management councils, interstate marine fisheries commissions, and state fishery agencies.

**Affected Public:** Individuals or households.

**Frequency:** On occasion.

**Respondent's Obligation:** Voluntary.

This information collection request may be viewed at [reginfo.gov](http://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](mailto:OIRA_Submission@omb.eop.gov) or fax to (202) 395-5806.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2019-27746 Filed 12-23-19; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XV151]

#### Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

**ACTION:** Notice of SEDAR 67 Assessment Webinar II for Gulf of Mexico vermilion snapper.

**SUMMARY:** The SEDAR 67 stock assessment process for Gulf of Mexico vermilion snapper will consist of a series of data and assessment webinars.

**DATES:** The SEDAR 67 Assessment Webinar II will be held January 23, 2020, from 10 a.m. to 12 p.m., Eastern Time.

**ADDRESSES:** The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

*SEDAR address:* 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

**FOR FURTHER INFORMATION CONTACT:** Julie A. Neer, SEDAR Coordinator; (843) 571-4366; email: [Julie.neer@safmnc.net](mailto:Julie.neer@safmnc.net).

**SUPPLEMENTARY INFORMATION:** The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for

determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the Assessment Webinar are as follows:

1. Using datasets and initial assessment analysis recommended from the data webinars, panelists will employ assessment models to evaluate stock status, estimate population benchmarks and management criteria, and project future conditions.

2. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

#### Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the

Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

*Note:* The times and sequence specified in this agenda are subject to change.

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

Dated: December 19, 2019.

**Tracey L. Thompson,**

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

[FR Doc. 2019-27808 Filed 12-23-19; 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:* Gulf of Mexico Electronic Logbook.

*OMB Control Number:* 0648-0543.

*Form Number(s):* None.

*Type of Request:* Regular (extension of a currently approved information collection).

*Number of Respondents:* 1,410.

*Average Hours per Response:* 3.

*Burden Hours:* 4,230.

*Needs and Uses:* The Magnuson-Stevens Fishery Conservation and Management Act authorizes the Gulf of Mexico Fishery Management Council (Council) to prepare and amend fishery management plans for any fishery in waters under its jurisdiction. The National Marine Fisheries Service (NMFS) manages the commercial shrimp fishery in Federal waters of the Gulf of Mexico (Gulf) under the Fishery Management Plan for the Shrimp Fishery of the Gulf.

The electronic logbook (ELB) regulations for the Gulf shrimp fishery may be found at 50 CFR 622.51(a)(2). These regulations require vessel owners or operators issued a Federal commercial permit for Gulf shrimp to participate in the NMFS-sponsored ELB reporting program. There are approximately 1,410 valid or renewable Federal permits to commercially harvest shrimp from Federal waters in the Gulf. Reporting through a vessel's ELB, such owners or operators must provide information regarding the size and number of shrimp trawls deployed, the

type of bycatch reduction device, and turtle excluder device used for each trip. The ELB unit automatically collects fishing effort data and transmits those data via a cellular phone connection activated when the vessel is within non-roaming cellular range. Compliance with the ELB reporting requirements is required to renew the Gulf shrimp permit.

Monitoring shrimp vessels is challenging for NMFS when they operate together with many other fishing vessels of differing sizes, gears types, and fishing capabilities. Monitoring is made even more challenging by seasonal variability in shrimp abundance and price and the broad geographic distribution of the fleet. ELBs provide a precise means of estimating the amount of shrimp fishing effort. Using ELBs to estimate fishing effort serves an important role to help estimate bycatch in the Gulf shrimp fleet.

**Affected Public:** Businesses or other for-profit organizations.

**Frequency:** On occasion when fishing.

**Respondent's Obligation:** Mandatory.

This information collection request may be viewed at [reginfo.gov](http://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 this notice publication by email to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) or by fax to (202) 395-5806.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2019-27739 Filed 12-23-19; 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:** Green Sturgeon ESA 4(d) rule take exceptions and exemptions.

**OMB Control Number:** 0648-0613.

**Form Number(s):** None.

**Type of Request:** Regular.

**Number of Respondents:** 45.

**Average Hours per Response:**

Scientific research or monitoring exception, Habitat restoration exception, State research program report, and Research applications: 40 hours each; Scientific research or monitoring exception report, Habitat restoration exception report, and Research reports: 5 hours each; Emergency fish rescue report, and Fishery Management and Evaluation Plan report: 20 hours each; Fishery Management and Evaluation Plan and Tribal Plan: 160 hours each.

**Burden Hours:** 1,510.

**Needs and Uses:** The Southern Distinct Population Segment of North American green sturgeon (*Acipenser medirostris*; hereafter, "Southern DPS") was listed as a threatened species in April 2006. Protective regulations under section 4(d) of the Endangered Species Act (ESA) were promulgated for the species on June 2, 2010 (75 FR 30714) (the final ESA 4(d) Rule). To comply with the ESA and the protective regulations, entities must obtain take authorization before they engage in activities that involve take of Southern DPS fish, unless the activity is covered by an exception or exemption. "Take" is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Certain activities described in the "exceptions" provision of 50 CFR 223.210(b) are not subject to the take prohibitions if they adhere to specific criteria and reporting requirements. Under the "exemption" provision of 50 CFR 223.210(c), the take prohibitions do not apply to scientific research, scientific monitoring, and fisheries activities conducted under an approved 4(d) program or plan. Similarly, take prohibitions do not apply to tribal resource management activities conducted under a Tribal Plan for which the requisite determinations described in 50 CFR 223.102(c)(3) have been made.

To ensure that activities qualify under exceptions to or exemptions from the take prohibitions, local, state, and federal agencies, non-governmental organizations, academic researchers, and private organizations are asked to submit detailed information regarding their activity on a schedule to be determined by National Marine Fisheries Service (NMFS) staff. This information is used by NMFS to (1) track the number of Southern DPS fish taken as a result of each action; (2) understand and evaluate the cumulative effects of each action on the Southern DPS; and (3) determine whether

additional protections are needed for the species, or whether additional exceptions may be warranted. NMFS designed the criteria to ensure that actions meeting the criteria would adequately limit impacts on threatened Southern DPS fish, such that additional protections in the form of a federal take prohibition would not be necessary and advisable.

**Affected Public:** Not-for-profit institutions; State, Local, or Tribal government; Federal government; business or other for-profit organizations.

**Frequency:** Written notification describing research, monitoring, habitat restoration, or emergency fish rescue and salvage activities, on occasion; development of fisheries management and evaluation plans, state 4(d) research programs, or tribal fishery management plans, on occasion; fisheries management and evaluation plan reports, biannually; all other reports, annually.

**Respondent's Obligation:** Required to obtain or retain benefits.

This information collection request may be viewed at [reginfo.gov](http://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](mailto:OIRA_Submission@omb.eop.gov) or faxed to (202) 395-5806.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2019-27744 Filed 12-23-19; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### Law School Clinic Certification Program

**ACTION:** Notice of renewal of information collection; request for comment.

**SUMMARY:** The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on the extension of an existing information collection: 0651-0081 (Law School Clinic Program).

**DATES:** Written comments must be submitted on or before February 24, 2020.

**ADDRESSES:** You may submit comments by any of the following methods:

• *Email: InformationCollection@uspto.gov.* Include “0651–0081 comment” in the subject line of the message.

• *Federal Rulemaking Portal: <http://www.regulations.gov>.*

• *Mail: Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.*

#### FOR FURTHER INFORMATION CONTACT:

Requests for additional information should be directed to Dahlia George, Office of Enrollment and Discipline, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–4097; or by email to [Dahlia.George@uspto.gov](mailto:Dahlia.George@uspto.gov) with “0651–0020 comment” in the subject line. Additional information about this collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

Public Law 113–227 (Dec. 16, 2014) requires the United States Patent and Trademark Office to establish regulations and procedures for application to, and participation in, the USPTO Law School Clinic Certification Program. The Program allows students enrolled in a participating law school’s clinic to practice patent or trademark law before the USPTO under the direct supervision of a faculty clinic supervisor. Each clinic provides legal services on a pro bono basis for clients who qualify for assistance from the law school’s clinic. By drafting, filing, and prosecuting patent and trademark

applications, students gain valuable experience that would otherwise be unavailable to them while in law school. The program also facilitates the provision of pro bono services to trademark and patent applicants who lack the financial resources necessary for traditional legal representation. In 2019, there were over 60 law schools participating in the program.

This information collection covers the applications from law schools that wish to enter the program, faculty advisors who seek to become a faculty clinic supervisor, and students who seek to participate in this program. The collection also includes the required biannual reports from participating law school clinics and biennial renewals required by the program as well as the request to make special under the Law School Clinic Certification Program, which allows a limited number of applications per semester to be advanced out of turn (accorded special status) for examination if the applicant makes the appropriate showing, to provide law students with practical experience as they will be more likely to receive substantive examination of applications within the school year that the application is filed.

##### II. Method of Collection

By mail, facsimile, hand delivery, or electronically to the USPTO.

##### III. Data

*OMB Number:* 0651–0081.

*IC Instruments and Forms:* There are two forms associated with this collection.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households, not-for-profit institutions.

*Estimated Number of Respondents:* 903 responses per year. The USPTO estimates that approximately 75% of the annual responses for this collection will be submitted electronically.

*Estimated Time per Response:* The USPTO estimates that it will take the public from 0.5 and 40 hours, depending on the complexity of the situation, to gather the necessary information, prepare the appropriate documents, and submit the information to the USPTO.

*Estimated Total Annual Respondent Burden Hours:* 690 hours.

*Estimated Total Annual Respondent (Hourly) Cost Burden:* \$145,575.

The USPTO expects that intellectual property attorneys will complete most of the items in this collection at an estimated rate of \$438 per hour. The attorney rates are found in the 2017 *Report of the Economic Survey* published by the American Intellectual Property Law Association (AIPLA). Faculty members serving as Clinic Supervisors must be practicing attorneys and registered with the Patent Bar (for those schools handling patent matters before the USPTO on behalf of applicants). The cost for law students applying to participate in the Program is estimated to be at the 10% hourly rate for legal occupations (BLS 23–000 Legal Occupations) which is \$18.04 per hour. This accounts for law students’ possible employment in various entry level legal positions. Using this hourly rate, the USPTO estimates that the total respondent cost burden for this collection is \$145,575 per year.

TABLE 3—BURDEN HOUR/BURDEN COST TO RESPONDENTS

IC No.	Item	Estimated response time (hours)	Estimated annual responses	Estimated annual burden hours	Rate (\$/hr)	Total hourly cost burden
		(a)	(b)	(a) × (b) = (c)	(d)	(c) × (d) = (e)
1 .....	Application by Law School to Enter the Program.	40	1	40	\$438.00	\$17,520
2 .....	Application by Law School Faculty Member to Become a faculty Clinic Supervisor.	1	5	5	438.00	2,190
3 .....	Application by Student to Become a Participant in the Program (PTO–158LS).	0.5	745	373	18.04	6,728
4 .....	Biannual Report Required of Law School Clinics.	1	120	120	438.00	52,560
5 .....	Biennial Renewal Application by Law School	5	30	150	438.00	65,700
6 .....	Request to Make Special Under the Law School Clinic Certification Program.	1	2	2	438.00	876
	Total .....	.....	903	690	.....	145,575

*Estimated Total Annual (Non-hour) Respondent Cost Burden:* \$1,721. There are no capital startup, maintenance, or

operating fees associated with this collection. There are, however, annual

(non-hour) costs in the form of postage costs.

**Filing Fees**

There are no filing fees associated with this collection.

**Postage Costs**

Currently, the USPTO does not use automated or other technological collection techniques for the items in

this collection of information, but submissions are accepted electronically through email. Submissions are also accepted via postal mail and hand delivery. The USPTO expects that 75 percent of the items in this collection will be submitted electronically. Of the remaining 25 percent, the USPTO

estimates that 99 percent will be submitted by mail—with the remainder submitted by hand delivery—for a total of 225 mailed submissions. The average USPS Priority Mail postage cost for a legal flat rate envelope is estimated to be \$7.65. Table 4 calculates the postage costs associated with this collection.

TABLE 4—ANNUAL (Non-Hour) RESPONDENT COST BURDEN

IC No.	Item	Estimated mailed responses (a)	Estimated postage rate (b)	Total annual (non-hour) cost burden (a) × (b) = (c)
1 .....	Application by Law School to Enter the Program .....	1	\$7.65	\$7.65
2 .....	Application by Law School Faculty Member to Become a Faculty Clinic Supervisor.	1	7.65	7.65
3 .....	Application by Student to Become a Participant in the Program (PTO–158LS) ....	185	7.65	1,415.25
4 .....	Biannual Report Required of Law School Clinics .....	30	7.65	229.50
5 .....	Biennial Renewal Application by Law School .....	7	7.65	53.55
6 .....	Request to Make Special Under the Law School Clinic Program .....	1	7.65	\$7.65
	Total .....	225	.....	1,721

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection, in the form of postage costs is \$1,721 per year.

**IV. Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

The USPTO is soliciting public comments to:

(a) 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;

(b) 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;

(c) Enhance the quality, utility, and clarity of the information to be collected; and

(d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Kimberly Hardy,**

*Information Collection Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.*

[FR Doc. 2019–27832 Filed 12–23–19; 8:45 am]

**BILLING CODE 1410–30–P**

**COMMODITY FUTURES TRADING COMMISSION****Sunshine Act Meetings**

**TIME AND DATE:** 10:00 a.m., Wednesday, January 8, 2020.

**PLACE:** Three Lafayette Centre, 1155 21st Street NW, Washington, DC, 9th Floor Commission Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

Examinations and enforcement matters. In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at <https://www.cftc.gov/>.

**CONTACT PERSON FOR MORE INFORMATION:** Christopher Kirkpatrick, 202–418–5964.

**Authority:** 5 U.S.C. 552b.

**Dated:** December 20, 2019.

**Robert Sidman,**

*Deputy Secretary of the Commission.*

[FR Doc. 2019–27931 Filed 12–20–19; 4:15 pm]

**BILLING CODE 6351–01–P**

**COMMODITY FUTURES TRADING COMMISSION****Agency Information Collection Activities Under OMB Review**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995

(PRA), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

**DATES:** Comments must be submitted on or before January 27, 2020.

**ADDRESSES:** Comments regarding the burden estimate or any other aspect of the information collection, including suggestions for reducing the burden, may be submitted directly to the Office of Information and Regulatory Affairs (OIRA) in OMB within 30 days of this notice's publication by either of the following methods. Please identify the comments by "OMB Control No. 3038–0096."

- *By email addressed to:* [OIRAsubmissions@omb.eop.gov](mailto:OIRAsubmissions@omb.eop.gov) or
- *By mail addressed to:* the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention Desk Officer for the Commodity Futures Trading Commission, 725 17th Street NW, Washington DC 20503.

A copy of all comments submitted to OIRA should be sent to the Commodity Futures Trading Commission (the "Commission") by either of the following methods. The copies should refer to "OMB Control No. 3038–0096."

- *By mail addressed to:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581;

- By Hand Delivery/Courier to the same address; or
- Through the Commission's website at <http://comments.cftc.gov>. Please follow the instructions for submitting comments through the website.

A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting <http://RegInfo.gov>.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.<sup>1</sup> The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection Request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

#### FOR FURTHER INFORMATION CONTACT:

Meghan Tente, Acting Associate Director, Division of Market Oversight, Commodity Futures Trading Commission, (202) 418-5785, email: [mtente@cftc.gov](mailto:mtente@cftc.gov), and refer to OMB Control No. 3038-0096.

#### SUPPLEMENTARY INFORMATION:

**Title:** Swap Data Recordkeeping and Reporting Requirements (OMB Control No. 3038-0096). This is a request for extension of a currently approved information collection.

**Abstract:** The collection of information is needed to ensure that the CFTC and other regulators have access to swap data as required by the Commodity Exchange Act, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"). The Dodd-Frank Act directed the CFTC to adopt rules providing for the reporting of data relating to swaps. In 2012, the CFTC adopted Regulation 45, which imposes recordkeeping and reporting

requirements relating to pre-enactment and historical swaps.

On September 25, 2019, the Commission published in the **Federal Register** notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed extension, 84 FR 50413 ("60-Day Notice"). The Commission did not receive any comments on the 60-Day Notice.

**Burden Statement:** Provisions of CFTC Regulations 45.2, 45.3, 45.4, 45.5, 45.6, 45.7, and 45.14 result in information collection requirements within the meaning of the PRA. With respect to the ongoing reporting and recordkeeping burdens associated with swaps, the CFTC believes that swap dealers ("SDs"), major swap participants ("MSPs"), and non-SD/MSP counterparties incur an annual time-burden of 2,279,312 hours. This time-burden represents a proportion of the burden respondents incur to operate and maintain their swap data recordkeeping and reporting systems. The respondent burden for this collection is estimated to be as follows:

**Estimated Number of Respondents:** 1,732.

**Estimated Average Burden Hours per Respondent:** 1,316.

**Estimated Total Annual Burden Hours:** 2,279,312 hours.

**Frequency of Collection:** Ongoing.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: December 18, 2019.

**Robert Sidman,**

*Deputy Secretary of the Commission.*

[FR Doc. 2019-27704 Filed 12-23-19; 8:45 am]

**BILLING CODE 6351-01-P**

## DEPARTMENT OF EDUCATION

[Docket No.: ED-2019-ICCD-0160]

### Agency Information Collection Activities; Comment Request; Study of District and School Uses of Federal Education Funds

**AGENCY:** Institute of Education Sciences (IES), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

**DATES:** Interested persons are invited to submit comments on or before February 24, 2020.

**ADDRESSES:** To access and review all the documents related to the information

collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2019-ICCD-0160. 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 [www.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](mailto: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 6W-208B, Washington, DC 20202-4537.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Stephanie Stulich, 202-245-6468.

**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

<sup>1</sup> 17 CFR 145.9.

response to this notice will be considered public records.

*Title of Collection:* Study of District and School Uses of Federal Education Funds.

*OMB Control Number:* 1850–NEW.

*Type of Review:* A new information collection.

*Respondents/Affected Public:* State, Local, and Tribal Governments.

*Total Estimated Number of Annual Responses:* 306.

*Total Estimated Number of Annual Burden Hours:* 306.

*Abstract:* The Study of District and School Uses of Federal Education Funds will examine targeting and resource allocation for five major federal education programs: Part A of Titles I, II, III, and IV of the Elementary and Secondary Education Act (ESEA)—including school improvement grants provided under Section 1003 of Title I, Part A—as well as Title I, Part B of the Individuals with Disabilities Education Act (IDEA). The study will collect detailed fiscal data from a nationally representative sample of 400 school districts, including budgets, plans, expenditure data, and personnel and payroll data. In addition, the study will collect data on allocations to districts and schools to examine how the distribution of funds varies in relation to program goals and student needs; survey district and school officials to explore such issues as the types of services and resources that are provided through the federal funds, coordination across programs, and use of flexibility; conduct interviews in nine site visits to districts to obtain more in-depth data; and analyze fiscal data.

This package is the first of two OMB clearance requests for this study. This package requests approval for selection and recruitment of nationally representative samples of school districts and schools and collection of certain preliminary information from states (*i.e.*, lists of subgrantees and suballocation amounts for each program, contact information for district program coordinators for each of the covered ESEA programs, and the state chart of accounts). A future submission will request OMB clearance for the data collection instruments for this study. We anticipate beginning collection of subgrantee lists and other preliminary information in May 2020 and launching the district- and school-level data collection in September 2020.

Dated: December 18, 2019.

**Stephanie Valentine,**

*PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.*

[FR Doc. 2019–27754 Filed 12–23–19; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

[Docket No.: ED–2019–ICCD–0161]

### Agency Information Collection Activities; Comment Request; EZ-Audit: Electronic Submission of Financial Statements and Compliance Audits

**AGENCY:** Federal Student Aid (FSA), 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 February 24, 2020.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2019–ICCD–0161. 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 [www.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](mailto: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 6W–208D, Washington, DC 20202–4537.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

**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.

*Title of Collection:* EZ-Audit: Electronic Submission of Financial Statements and Compliance Audits.

*OMB Control Number:* 1845–0072.

*Type of Review:* A revision of an existing information collection.

*Respondents/Affected Public:* Private Sector, State, Local, and Tribal Governments; Individuals or Households.

*Total Estimated Number of Annual Responses:* 6,632.

*Total Estimated Number of Annual Burden Hours:* 6,016.

*Abstract:* eZ-Audit is a web-based process designed to facilitate the submission of compliance and financial statement audits, expedite the review of those audits by the Department, and provide more timely and useful information to public, non-profit and proprietary institutions regarding the Department's review. eZ-Audit establishes a uniform process under which all institutions submit directly to the Department any audit required under the Title IV, HEA program regulations. The revisions to this collection is a result of enhancements made to the current system to collect the compliance audits/financial statements in the appropriate format (*e.g.* revised question text and required uploads) from the foreign institutions that are required to submit audits in accordance to the Department's regulations and to

allow electronic submission of compliance audits/financial statements from the entities identified above. Revisions to financial statements information are to meet the new borrower defense regulations.

Dated: December 19, 2019.

**Kate Mullan,**

*PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer.*

[FR Doc. 2019-27785 Filed 12-23-19; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF EDUCATION

### National Advisory Committee on Institutional Quality and Integrity

**AGENCY:** National Advisory Committee on Institutional Quality and Integrity (NACIQI), U.S. Department of Education.

**ACTION:** Notice of membership.

**SUMMARY:** This notice lists the members of the National Advisory Committee on Institutional Quality and Integrity (NACIQI). This notice is required under the Higher Education Act of 1965, as amended (HEA).

**ADDRESSES:** U.S. Department of Education, Office of Postsecondary Education, 400 Maryland Ave. SW, Room 271-03, Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** George Alan Smith, Acting Executive Director/Designated Federal Official, NACIQI, U.S. Department of Education, 400 Maryland Ave. SW, Room 271-03, Washington, DC 20202, telephone: (202) 453-7757, or email [george.alan.smith@ed.gov](mailto:george.alan.smith@ed.gov).

**SUPPLEMENTARY INFORMATION:** This notice is required under Section 114(e)(1) of the Higher Education Act of 1965, as amended (HEA).

### NACIQI's Statutory Authority and Functions

The NACIQI is established under Section 114 of the HEA, and is composed of 18 members appointed—

(A) On the basis of the individuals' experience, integrity, impartiality, and good judgment;

(B) From among individuals who are representatives of, or knowledgeable concerning, education and training beyond secondary education, representing all sectors and types of institutions of higher education; and,

(C) On the basis of the individuals' technical qualifications, professional standing, and demonstrated knowledge in the fields of accreditation and administration of higher education.

The NACIQI meets at least twice a year and advises the Secretary of Education with respect to:

- The establishment and enforcement of the standards of accrediting agencies or associations under subpart 2 of part G of Title IV of the HEA;
- The recognition of specific accrediting agencies or associations;
- The preparation and publication of the list of nationally recognized accrediting agencies and associations;
- The eligibility and certification process for institutions of higher education under Title IV of the HEA, together with recommendations for improvements in such process;
- The relationship between (1) accreditation of institutions of higher education and the certification and eligibility of such institutions, and (2) State licensing responsibilities with respect to such institutions; and
- Any other advisory functions relating to accreditation and institutional eligibility that the Secretary of Education may prescribe by regulation.

*What are the terms of office for the committee members?*

The term of office of each member is six years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term.

*Who are the current members of the committee?*

The current members of the NACIQI are:

*Members Appointed by the Secretary of Education with Terms Expiring September 30, 2025:*

- Ronnie L. Booth, Ph.D., Former President, Tri-County Technical College, Anderson, South Carolina.
- Wallace E. Boston, Ph.D., President, American Public University System, Inc., Charles Town, West Virginia.
- David A. Eubanks, Ph.D., Assistant Vice President for Assessment and Institutional Effectiveness, Furman University, Greenville, South Carolina.
- D. Michael Lindsay, Ph.D., President, Gordon College, Wenham, Massachusetts.
- Mary Ellen Petrisko, Ph.D., Education Consultant, Pittsburgh, Pennsylvania.

*Members Appointed by the Speaker of the House of Representatives with Terms Expiring September 30, 2020:*

- Kathleen Sullivan Alioto, Ed.D., Strategic Advisor, Fundraiser, and Consultant, New York, New York, San Francisco, California, and Boston, Massachusetts.

- George T. French, Jr., Ph.D., President, Miles College, Fairfield, Alabama.

- Brian W. Jones, J.D., President, Strayer University, Washington, DC.

- Arthur E. Keiser, Ph.D., Chancellor, Keiser University, Fort Lauderdale, Florida.

- Ralph Wolff, J.D., President, The Quality Assurance Commons for Higher and Postsecondary Education, Oakland, California.

*Members Appointed by the President Pro Tempore of the Senate with Terms Expiring September 30, 2022:*

- Jill Derby, Ph.D., Senior Consultant, Association of Governing Boards of Universities and Colleges, Gardnerville, Nevada.

- Paul J. LeBlanc, Ph.D., President, Southern New Hampshire University, Manchester, New Hampshire.

- Anne D. Neal, J.D., President, The Garden Club of America, Washington, DC.

- Richard F. O'Donnell, Founder and CEO, Skills Fund, Austin, Texas.

- Claude O. Pressnell Jr., Ed.D., President, Tennessee Independent Colleges and Universities Association, Nashville, Tennessee.

- Steven Van Ausdle, Ph.D., President Emeritus, Walla Walla Community College, Walla Walla, Washington.

*Electronic Access to this Document:* The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys). 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 Adobe 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](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

**Authority:** 20 U.S.C. 1011c.

**Betsy DeVos,**

*Secretary of Education.*

[FR Doc. 2019-27803 Filed 12-23-19; 8:45 am]

**BILLING CODE 4000-01-P**



**DEPARTMENT OF ENERGY****State Energy Advisory Board; Meeting**

**AGENCY:** Office of Energy Efficiency and Renewable Energy; Department of Energy.

**ACTION:** Notice of open teleconference.

**SUMMARY:** This notice announces an open teleconference call of the State Energy Advisory Board (STEAB). The Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register**.

**DATES:** Thursday, January 16, 2020 from 3:00 p.m. to 4:00 p.m. (ET). To receive the call-in number and passcode, please contact the Board's Designated Federal Officer at the address or phone number listed below.

**FOR FURTHER INFORMATION CONTACT:** Jay Nathwani, DFO, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Ave. SW, Washington, DC 20585. Phone number 202-586-9410, and email: [jay.nathwani@ee.doe.gov](mailto:jay.nathwani@ee.doe.gov).

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Board:* To make recommendations to the Assistant Secretary for the Office of Energy Efficiency and Renewable Energy regarding goals and objectives, programmatic and administrative policies, and to otherwise carry out the Board's responsibilities as designated in the State Energy Efficiency Programs Improvement Act of 1990 (Pub. L. 101-440).

*Tentative Agenda:* A conference call to discuss the in-person meeting and provide updates on STEAB recommendations.

*Public Participation:* The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Jay Nathwani at the address or telephone number listed above. Requests to make oral comments must be received five days prior to the meeting; reasonable provision will be made to include requested topic(s) on the agenda. The Chair of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

*Minutes:* The minutes of the meeting will be available for public review and copying within 90 days on the STEAB website, <https://www.energy.gov/eere/steab/state-energy-advisory-board>.

Signed in Washington, DC, on December 18, 2019.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2019-27740 Filed 12-23-19; 8:45 am]

**BILLING CODE 6450-01-P**

**DEPARTMENT OF ENERGY****Energy Information Administration****Agency Information Collection Extension**

**AGENCY:** U.S. Energy Information Administration (EIA), Department of Energy (DOE).

**ACTION:** Notice and request for comments.

**SUMMARY:** EIA is requesting a three-year extension without changes of Form EIA-914 *Monthly Crude Oil and Lease Condensate, and Natural Gas Production Report*. The survey collects monthly data on production and sales of natural gas, and crude oil and lease condensate. The data provides useful information on the nation's production and sales of crude oil and natural gas.

**DATES:** EIA must receive all comments on this proposed information collection no later than February 24, 2020. If you anticipate any difficulties in submitting your comments by the deadline, contact the person listed in the **ADDRESSES** section of this notice as soon as possible.

**ADDRESSES:** Submit comments electronically to [jessica.biercevicz@eia.gov](mailto:jessica.biercevicz@eia.gov) or mail comments to Jessica Biercevicz, U.S. Energy Information Administration, 1000 Independence Avenue SW, EI-24, Washington DC, 20585.

**FOR FURTHER INFORMATION CONTACT:** If you need additional information, contact Jessica Biercevicz, U.S. Energy Information Administration, telephone (202) 586-4299, or by email at [jessica.biercevicz@eia.gov](mailto:jessica.biercevicz@eia.gov). The form and instructions are available on EIA's website at: <https://www.eia.gov/survey/>.

**SUPPLEMENTARY INFORMATION:** This information collection request contains:

(1) OMB No.: 1905-0205;  
(2) *Information Collection Request Title:* Monthly Crude Oil and Lease Condensate, and Natural Gas Production Report;

(3) *Type of Request:* Renewal;  
(4) *Purpose:* Form EIA-914 *Monthly Crude Oil and Lease Condensate, and Natural Gas Production Report* collects monthly data on natural gas production, and crude oil and lease condensate production, and crude oil and lease

condensate sales by API gravity category in 22 state/areas (Alabama, Arkansas, California (including State Offshore), Colorado, Federal Offshore Gulf of Mexico, Federal Offshore Pacific, Kansas, Louisiana (including State Offshore), Michigan, Mississippi (including State Offshore), Montana, New Mexico, North Dakota, Ohio, Oklahoma, Pennsylvania, Texas (including State Offshore), Utah, Virginia, West Virginia, Wyoming, and Other States (defined as all remaining states, except Alaska)). The data appear in the *Monthly Crude Oil and Lease Condensate, and Natural Gas Production Report* on EIA's website and in the EIA publications; *Monthly Energy Review*, *Petroleum Supply Annual* volumes, *Petroleum Supply Monthly*, *Natural Gas Annual*, and *Natural Gas Monthly*.

(5) *Annual Estimated Number of Respondents:* 500.

(6) *Annual Estimated Number of Total Responses:* 6,000.

(7) *Annual Estimated Number of Burden Hours:* 24,000.

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* \$1,884,480 (24,000 burden hours times \$78.52). EIA estimates that respondents will have no additional costs associated with the surveys other than the burden hours and that the information is maintained during the normal course of business.

Comments are invited on whether or not: (a) The proposed collection of information is necessary for the proper performance of agency functions, including whether the information will have a practical utility; (b) EIA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used, is accurate; (c) EIA can improve the quality, utility, and clarity of the information it will collect; and (d) EIA can minimize the burden of the collection of information on respondents, such as automated collection techniques or other forms of information technology.

*Statutory Authority:* 15 U.S.C. 772(b) and 42 U.S.C. 7101 *et seq.*

Signed in Washington, DC, on December 17, 2019.

Nanda Srinivasan,

Director, Office of Statistical Methods and Research, U.S. Energy Information Administration.

[FR Doc. 2019-27741 Filed 12-23-19; 8:45 am]

**BILLING CODE 6450-01-P**



**ENVIRONMENTAL PROTECTION AGENCY****[EPA-HQ-OW-2006-0369; FRL-10003-41-OW]****Proposed Information Collection Request; Comment Request; National Estuary Program (Renewal)****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency is planning to submit an information collection request (ICR), "National Estuary Program (Renewal)" (EPA ICR No. 1500.10, OMB Control No. 2040-0138) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through September 30, 2020. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Comments must be submitted on or before February 24, 2020.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA-HQ-OW-2006-0369, online using [www.regulations.gov](http://www.regulations.gov) (our preferred method), by email to [OW-Docket@epa.gov](mailto:OW-Docket@epa.gov), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Vince Bacalan, Oceans, Wetlands, and Communities Division; Office of Wetlands, Oceans, and Watersheds, (Mail Code 4504T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202-566-0930; fax number: 202-566-1336; email address: [bacalan.vince@epa.gov](mailto:bacalan.vince@epa.gov).

**SUPPLEMENTARY INFORMATION:** Supporting documents which explain in detail the information that the EPA will be collecting are available in the public

docket for this ICR. The docket can be viewed online at [www.regulations.gov](http://www.regulations.gov) or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (2) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

**Abstract:** The National Estuary Program (NEP) involves collecting information from the state or local agency or nongovernmental organizations that receive funds under Sec. 320 of the Clean Water Act (CWA). The regulation requiring this information is found at 40 CFR part 35.

Prospective grant recipients seek funding to develop or oversee and coordinate implementation of Comprehensive Conservation Management Plans (CCMPs) for estuaries of national significance. In order to receive funds, grantees must submit an annual workplan to EPA which are used to track performance of each of the 28 estuary programs currently in the NEP. EPA provides funding to NEPs to support long-term implementation of CCMPs if such programs pass a program evaluation process. The primary purpose of the program evaluation process is to help EPA determine whether the 28 programs included in the National Estuary Program (NEP) are making adequate progress implementing their CCMPs and

therefore merit continued funding under Sec. 320 of the Clean Water Act. EPA also requests that each of the 28 NEPs receiving Sec. 320 funds report information that can be used in the GPRA reporting process. This reporting is done on an annual basis and is used to show environmental results that are being achieved within the overall National Estuary Program. This information is ultimately submitted to Congress along with GPRA information from other EPA programs.

**Form numbers:** None.

**Respondents/affected entities:** Entities potentially affected by this action are those state or local agencies or nongovernmental organizations in the National Estuary Program (NEP) who receive grants under Section 320 of the Clean Water Act.

**Respondent's obligation to respond:** Required to obtain or retain a benefit (Section 320 of the Clean Water Act).

**Estimated number of respondents:** 28 (total).

**Frequency of response:** Annual.

**Total estimated burden:** 5,600 hours (per year). Burden is defined at 5 CFR 1320.03(b).

**Total estimated cost:** \$314,138 (per year), includes \$0 annualized capital or operation & maintenance costs.

**Changes in estimates:** There is likely a decrease in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to program evaluations taking place for only two years, compared to three years in the currently approved ICR. Note that these estimates will be updated in the final FR Notice.

Dated: December 18, 2019.

**Brian Frazer,**

*Director, Oceans, Wetlands, and Communities Division, Office of Water, Environmental Protection Agency.*

[FR Doc. 2019-27755 Filed 12-23-19; 8:45 am]

**BILLING CODE 6560-50-P**

**FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD****Notice of Request for Comment on the Exposure Draft of a Proposed Statement of Federal Financial Accounting Standards, Deferral of the Effective Date of SFFAS 54, Leases**

**AGENCY:** Federal Accounting Standards Advisory Board.

**ACTION:** Notice.

Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and the FASAB Rules Of Procedure, as amended in October 2010, notice is hereby given

that the Federal Accounting Standards Advisory Board (FASAB) has issued an exposure draft of a proposed Statement of Federal Financial Accounting Standards titled *Deferral of the Effective Date of SFFAS 54, Leases*.

The exposure draft is available on the FASAB website at <https://www.fasab.gov/documents-for-comment/>. Copies can be obtained by contacting FASAB at (202) 512-7350.

Respondents are encouraged to comment on any part of the exposure draft. Written comments are requested by January 31, 2020, and should be sent to [fasab@fasab.gov](mailto:fasab@fasab.gov) or Monica R. Valentine, Executive Director, Federal Accounting Standards Advisory Board, 441 G Street NW, Suite 1155, Washington, DC 20548.

**FOR FURTHER INFORMATION CONTACT:** Ms. Monica R. Valentine, Executive Director, 441 G Street NW, Suite 1155, Washington, DC 20548, or call (202) 512-7350.

**Authority:** Federal Advisory Committee Act (5 U.S.C. App.), 31 U.S.C. 3511(d).

Dated: December 18, 2019.

**Monica R. Valentine,**  
Executive Director.

[FR Doc. 2019-27679 Filed 12-23-19; 8:45 am]

**BILLING CODE 1610-02-P**

## FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-1192; FRS 16340]

### Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of

information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written comments should be submitted on or before January 27, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicholas A. Fraser, OMB, via email [Nicholas\\_A\\_Fraser@omb.eop.gov](mailto:Nicholas_A_Fraser@omb.eop.gov); and to Nicole Ongele, FCC, via email [PRA@fcc.gov](mailto:PRA@fcc.gov) and to [Nicole.Ongele@fcc.gov](mailto:Nicole.Ongele@fcc.gov). Include in the comments the OMB control number as shown in the

**SUPPLEMENTARY INFORMATION** below.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection, contact Nicole Ongele at (202) 418-2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page <<http://www.reginfo.gov/public/do/PRAMain>>, (2) look for the section of the web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

**SUPPLEMENTARY INFORMATION:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection.

*Comments are requested concerning:* Whether the proposed collection of

information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

**OMB Control Number:** 3060-1192.

**Title:** Survey of Urban Rates, DA 13-598.

**Form Number:** N/A.

**Type of Review:** Revision of a currently approved collection.

**Respondents:** Business or other for-profit.

**Number of Respondents and Responses:** 2,275 respondents; 2,275 responses.

**Estimated Time per Response:** 3 hours.

**Frequency of Response:** Annual reporting requirement.

**Obligation to Respond:** Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 254(b).

**Total Annual Burden:** 6,825 hours.

**Total Annual Cost:** No cost.

**Privacy Act Impact Assessment:** No impact(s).

**Nature and Extent of Confidentiality:** The Commission is not requesting that respondents submit confidential information to the Commission. Also, respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

**Needs and Uses:** In April 2013, the Wireline Competition Bureau of the Federal Communications Commission adopted an Order (Order), in WC Docket No. 10-90; DA 13-598, 78 FR 29063, Connect America Fund. The Order adopted the form and content for a survey of urban rates for fixed voice and fixed broadband residential services for purposes of implementing various reforms adopted as part of the USF/ICC Transformation Order, 76 FR 73830, November 29, 2011. The information collected in this survey will be used to help ensure that universal service support recipients offering fixed voice and broadband services do so at reasonably comparable rates to those in urban areas. The comparability requirements are important components of the Commission's overall effort to

improve accountability for the use of universal service funding. The comparability requirements will ensure that rates are reasonably comparable for voice as well as broadband service, between urban and rural, insular, and high cost areas. Rates must be reasonably comparable so that consumers in rural, insular, and high cost areas have meaningful access to these services. This Order requires a statistically valid sample of urban providers to complete a survey with information regarding the types and prices of their offerings. The Commission conducts this survey through an online reporting form accessible to those urban providers of fixed voice and broadband services that are chosen to participate.

Federal Communications Commission.

**Cecilia Sigmund,**

*Federal Register Liaison Officer, Office of the Secretary.*

[FR Doc. 2019-27771 Filed 12-23-19; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0740; FRS 16341]

### Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business

concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written comments should be submitted on or before February 24, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Cathy Williams, FCC, via email: [PRA@fcc.gov](mailto:PRA@fcc.gov) and to [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

**SUPPLEMENTARY INFORMATION:** As part of its continuing effort to reduce paperwork burdens, and as required by the PRA, 44 U.S.C. 3501-3520, the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

*OMB Control No.:* 3060-0740.

*Title:* Section 95.2109, AMTS Notifications; 95.2195, LPRS Disclosures.

*Form No.:* Not applicable.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit entities.

*Number of Respondents and Responses:* 26 respondents and 26 responses.

*Estimated Time per Response:* 1 hour.

*Frequency of Response:* On occasion reporting requirement, and third-party disclosure requirement.

*Obligation To Respond:* Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 154 and 303.

*Total Annual Burden:* 26 hours.

*Annual Cost Burden:* \$1,300.

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

*Privacy Act Impact Assessment:* No impact(s).

*Needs and Uses:* Manufacturers of Low Power Radio Service (LPRS) used for auditory assistance, health care assistance, and law enforcement tracking purposes must include with each transmitting device the following statement: "This transmitter is authorized by rule under the Low Power Radio Service (47 CFR part 95) and must not cause harmful interference to TV reception or United States Navy SPASUR installations. You do not need an FCC license to operate this transmitter. This transmitter may only be used to provide: Auditory assistance to persons with disabilities, persons who require language translation, or persons in educational settings; health care services to the ill; law enforcement tracking services under agreement with a law enforcement agency; or automated maritime telecommunications system (AMTS) network control communications. Two-way voice communications and all other types of uses not mentioned above are expressly prohibited."

The reporting requirement contained in Section 95.2109 states that Prior to operating a LPRS transmitter with an AMTS, the AMTS licensee must notify, in writing, each television station that may be affected by such operations, as defined in Section 80.215(h). The notification provided with the station's license application is sufficient to satisfy this requirement if no new television stations would be affected.

The information collection requirement contained in Section 95.2195 requires that manufacturers of LPRS transmitters used for auditory assistance, health care assistance, and law enforcement tracking purposes must include with each transmitting device the following statement:

This transmitter is authorized by rule under the Low Power Radio Service (47 CFR part 95) and must not cause harmful interference to TV reception or to the United States Air Force Space Surveillance System operating in the 216.88-217.08 MHz band. With the exception of automated maritime telecommunications system (AMTS) devices, you do not need an FCC license to operate this transmitter. This

transmitter may only be used to provide: Auditory assistance to persons with disabilities, persons who require language translation, or persons in educational settings; health care services to the ill; law enforcement tracking services under agreement with a law enforcement agency; or AMTS network control communications. Two-way voice communications and all other types of uses not mentioned above are expressly prohibited.

Please note that Sections 95.1015(a) and (b) were renumbered to Sections 95.2195 and 95.2109 via FCC 17–57.

Federal Communications Commission.

**Cecilia Sigmund,**

*Federal Register Liaison Officer, Office of the Secretary.*

[FR Doc. 2019–27770 Filed 12–23–19; 8:45 am]

**BILLING CODE 6712–01–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 Financial Statements for Holding Companies (FR Y–9 Reports; OMB No. 7100–0128). The revisions are applicable as of December 31, 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—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:* Financial Statements for Holding Companies.

*Agency form number:* FR Y–9C, FR Y–9LP, FR Y–9SP, FR Y–9ES, and FR Y–9CS.

*OMB control number:* 7100–0128.

*Effective Date:* December 31, 2019.

*Frequency:* Quarterly, semiannually, and annually.

*Respondents:* Bank holding companies, savings and loan holding companies, securities holding companies, and U.S. intermediate holding companies (collectively, HCs).

*Estimated number of respondents:* FR Y–9C (non-advanced approaches HCs with less than \$5 billion in total assets): 155; FR Y–9C (non-advanced approaches HCs with \$5 billion or more in total assets): 189; FR Y–9C (advanced approaches HCs): 19; FR Y–9LP: 434; FR Y–9SP: 3,960; FR Y–9ES: 83; FR Y–9CS: 236.

*Estimated average hours per response:*

#### Reporting

FR Y–9C (non-advanced approaches HCs with less than \$5 billion in total assets): 40.48 hours; FR Y–9C (non-advanced approaches HCs with \$5 billion or more in total assets): 46.34 hours; FR Y–9C (advanced approaches HCs): 47.59 hours; FR Y–9LP: 5.27 hours; FR Y–9SP: 5.40 hours; FR Y–9ES: 0.50 hours; FR Y–9CS: 0.50 hours.

#### Recordkeeping

FR Y–9C (non-advanced approaches HCs with less than \$5 billion in total assets), FR Y–9C (non-advanced approaches HCs with \$5 billion or more in total assets), FR Y–9C (advanced approaches HCs), and FR Y–9LP: 1.00 hour; FR Y–9SP, FR Y–9ES, and FR Y–9CS: 0.50 hours.

*Estimated annual burden hours:*

#### Reporting

FR Y–9C (non-advanced approaches HCs with less than \$5 billion in total

assets): 25,098 hours; FR Y–9C (non-advanced approaches HCs with \$5 billion or more in total assets): 35,033 hours; FR Y–9C (advanced approaches HCs): 3,617 hours; FR Y–9LP: 9,149 hours; FR Y–9SP: 42,768 hours; FR Y–9ES: 42 hours; FR Y–9CS: 472 hours.

#### Recordkeeping

FR Y–9C (non-advanced approaches HCs with less than \$5 billion in total assets): 620 hours; FR Y–9C (non-advanced approaches HCs with \$5 billion or more in total assets): 756 hours; FR Y–9C (advanced approaches HCs): 76 hours; FR Y–9LP: 1,736 hours; FR Y–9SP: 3,960 hours; FR Y–9ES: 42 hours; FR Y–9CS: 472 hours.

*General description of report:* The FR Y–9C consists of standardized financial statements similar to the Call Reports filed by commercial banks.<sup>1</sup> The FR Y–9C collects consolidated data from HCs and is filed quarterly by top-tier HCs with total consolidated assets of \$3 billion or more.<sup>2</sup>

The FR Y–9LP, which collects parent company only financial data, must be submitted by each HC that files the FR Y–9C, as well as by each of its subsidiary HCs.<sup>3</sup> The report consists of standardized financial statements.

The FR Y–9SP is a parent company only financial statement filed semiannually by HCs with total consolidated assets of less than \$3 billion. In a banking organization with total consolidated assets of less than \$3 billion that has tiered HCs, each HC in the organization must submit, or have the top-tier HC submit on its behalf, a separate FR Y–9SP. This report is designed to obtain basic balance sheet and income data for the parent company, and data on its intangible assets and intercompany transactions.

The FR Y–9ES is filed annually by each employee stock ownership plan (ESOP) that is also an HC. The report collects financial data on the ESOP's benefit plan activities. The FR Y–9ES consists of four schedules: A Statement of Changes in Net Assets Available for Benefits, a Statement of Net Assets Available for Benefits, Memoranda, and Notes to the Financial Statements.

The FR Y–9CS is a free-form supplemental report that the Board may utilize to collect critical additional data

<sup>1</sup> The Call Reports consist of the FFIEC 051, as well as the Consolidated Reports of Condition and Income for a Bank with Domestic Offices Only (FFIEC 041) and the Consolidated Reports of Condition and Income for a Bank with Domestic and Foreign Offices (FFIEC 031).

<sup>2</sup> Under certain circumstances described in the FR Y–9C's General Instructions, HCs with assets under \$3 billion may be required to file the FR Y–9C.

<sup>3</sup> A top-tier HC may submit a separate FR Y–9LP on behalf of each of its lower-tier HCs.

deemed to be needed in an expedited manner from HCs. The data are used to assess and monitor emerging issues related to HCs, and the report is intended to supplement the other FR Y-9 reports. The data items included on the FR Y-9CS may change as needed.

**Legal authorization and confidentiality:** The Board has the authority to impose the reporting and recordkeeping requirements associated with the Y-9 family of reports on bank holding companies (“BHCs”) pursuant to section 5 of the Bank Holding Company Act (“BHC Act”), (12 U.S.C. 1844); on savings and loan holding companies pursuant to section 10(b)(2) and (3) of the Home Owners’ Loan Act, (12 U.S.C. 1467a(b)(2) and (3)), as amended by sections 369(8) and 604(h)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”); on U.S. intermediate holding companies (“U.S. IHCs”) pursuant to section 5 of the BHC Act, (12 U.S.C. 1844), as well as pursuant to sections 102(a)(1) and 165 of the Dodd-Frank Act, (12 U.S.C. 511(a)(1) and 5365);<sup>4</sup> and on securities holding companies pursuant to section 618 of the Dodd-Frank Act, (12 U.S.C. 1850a(c)(1)(A)). The obligation to submit the FR Y-9 series of reports, and the recordkeeping requirements set forth in the respective instructions to each report, are mandatory.

With respect to the FR Y-9C report, Schedule HI’s item 7(g) “FDIC deposit insurance assessments,” Schedule HC-P’s item 7(a) “Representation and warranty reserves for 1-4 family residential mortgage loans sold to U.S. government agencies and government sponsored agencies,” and Schedule HC-P’s item 7(b) “Representation and warranty reserves for 1-4 family residential mortgage loans sold to other parties” are considered confidential commercial and financial information. Such treatment is appropriate under

exemption 4 of the Freedom of Information Act (“FOIA”), (5 U.S.C. 552(b)(4)), because these data items reflect commercial and financial information that is both customarily and actually treated as private by the submitter, and which the Board has previously assured submitters will be treated as confidential. It also appears that disclosing these data items may reveal confidential examination and supervisory information, and in such instances, this information would also be withheld pursuant to exemption 8 of the FOIA, (5 U.S.C. 552(b)(8)), which protects information related to the supervision or examination of a regulated financial institution.

In addition, for both the FR Y-9C report and the FR Y-9SP report, Schedule HC’s memorandum item 2.b., the name and email address of the external auditing firm’s engagement partner, is considered confidential commercial information and protected by exemption 4 of the FOIA, (5 U.S.C. 552(b)(4)), if the identity of the engagement partner is treated as private information by HCs. The Board has assured respondents that this information will be treated as confidential since the collection of this data item was proposed in 2004.

Aside from the data items described above, the remaining data items on the FR Y-9C report and the FR Y-9SP report are generally not accorded confidential treatment. The data items collected on FR Y-9LP, FR Y-9ES, and FR Y-9CS<sup>5</sup> reports, are also generally not accorded confidential treatment. As provided in the Board’s Rules Regarding Availability of Information (12 CFR part 261), however, a respondent may request confidential treatment for any data items the respondent believes should be withheld pursuant to a FOIA exemption. The Board will review any such request to determine if confidential treatment is appropriate, and will inform the respondent if the request for confidential treatment has been denied.

To the extent the instructions to the FR Y-9C, FR Y-9LP, FR Y-9SP, and FR Y-9ES reports each respectively direct the financial institution to retain the workpapers and related materials used in preparation of each report, such material would only be obtained by the Board as part of the examination or

supervision of the financial institution. Accordingly, such information may be considered confidential pursuant to exemption 8 of the FOIA (5 U.S.C. 552(b)(8)). In addition, the workpapers and related materials may also be protected by exemption 4 of the FOIA, to the extent such financial information is treated as confidential by the respondent (5 U.S.C. 552(b)(4)).

**Current actions:** On September 26, 2019, the Board published an initial notice in the **Federal Register** (84 FR 50840) requesting public comment for 60 days on the extension, with revision, of the FR Y-9 reports. The comment period for this notice expired on November 25, 2019. The Board did not receive any comments. The revisions will be implemented as proposed.

Board of Governors of the Federal Reserve System, December 18, 2019.

**Michele Taylor Fennell,**

*Assistant Secretary of the Board.*

[FR Doc. 2019-27750 Filed 12-23-19; 8:45 am]

**BILLING CODE 6210-01-P**

## FEDERAL TRADE COMMISSION

### Agency Information Collection Activities; Proposed Collection; Comment Request

**AGENCY:** Federal Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Federal Trade Commission (“FTC” or “Commission”) is seeking public comment on its proposal to extend for an additional three years the current PRA clearance to participate in the OMB program “Generic Clearance for the Collection of Qualitative Feedback on Service Delivery.” The current FTC clearance under this program expires on May 31, 2020.

**DATES:** Comments must be submitted by February 24, 2020.

**ADDRESSES:** Interested parties may file a comment online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “FTC Generic Clearance ICR, Project No. P035201” on your comment, and file your comment online at <https://www.regulations.gov>, by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade

<sup>4</sup> Section 165(b)(2) of Title I of the Dodd-Frank Act, (12 U.S.C. 5365(b)(2)), refers to “foreign-based bank holding company.” Section 102(a)(1) of the Dodd-Frank Act, (12 U.S.C. 5311(a)(1)), defines “bank holding company” for purposes of Title I of the Dodd-Frank Act to include foreign banking organizations that are treated as bank holding companies under section 8(a) of the International Banking Act, (12 U.S.C. 3106(a)). The Board has required, pursuant to section 165(b)(1)(B)(iv) of the Dodd-Frank Act, (12 U.S.C. 5365(b)(1)(B)(iv)), certain foreign banking organizations subject to section 165 of the Dodd-Frank Act to form U.S. intermediate holding companies. Accordingly, the parent foreign-based organization of a U.S. IHC is treated as a BHC for purposes of the BHC Act and section 165 of the Dodd-Frank Act. Because Section 5(c) of the BHC Act authorizes the Board to require reports from subsidiaries of BHCs, section 5(c) provides additional authority to require U.S. IHCs to report the information contained in the FR Y-9 series of reports.

<sup>5</sup> The FR Y-9CS is a supplemental report that may be utilized by the Board to collect additional information that is needed in an expedited manner from HCs. The information collected on this supplemental report is subject to change as needed. Generally, the FR Y-9CS report is treated as public. However, where appropriate, data items on the FR Y-9CS report may be withheld under exemptions 4 and/or 8 of the Freedom of Information Act, (5 U.S.C. 552(b)(4) and (8)).

Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:**

Bridget Small, Federal Trade Commission, 600 Pennsylvania Avenue NW, CC-10402, Washington, DC 20580, (202) 326-3266.

**SUPPLEMENTARY INFORMATION:**

*Title of Collection:* Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

*OMB Control Number:* 3084-0159.

*Current Actions:* Extension of approval for a collection of information.

*Affected Public:* Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

*Estimated Number of Annual Respondents:* 5,764.

*Estimated Total Annual Burden Hours:* 1,759.

*Abstract:* The FTC seeks renewed OMB approval of its generic clearance to collect qualitative feedback on service delivery (*i.e.*, the products and services that the FTC provides to help consumers and businesses understand their rights and responsibilities, including websites, blogs, videos, print publications, and other content). “Qualitative feedback” denotes information that provides useful insight about public perceptions and opinions, but does not include statistical surveys that yield quantitative results that can be generalized to the population of study. The solicitation of feedback on service delivery will target areas such as timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. The FTC will collect, analyze, and interpret information it gathers through this generic clearance program to identify strengths and weaknesses of current services and make improvements in service delivery based on feedback. This generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance.

The types of collections that the proposed generic clearance covers include, but are not limited to:

- Customer comment cards/complaint forms;
- Small discussion groups;
- Focus groups of customers, potential customers, delivery partners, or other stakeholders;

- Cognitive laboratory studies, such as those used to refine questions or assess usability of a website;

- Qualitative customer satisfaction surveys (*e.g.*, post-transaction surveys; opt-out web surveys);

- In-person observation testing (*e.g.*, website or software usability tests).

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.

**Request for Comment**

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) Whether the disclosure, recordkeeping, and reporting requirements are necessary, including whether the resulting information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (3) how to improve the quality, utility, and clarity of the disclosure requirements; and (4) how to minimize the burden of providing the required information to consumers.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before February 24, 2020. Write “FTC Generic Clearance ICR, Project No. P035201” on your comment. Your comment, including your name and your state, will be placed on the public record of this proceeding, including the <https://www.regulations.gov> website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it through the <https://www.regulations.gov> website by following the instructions on the web-based form provided.

If you file your comment on paper, write “FTC Generic Clearance ICR, Project No. P035201” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610, Washington, DC 20024. If possible, please submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the public record, you are solely

responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential”—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at [www.regulations.gov](https://www.regulations.gov)—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before February 24, 2020. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see

<https://www.ftc.gov/site-information/privacy-policy>.

Heather Hipsley,  
Deputy General Counsel.

[FR Doc. 2019-27763 Filed 12-23-19; 8:45 am]

BILLING CODE 6750-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

#### Decision To Evaluate a Petition To Designate a Class of Employees From the Reduction Pilot Plant in Huntington, West Virginia, To Be Included in the Special Exposure Cohort

**AGENCY:** National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** NIOSH gives notice of a decision to evaluate a petition to designate a class of employees from the Reduction Pilot Plant in Huntington, West Virginia, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000.

**FOR FURTHER INFORMATION CONTACT:** Grady Calhoun, Director, Division of Compensation Analysis and Support, National Institute for Occupational Safety and Health, 1090 Tusculum Avenue, MS C-46, Cincinnati, OH 45226-1938, Telephone 513-533-6800. Information requests can also be submitted by email to [DCAS@CDC.GOV](mailto:DCAS@CDC.GOV).

**SUPPLEMENTARY INFORMATION:** Pursuant to 42 CFR 83.12, the initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

*Facility:* Reduction Pilot Plant.

*Location:* Huntington, West Virginia.

*Job Titles and/or Job Duties:* All security guards who worked in any area of the RPP.

*Period of Employment:* June 7, 1976 through November 26, 1978.

*Authority:* 42 CFR 83.9-83.12.

Frank J. Hearl,  
Chief of Staff, National Institute for Occupational Safety and Health.

[FR Doc. 2019-27780 Filed 12-23-19; 8:45 am]

BILLING CODE 4163-18-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[Document Identifiers: CMS-685]

#### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments must be received by February 24, 2020.

**ADDRESSES:** When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number \_\_\_\_, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

To obtain copies of a supporting statement and any related forms for the

proposed collection(s) summarized in this notice, you may make your request using one of the following:

1. Access CMS' website address at website address at <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html>.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to [Paperwork@cms.hhs.gov](mailto:Paperwork@cms.hhs.gov).

3. Call the Reports Clearance Office at (410) 786-1326.

**FOR FURTHER INFORMATION CONTACT:** William N. Parham at (410) 786-4669.

#### SUPPLEMENTARY INFORMATION:

##### Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

*CMS-685 End Stage Renal Disease (ESRD) Network Semi-Annual Cost Report Forms and Supporting Regulations*

Under the PRA (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

#### Information Collection

1. *Type of Information Collection Request:* Revision of a previously approved collection; *Title of Information Collection:* End Stage Renal Disease (ESRD) Network Semi-Annual Cost Report Forms and Supporting Regulations; *Use:* Section 1881(c) of the Social Security Act establishes End Stage Renal Disease (ESRD) Network contracts. The regulations found at 42 CFR 405.2110 and 405.2112 designated 18 ESRD Networks which are funded by renewable contracts. These contracts are on 3-year cycles. To better administer



the program, CMS is requiring contractors to submit semi-annual cost reports. The purpose of the cost reports is to enable the ESRD Networks to report costs in a standardized manner. This will allow CMS to review, compare and project ESRD Network costs during the life of the contract. *Form Number:* CMS-685 (OMB Control Number: 0938-0657); *Frequency:* Reporting—Semi-annually; *Affected Public:* Not-for-profit institutions; *Number of Respondents:* 18; *Total Annual Responses:* 36; *Total Annual Hours:* 108. (For policy questions regarding this collection contact Benjamin Bernstein at 410-786-6570).

Dated: December 19, 2019.

**William N. Parham, III,**

*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2019-27822 Filed 12-23-19; 8:45 am]

**BILLING CODE 4120-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[CMS-3377-FN]

#### Medicare and Medicaid Programs: Application From Accreditation Association of Hospitals/Health Systems—Healthcare Facilities Accreditation Program (AAHHS-HFAP) for Continued CMS-Approval of Its Critical Access Hospital (CAH) Accreditation Program

**AGENCY:** Centers for Medicare and Medicaid Services, HHS.

**ACTION:** Final notice.

**SUMMARY:** This final notice announces our decision to approve an application from Accreditation Association of Hospitals/Health Systems—Healthcare Facilities Accreditation Program for continued recognition as a national accrediting organization for critical access hospitals that wish to participate in the Medicare or Medicaid programs.

**DATES:** This final notice is effective December 27, 2019 through December 27, 2025.

**FOR FURTHER INFORMATION CONTACT:** Lillian Williams, (410) 786-8636. Anita Moore, (410) 786-2161.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Under the Medicare program, eligible beneficiaries may receive covered services in a critical access hospital (CAH) provided certain requirements

are met by the CAH. Section 1861(mm) of the Social Security Act (the Act), sets out definitions for “critical access hospital” and for inpatient and outpatient CAH services. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488. The regulations at 42 CFR part 485, subpart F specify the conditions that a CAH must meet to participate in the Medicare program, the scope of covered services, and the conditions for Medicare payment for CAHs.

Generally, to enter into an agreement, a CAH must first be certified by a State survey agency as complying with the conditions or requirements set forth in part 485 of our regulations. Thereafter, the CAH is subject to regular surveys by a State survey agency to determine whether it continues to meet these requirements. There is an alternative; however, to surveys by State agencies.

Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accrediting organization that all applicable Medicare conditions are met or exceeded, we will deem those provider entities as having met the requirements. Accreditation by an accrediting organization is voluntary and is not required for Medicare participation.

If an accrediting organization is recognized by the Secretary of the Department of Health and Human Services (the Secretary) as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body’s approved program would be deemed to meet the Medicare conditions. A national accrediting organization applying for approval of its accreditation program under part 488, subpart A, must provide the Centers for Medicare and Medicaid Services (CMS) with reasonable assurance that the accrediting organization requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the approval of accrediting organizations are set forth at § 488.5. The regulations at § 488.5(e)(2)(i) require an accrediting organization to reapply for continued approval of its accreditation program every 6 years or as determined by CMS. The Accreditation Association of Hospitals/Health Systems—Healthcare Facilities Accreditation Program (AAHHS-HFAP) current term of approval for its CAH accreditation program expires December 27, 2019.

##### II. Approval of Deeming Organizations

Section 1865(a)(2) of the Act and our regulations at 42 CFR 488.5 require that our findings concerning review and approval of a national accrediting organization’s requirements consider, among other factors, the applying accrediting organization’s requirements for accreditation; survey procedures; resources for conducting required surveys; capacity to furnish information for use in enforcement activities; monitoring procedures for provider entities found not in compliance with the conditions or requirements; and ability to provide CMS with the necessary data for validation.

Section 1865(a)(3)(A) of the Act further requires that we publish, within 60 days of receipt of an organization’s complete application, a notice identifying the national accrediting body making the request, describing the nature of the request, and providing at least a 30-day public comment period. We have 210 days from the receipt of a complete application to publish notice of approval or denial of the application.

##### III. Provisions of the Proposed Notice

In the July 31, 2019 **Federal Register** (84 FR 37302), we published a proposed notice announcing AAHHS-HFAP’s request for continued approval of its Medicare CAH accreditation program. AAHHS-HFAP submitted all the necessary materials to enable us to make a determination concerning its request for continued approval of its CAH accreditation program. This application was determined to be complete on May 31, 2019. Under Section 1865(a)(2) of the Act and our regulations at § 488.5 (Application and re-application procedures for national accrediting organizations), our review and evaluation of AAHHS-HFAP will be conducted in accordance with, but not necessarily limited to, the following factors:

- The equivalency of AAHHS-HFAP’s standards for CAHs as compared with CMS’ CAH conditions of participation (CoP).

- AAHHS-HFAP’s survey process to determine the following:

- ++ The composition of the survey team, surveyor qualifications, and the ability of the organization to provide continuing surveyor training.

- ++ The comparability of AAHHS-HFAP’s processes to those of State agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.

- ++ AAHHS-HFAP’s processes and procedures for monitoring a CAH found



out of compliance with AAHHS-HFAP's program requirements. These monitoring procedures are used only when AAHHS-HFAP identifies noncompliance. If noncompliance is identified through validation reviews or complaint surveys conducted by the State survey agency, the State survey agency monitors corrections as specified at § 488.9.

++ AAHHS-HFAP's capacity to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.

++ AAHHS-HFAP's capacity to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.

++ The adequacy of AAHHS-HFAP's staff and other resources, and its financial viability.

++ AAHHS-HFAP's capacity to adequately fund required surveys.

++ AAHHS-HFAP's policies with respect to whether surveys are announced or unannounced, to assure that surveys are unannounced.

++ AAHHS-HFAP's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as CMS may require (including corrective action plans).

++ AAHHS-HFAP's policies and procedures to avoid conflicts of interest, including the appearance of conflicts of interest, involving individuals who conduct surveys or participate in accreditation decisions.

In accordance with section 1865(a)(3)(A) of the Act, the July 31, 2019 proposed notice also solicited public comments regarding whether AAHHS-HFAP's requirements met or exceeded the Medicare CoPs for CAHs. No comments were received in response to our proposed notice.

#### IV. Provisions of the Final Notice

##### *A. Differences Between AAHHS-HFAP's Standards and Requirements for Accreditation and Medicare Conditions and Survey Requirements*

We compared AAHHS-HFAP's CAH accreditation requirements and survey process with the Medicare CoPs of part 485, and the survey and certification process requirements of parts 488 and 489. Our review and evaluation of AAHHS-HFAP's CAH application, which were conducted as described in section III of this final notice, yielded the following areas where, as of the date of this notice, AAHHS-HFAP has completed revising its standards and certification processes in order to meet the requirements at:

- § 485.623(c)(6) through § 485.623(c)(6)(ii), to revise its standards to clarify that either evacuation or a fire watch is required.

- § 485.625(d)(1)(i), to address the requirement that initial training in emergency preparedness policies, procedures, including prompt reporting and extinguishing of fire, protection, and where necessary, evacuation of patients, personnel, and guest, fire prevention, and cooperation with firefighting and disaster authorities, to all new and existing staff, and individuals providing services under arrangement, and volunteers, consistent with their expected roles.

- § 485.625(e)(3), to revise its standard that CAHs that do not maintain an onsite fuel source to power emergency generators are not required to have a plan for maintaining such fuel source in emergency circumstances.

- § 488.26(b), to ensure that surveyors are assessing compliance with the hospital CoPs in CAH psychiatric and rehabilitation Distinct Part Unit (DPUs).

##### *B. Term of Approval*

Based on our review and observations described in section III of this final notice, we have approved AAHHS/HFAP's as a national accreditation organization for CAHs that request participation in the Medicare program, effective December 27, 2019 through December 25, 2025.

#### V. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Dated: December 11, 2019.

**Seema Verma,**

*Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. 2019-27836 Filed 12-23-19; 8:45 am]

**BILLING CODE 4120-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2019-D-4739]

#### **Requesting Food and Drug Administration Feedback on Combination Products; Draft Guidance for Industry and Food and Drug Administration Staff; Availability**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled "Requesting FDA Feedback on Combination Products." The purpose of this guidance is to discuss ways in which combination product sponsors can obtain feedback from FDA on scientific and regulatory questions and to describe best practices for FDA and sponsors when interacting on these topics. These interactions can occur through application-based mechanisms, such as the pre-submission process used in the Center for Devices and Radiological Health (CDRH) and the Center for Biologics and Research (CBER) and the formal meetings used in the Center for Drug Evaluation and Research (CDER) and CBER, or through Combination Product Agreement Meetings (CPAMs), as appropriate.

**DATES:** Submit either electronic or written comments on the draft guidance by February 24, 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-4739 for “Requesting FDA Feedback on Combination 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.govinfo.gov/content/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 Office of Combination Products, Food and Drug Administration, Bldg. 32, Rm. 5129, 10903 New Hampshire Ave., Silver Spring, MD 20993. 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:** Melissa Burns, Office of Combination Products, Food and Drug Administration, 301-796-5616, [melissa.burns@fda.hhs.gov](mailto:melissa.burns@fda.hhs.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

FDA is announcing the availability of a draft guidance for industry and FDA staff entitled “Requesting FDA Feedback on Combination Products.” The purpose of this guidance is to discuss ways in which combination product sponsors can obtain feedback from the Agency on scientific and regulatory questions. These interactions can occur through application-based mechanisms, such as the pre-submission process used in CDRH and CBER and the formal meetings used in CDER and CBER, or through CPAMs, as appropriate.

We are publishing this guidance consistent with the Agency’s ongoing commitment to enhancing clarity and transparency regarding regulatory considerations for combination products, and in accordance with the mandate under section 503(g)(8)(C)(vi) of the Federal Food, Drug, and Cosmetics Act (FD&C Act) (21 U.S.C. 353(g)(8)(C)(vi)), which was added by section 3038 of the 21st Century Cures Act (Pub. L. 114-255) (Cures Act). Section 503(g)(8)(C)(vi) requires FDA to issue a final guidance addressing: (1) The structured process for managing pre-submission interactions with

sponsors developing combination products; (2) best practices to ensure FDA feedback in such pre-submission interactions represents the Agency’s best advice based on the information provided during these pre-submission interactions; and (3) how CPAMs relate to other FDA meeting types, what information should be submitted prior to a CPAM, and the form and content of agreements reached through a CPAM.

FDA is in the process of operationalizing the procedures related to submission and receipt of a CPAM request. Therefore, if a sponsor wishes to submit a CPAM request to FDA at this time, the sponsor should first contact the Product Jurisdiction Office for the lead Center ([CBERProductJurisdiction@fda.hhs.gov](mailto:CBERProductJurisdiction@fda.hhs.gov), [CDERProductJurisdiction@fda.hhs.gov](mailto:CDERProductJurisdiction@fda.hhs.gov), or [CDRHProductJurisdiction@fda.hhs.gov](mailto:CDRHProductJurisdiction@fda.hhs.gov)) and the Office of Combination Products ([combination@fda.hhs.gov](mailto:combination@fda.hhs.gov)) prior to submitting a CPAM request to help ensure that the CPAM request is efficiently received and processed by FDA.

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 “Requesting FDA Feedback on Combination 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

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance

of FDA’s functions, including whether the information will have practical utility; (2) the accuracy of FDA’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

*Title:* Combination Product Agreement Meetings Under FD&C Act Section 503(g)(2)(A)(i); Requesting FDA Feedback on Combination Products.

*Description of Respondents:* Respondents to this collection of information are combination product sponsors that submit CPAM requests.

*Burden Estimate:* This draft guidance includes recommendations regarding information that sponsors should include in CPAM requests. Specifically, the draft guidance states that for CPAM requests, sponsors should:<sup>1</sup>

- *Product Information.*
  - Include the product name, description of the overall combination product and constituent parts, indications for use statement, and, as applicable, route of administration and dosing information.
  - Include, as relevant:
    - For a drug- or biological product-led combination product that includes a device constituent part, a device description, design diagram or other image, and identify components that are part of the device.
    - For a device-led combination product, provide the chemical name, established or proper name (if

- available), and structure, for the drug and/or biological product constituent part(s).
  - For a device-led combination product, provide the route of administration and/or dosing information for the drug and/or biological product constituent part(s).
  - For combination products that contain an active ingredient that is included in an approved drug product that the sponsor seeks to cross reference or rely upon in its submission, identify the application number of the approved product.
  - For combination products that contain a device constituent part that is a cleared or approved device that the sponsor seeks to cross reference, identify the application or submission number for the previously cleared or approved device.
- *Background.* Describe the status of product development, summarize any previous interactions with FDA on the product, including applications, application-based mechanisms, other meetings, Request for Designations (RFDs) or pre-RFDs, and identify the proposed regulatory pathway if not already established.
- *Meeting Request.* Include the requested form of communication (*i.e.*, face-to-face meeting, teleconference, or written response). Summarize why the specific communication format is appropriate. If proposing a face-to-face meeting or teleconference, provide three proposed meeting dates/times, dates and times when the sponsor is not available, and a proposed agenda.
- *Agreement Proposals Generally.* Identify the specific proposals for which the sponsor seeks FDA agreement. Proposals should be grouped by

- discipline (*e.g.*, Pharmacology/ Toxicology, Pharmaceutical Quality/ Chemistry and Manufacturing Controls (CMC), Engineering, Human Factors) where possible. The proposals should be limited to those for which the sponsor is seeking agreement from FDA.
  - *Rationale and Data Supporting Proposals.* Provide rationale(s) and data adequate to support FDA’s review of the agreement proposals. Organize the rationale(s) and data by topic when appropriate.
  - *Attendees.* Include a list of planned participants from the sponsor’s organization, including names and titles. A list of names, titles and affiliations of consultants and interpreters should also be included. If this information changes, it should be updated no later than 5 business days prior to the meeting. If the sponsor wishes to request that a specific FDA staff member or expertise be included in the meeting, that information should be included in the CPAM request.
- FDA has not received any CPAM requests since the enactment of the Cures Act in December 2016. FDA estimates that less than one CPAM request will be received per year by each medical product center (CBER, CDER, and CDRH). To provide a conservative estimate of burden, FDA estimates that approximately one CPAM request will be submitted per year to each medical product center. FDA estimates that it will take sponsors approximately 25 hours to compile and draft the information that this draft guidance recommends should be included in a CPAM request.
- FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN <sup>1</sup>

FDA center	Number of respondents	Number of responses per respondent	Total annual responses	Hours per response	Total hours
CDER .....	1	1	1	25	25
CDRH .....	1	1	1	25	25
CBER .....	1	1	1	25	25
Total .....					75

<sup>1</sup> There are no capital costs or operating and maintenance costs associated with this collection of information.

This draft guidance also refers to previously approved collections of information found in FDA regulations. The collections of information pertaining to orphan drug provisions in 21 CFR part 316 are approved under

OMB control number 0910–0167; the collections of information pertaining to investigational device exemption submission provisions in 21 CFR part 812 are approved under OMB control number 0910–0078; the collections of

information pertaining to investigational new drug submission provisions in 21 CFR part 312 are approved under OMB control number 0910–0014; and the collections of information pertaining to biologics licensing submission

<sup>1</sup> The draft guidance also notes that combination products must be identified as such in CPAM

requests under section 503(g)(8)(C)(v)(I) of the FD&C Act.

provisions in 21 CFR part 601 are approved under OMB control number 0910-0338.

### III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either <https://www.fda.gov/combo-products/guidance-regulatory-information/combo-products-guidance-documents> or <https://www.regulations.gov>.

Dated: December 18, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019-27799 Filed 12-23-19; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2019-N-0001]

#### The Tobacco Products Scientific Advisory Committee; Notice of Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Tobacco Products Scientific Advisory Committee (TPSAC, the Committee). The general function of the Committee is to provide advice and recommendations to the Agency on FDA's regulatory issues. The meeting will be open to the public.

**DATES:** The meeting will be held on February 14, 2020, from 8:30 a.m. to 5 p.m.

**ADDRESSES:** FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993-0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: <https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm>.

For those unable to attend in person, the meeting will also be webcast and will be available at the following link: <https://collaboration.fda.gov/tpsac021420/>.

#### FOR FURTHER INFORMATION CONTACT:

Serina Hunter-Thomas, Office of Science, Center for Tobacco Products, Food and Drug Administration, Document Control Center, Bldg. 71, Rm. G335, 10903 New Hampshire Ave.,

Silver Spring, MD 20993-0002, 1-877-287-1373, email: [TPSAC@fda.hhs.gov](mailto:TPSAC@fda.hhs.gov), or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's website at <https://www.fda.gov/AdvisoryCommittees/default.htm> and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

#### SUPPLEMENTARY INFORMATION:

**Agenda:** On February 14, 2020, the Center for Tobacco Product's TPSAC will convene for one open session, during which the Committee will discuss the modified risk tobacco product applications, submitted by 22nd Century Group Inc. for the following combusted filtered cigarette tobacco products:

- MR0000159: VLN™ King
- MR0000160: VLN™ Menthol King

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at <https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm>. Scroll down to the appropriate advisory committee meeting link.

**Procedure:** Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before February 7, 2020. Oral presentations from the public will be scheduled between approximately 10:45 a.m. and 11:45 a.m. on February 14, 2020. Those individuals interested in making formal oral presentations should notify the contact person (see **FOR FURTHER INFORMATION CONTACT**) and submit a brief statement describing the general nature of the evidence or arguments they wish to present and the names and email addresses of proposed participants on or before January 30, 2020, by 5 p.m. Eastern Time. Time allotted for each presentation may be limited. If the

number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by January 31, 2020.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Serina Hunter-Thomas at least 7 days in advance of the meeting (see **FOR FURTHER INFORMATION CONTACT**).

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at <https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm> for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: December 19, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019-27774 Filed 12-23-19; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2013-N-0579]

#### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Biological Products; Reporting of Biological Product Deviations and Human Cells, Tissues, and Cellular and Tissue-Based Deviations in Manufacturing

**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 January 27, 2020.

**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](mailto:oira_submission@omb.eop.gov). All comments should be identified with the OMB control number 0910–0458. 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, [PRASStaff@fda.hhs.gov](mailto:PRASStaff@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.

**Biological Products: Reporting of Biological Product Deviations and Human Cells, Tissues, and Cellular and Tissue-Based Product Deviations in Manufacturing; Forms FDA 3486 and 3486A**

*OMB Control Number 0910–0458—Extension*

Under section 351 of the Public Health Service Act (PHS Act) (42 U.S.C. 262), all biological products, including human blood and blood components, offered for sale in interstate commerce must be licensed and meet standards, including those prescribed in the FDA regulations, designed to ensure the continued safety, purity, and potency of such products. In addition, under section 361 of the PHS Act (42 U.S.C. 264), FDA may issue and enforce regulations necessary to prevent the introduction, transmission, or spread of communicable diseases between the States or possessions or from foreign countries into the States or possessions. Further, the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 351) provides that drugs and devices (including human blood and blood components) are adulterated if they do not conform with current good manufacturing practice (CGMP) assuring that they meet the requirements of the FD&C Act. Establishments manufacturing biological products, including human blood and blood components, must comply with the applicable CGMP regulations (parts 211, 606, and 820 (21 CFR parts 211, 606, and 820)) and current good tissue practice (CGTP) regulations (part 1271

(21 CFR part 1271)) as appropriate. FDA regards biological product deviation (BPD) reporting and HCT/P deviation reporting to be an essential tool in its directive to protect public health by establishing and maintaining surveillance programs that provide timely and useful information.

Section 600.14 (21 CFR 600.14), in brief, requires the manufacturer who holds the biological product license, for other than human blood and blood components, and who had control over a distributed product when the deviation occurred, to report to the Center for Biologics Evaluation and Research (CBER) or to the Center for Drug Evaluation and Research (CDER) as soon as possible but at a date not to exceed 45 calendar days after acquiring information reasonably suggesting that a reportable event has occurred. Section 606.171, in brief, requires licensed manufacturers of human blood and blood components, including Source Plasma, unlicensed registered blood establishments, and transfusion services, who had control over a distributed product when the deviation occurred, to report to CBER as soon as possible but at a date not to exceed 45 calendar days after acquiring information reasonably suggesting that a reportable event has occurred. Similarly, § 1271.350(b), in brief, requires HCT/P establishments that manufacture non-reproductive HCT/Ps described in § 1271.10 to investigate and report to CBER all HCT/P deviations relating to a distributed HCT/P that relates to the core CGTP requirements, if the deviation occurred in the establishment's facility or in a facility that performed a manufacturing step for the establishment under contract, agreement or other arrangement. Form FDA 3486 is used to submit BPD reports and HCT/P deviation reports.

Respondents to this collection of information are: (1) Licensed manufacturers of biological products other than human blood and blood components, (2) licensed manufacturers of blood and blood components including Source Plasma, (3) unlicensed registered blood establishments, (4) transfusion services, and (5) establishments that manufacture non-reproductive HCT/Ps regulated solely under section 361 of the PHS Act as described in § 1271.10. The number of respondents and total annual responses are based on the BPD reports and HCT/P deviation reports FDA received in fiscal year 2018. The number of licensed manufacturers and total annual responses under § 600.14 include the estimates for BPD reports submitted to

both CBER and CDER. Based on the information from industry, the estimated average time to complete a deviation report is 2 hours, which includes a minimal one-time burden to create a user account for those reports submitted electronically. The availability of the standardized report form, Form FDA 3486, and the ability to submit this report electronically to CBER (CDER does not currently accept electronic filings) further streamlines the report submission process.

CBER has developed a Web-based addendum to Form FDA 3486 (Form FDA 3486A) to provide additional information when a BPD report has been reviewed by FDA and evaluated as a possible recall. The additional information requested includes information not contained in the Form FDA 3486 such as: (1) Distribution pattern; (2) method of consignee notification; (3) consignee(s) of products for further manufacture; (4) additional product information; (5) updated product disposition; and (6) industry recall contacts. This information is requested by CBER through email notification to the submitter of the BPD report. This information is used by CBER for recall classification purposes. CBER estimates that 5 percent of the total BPD reports submitted to CBER would need additional information submitted in the addendum. CBER further estimates that it would take between 10 to 20 minutes to complete the addendum. For calculation purposes, CBER is using 15 minutes.

Activities such as investigating, changing standard operating procedures or processes, and followup are currently required under 21 CFR parts 211 (approved under OMB control number 0910–0139), 606 (approved under OMB control number 0910–0116), 820 (approved under OMB control number 0910–0073), and 1271 (approved under OMB control number 0910–0543) and, therefore, are not included in the burden calculation for the separate requirement of submitting a deviation report to FDA.

In the **Federal Register** of July 31, 2019 (84 FR 37321), we published a 60-day notice requesting public comment on the proposed collection of information. One comment offering general support for the information collection was received.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN <sup>1</sup>

21 CFR section	FDA form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
600.14; Reporting of product deviations by licensed manufacturers .....	3486	93	6.14	571	2.0	1,142
606.171; Reporting of product deviations by licensed manufacturers, unlicensed registered blood establishments, and transfusion services .....	3486	1,937	23.847	46,192	2.0	92,384
1271.350(b); Reporting requirements (human cells, tissues, and cellular and tissue-based products) .....	3486	93	2.61	243	2.0	486
1271.350(b) (CBER addendum report) .....	<sup>2</sup> 3486A	102	22.76	2,322	0.25	580.5
Total .....				49,328		94,592.5

<sup>1</sup> There are no capital costs or operating and maintenance costs associated with this collection of information.

<sup>2</sup> Five percent of the number of respondents ((1,937 + 93) × 0.05 = 102) and total annual responses to CBER ((46,192 + 243) × 0.05 = 2,322).

Our estimated burden for the information collection reflects an overall increase of 739 hours and a corresponding increase of 398 responses. We attribute this adjustment to an increase in the number of submissions we received over the last few years.

Dated: December 10, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019-27791 Filed 12-23-19; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS-0990-0323]

### Agency Information Collection Request; 30-Day Public Comment Request

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

**DATES:** Comments on the ICR must be received on or before January 27, 2020.

**ADDRESSES:** Submit your comments to [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov) or via facsimile to (202) 395-5806.

**FOR FURTHER INFORMATION CONTACT:** Sherrette Funn, [Sherrette.Funn@hhs.gov](mailto:Sherrette.Funn@hhs.gov) or (202) 795-7714. When submitting comments or requesting information, please include the document identifier 0990-New-30D and project title for reference.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

*Title of the Collection:* Medical Countermeasures.gov.

*Type of Collection:* OMB No. 0990-0323—Extension—

**Abstract:** The Office of the Assistant Secretary for Preparedness and Response (ASPR), Office of the Biomedical Advanced Research and Development Authority (BARDA), is requesting an approval on an extension by OMB on a currently approved information collection.

The purpose of this collection is, in order to route product developers to the most appropriate personnel within the Department of Health and Human Services (HHS), HHS collects some basic information about the company's product through *Medical Countermeasures.gov*. Using this information and a routing system that has been developed with input from participating agencies within HHS, including the Office of the Assistant Secretary for Preparedness and Response (ASPR), the Centers for Disease Control and Prevention (CDC), the Food and Drug Administration (FDA), and the National Institutes of Health (NIH), *Medical Countermeasures.gov* routes the meeting request to the appropriate person within HHS. ASPR is requesting an extension by OMB for a three-year clearance.

**Type of respondent:** Developers of medical countermeasures to naturally occurring and intentional public health threats visit the site on a monthly basis.

### ANNUALIZED BURDEN HOUR TABLE

Forms (if necessary)	Respondents (if necessary)	Number of respondents	Number of responses per respondents	Average burden per response	Total burden hours
Meeting Request .....	Developers of medical countermeasures to naturally occurring and intentional public health threats.	245	1	10/60	41
Total .....					41

**Terry Clark,**

*Office of the Secretary, Asst. Paperwork Reduction Act Reports Clearance Officer.*

[FR Doc. 2019-27753 Filed 12-23-19; 8:45 am]

**BILLING CODE 4150-04-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****[Document Identifier: OS-0937-0025]****Agency Information Collection Request; 30-Day Public Comment Request****AGENCY:** Office of the Secretary, HHS.**ACTION:** Notice.

**SUMMARY:** In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

**DATES:** Comments on the ICR must be received on or before January 27, 2020.

**ADDRESSES:** Submit your comments to [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov) or via facsimile to (202) 395-5806.

**FOR FURTHER INFORMATION CONTACT:**

Sherrette Funn, [Sherrette.Funn@hhs.gov](mailto:Sherrette.Funn@hhs.gov) or (202) 795-7714. When submitting comments or requesting information, please include the document identifier 0990-New-30D and project title for reference.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

*Information Collection Request Title:* The Commissioned Corps of the U.S. Public Health Service application.

*Abstract:* The principal purpose for collecting the information is to permit HHS to determine eligibility for appointment of applicants into the Commissioned Corps of the U.S. Public Health Service (Corps). The Corps is one of the seven Uniformed Services of the United States (37 U.S.C. 101(3)), and appointments in the Corps are made pursuant to 42 U.S.C. 204 *et seq.* and 42 CFR 21.58. The application consists of forms PHS-50, PHS-1813, and the Commissioned Corps Personal Statement.

*Likely Respondents:* Candidates/Applicants to the Commissioned Corps of the U.S. Public Health Service.

**TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS**

Form name	Type of respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Prequalification Questionnaire .....	Interested Health Professionals .....	6,000	1	10/60	1,000
Form PHS-50 .....	Health Professionals .....	3,000	1	15/60	750
Form PHS-1813 .....	References (college professors/teachers).	3,000	1	15/60	750
Addendum: Commissioned Corps Personal Statement.	Health Professionals .....	3,000	1	15/60	750
<b>Total .....</b>					<b>5,500</b>

**Terry Clark,**

*Office of the Secretary, Asst Paperwork Reduction Act Reports Clearance Officer.*

[FR Doc. 2019-27752 Filed 12-23-19; 8:45 am]

**BILLING CODE 4150-49-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Indian Health Service****Request for Public Comment: 60 Day Information Collection: Indian Self-Determination and Education Assistance Act Contracts****AGENCY:** Indian Health Service, HHS.

**ACTION:** Notice and request for comments. Request for extension of approval.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the Indian Health Service (IHS) invites the general public to comment on the information collection titled, "Indian Self-Determination and Education Assistance Act Contracts," Office of

Management and Budget (OMB) Control Number 0917-0037. IHS is requesting OMB to approve an extension for this collection, which expires on February 29, 2020.

**DATES:** *Comment Due Date:* February 24, 2020. Your comments regarding this information collection are best assured of having full effect if received within 60 days of the date of this publication.

**ADDRESSES:** Send your written comments, requests for more information on the collection, or requests to obtain a copy of the data collection instrument and instructions to Captain Kelly Battese by one of the following methods:

- *Mail:* Captain Kelly Battese, Acting Director, IHS Office of Direct Service and Contracting Tribes (ODSCT), Indian Health Service, 5600 Fishers Lane, Mail Stop O8E17C, Rockville, MD 20857.
- *Phone:* 301-443-1104.
- *Email:* [Kelly.Battese@ihs.gov](mailto:Kelly.Battese@ihs.gov).
- *Fax:* 301-480-3192.

**SUPPLEMENTARY INFORMATION:** This previously approved information

collection project was last published in the **Federal Register** (81 FR 24108). No public comment was received in response to the notice. The purpose of this notice is to allow 60 days for public comment. A copy of the supporting statement is available at [www.regulations.gov](http://www.regulations.gov) (see Docket ID IHS-2016-0003).

**I. Abstract**

Representatives of the IHS seek renewal of the approval for information collections conducted under 25 CFR part 900, implementing the Indian Self-Determination and Education Assistance Act (ISDEAA), as amended (25 U.S.C. 5301 *et seq.*), which describes how contracts are awarded to Indian Tribes and Tribal organizations. The rule at 25 CFR part 900 was developed through negotiated rulemaking with Tribes in 1996 and governs, among other things, what must be included in a Tribe's initial ISDEAA contract

proposal to IHS. In at least some instances, the information collected under 25 CFR part 900 is required to obtain and/or retain a benefit.

The information requirements for this rule represent significant differences from other agencies in several respects. Under the Act, the Secretary of Health and Human Services is directed to enter into self-determination contracts with Tribes or eligible Tribal Organizations upon request, unless specific declination criteria apply, and, generally, contractors may renew these contracts annually, whereas other agencies provide grants on a discretionary or competitive basis. Additionally, IHS awards contracts for multiple programs whereas other agencies usually award single grants to Tribes.

The IHS uses the information collected to determine applicant eligibility, evaluate applicant capabilities, protect the service population, safeguard Federal funds and other resources, and permit the Federal agency to administer and evaluate contract programs. Tribal Governments or Tribal Organizations provide the information by submitting contract proposals, and related information, to the IHS, as required under Public Law 93–638. No third party notification or public disclosure burden is associated with this collection.

## II. Request for Comments

The IHS requests your comments on this collection concerning: (a) The necessity of this information collection 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 (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it displays a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. Before including your address, phone number, email address or other personally identifiable 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.

## III. Data

*OMB Control Number:* 0917–0037.

*Title:* Indian Self-Determination and Education Assistance Act Contracts, 25 CFR part 900.

*Brief Description of Collection:* An Indian Tribe or Tribal Organization is required to submit certain information when it proposes to contract with the IHS under the ISDEAA. Each response may vary in its length. In addition, each Subpart of 25 CFR part 900 concerns different parts of the contracting process. For example, Subpart C relates to provisions of the contents for the initial contract proposal. The respondents do not incur the burden associated with Subpart C when contracts are renewed. Subpart F describes minimum standards for management systems used by Indian Tribes or Tribal Organizations under these contracts. Subpart G addresses the negotiability of all reporting and data requirements in the contracts. Responses are required to obtain or retain a benefit.

*Type of Review:* Extension of currently approved collection.

*Respondents:* Federally recognized Indian Tribes and Tribal Organizations.

*Number of Respondents:* 275 Title I contractors.

*Estimated Number of Responses:* On average, IHS receives 10 proposals for new or expanded Title I agreements each fiscal year, plus there are 265 existing Title I contracts and associated annual funding agreements, which must be negotiated each year = 275 responses.

*Estimated Time per Response:* Average of 70 hours for the new/expanded; average of 35 hours for the existing.

*Frequency of Response:* Each time programs, functions, services or activities are contracted from the IHS under the ISDEAA.

*Estimated Total Annual Hour Burden:* 700 [70 × 10] for new/expanded + 9,275 [35 × 265] for existing = 9,975.

**Chris Buchanan,**

*Assistant Surgeon General, USPHS, Deputy Director, Indian Health Service.*

[FR Doc. 2019–27819 Filed 12–23–19; 8:45 am]

**BILLING CODE 4165–16–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

[Docket Number USCG–2019–0946]

### Application for Recertification of Prince William Sound Regional Citizens' Advisory Council

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Coast Guard announces the availability of, and seeks comments on, the recertification of the Prince William Sound Regional Citizen's Advisory Council (PWSRCAC) for March 2, 2020 through February 28, 2021. Under the Oil Pollution Act of 1990 (OPA 90), the Coast Guard may certify the PWSRCAC on an annual basis. This advisory group monitors the activities of terminal facilities and crude oil tankers under the Prince William Sound program established by the statute. The Coast Guard may certify an alternative voluntary advisory group in lieu of the PWSRCAC. The current certification for the PWSRCAC will expire March 1, 2020.

**DATES:** Public comments on PWSRCAC's recertification application must reach the Seventeenth Coast Guard District on or before February 10, 2020.

**ADDRESSES:** You may submit comments identified by docket number USCG–2019–0946 using the Federal eRulemaking Portal at <http://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 on this recertification, call or email LT Ian McPhillips, Seventeenth Coast Guard District (dpi); telephone (907) 463–2809; email [Ian.P.McPhillips@uscg.mil](mailto:Ian.P.McPhillips@uscg.mil). If you have questions on viewing or submitting material to the docket, contact the U. S. Coast Guard Headquarters, Regulations and Administrative Law office, telephone (202) 372–3862.

### SUPPLEMENTARY INFORMATION:

#### I. 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 <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, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this notice as being available in the 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.

## II. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

## III. Public Meeting

The Coast Guard does not plan to hold a public meeting. But you may submit a request for one on or before February 10, 2020 using the method specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid the process of thoroughly considering the application for recertification, we will hold one at a time and place announced by a later notice in the **Federal Register**.

## IV. Background and Purpose

The Coast Guard published guidelines on December 31, 1992 (57 FR 62600), to assist groups seeking recertification under the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990 (33 U.S.C. 2732) (the Act). The Coast Guard issued a

policy statement on July 7, 1993 (58 FR 36504), to clarify the factors that the Coast Guard would be considering in making its determination as to whether advisory groups should be certified in accordance with the Act, and the procedures which the Coast Guard would follow in meeting its certification responsibilities under the Act. Most recently, on September 16, 2002 (67 FR 58440), the Coast Guard changed its policy on recertification procedures for regional citizen's advisory council by requiring applicants to provide comprehensive information every three years. For the two years in between, applicants only submit information describing substantive changes to the information provided at the last triennial recertification. This is the year in this triennial cycle that PWSRCAC must provide comprehensive information.

The Coast Guard is accepting comments concerning the recertification of PWSRCAC. At the conclusion of the comment period on February 10, 2020, the Coast Guard will review all application materials and comments received and will take one of the following actions:

(a) Recertify the advisory group under 33 U.S.C. 2732(o);

(b) Issue a conditional recertification for a period of 90 days, with a statement of any discrepancies, which must be corrected to qualify for recertification for the remainder of the year; or

(c) Deny recertification of the advisory group if the Coast Guard finds that the group is not broadly representative of the interests and communities in the area or is not adequately fostering the goals and purposes of 33 U.S.C. 2732.

The Coast Guard will notify PWSRCAC by letter of the action taken on its application. A notice will be published in the **Federal Register** to advise the public of the Coast Guard's determination.

Dated: December 18, 2019.

**Melissa L. Rivera,**

*Captain, U.S. Coast Guard, Acting Commander, Seventeenth Coast Guard District.*

[FR Doc. 2019-27772 Filed 12-23-19; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

[CBP Dec. 19-13]

#### **Western Hemisphere Travel Initiative: Designation of an Approved Native American Tribal Card Issued by the Swinomish Indian Tribal Community as an Acceptable Document to Denote Identity and Citizenship for Entry in the United States at Land and Sea Ports of Entry**

**AGENCY:** U.S. Customs and Border Protection, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces that the Commissioner of U.S. Customs and Border Protection is designating an approved Native American tribal card issued by the Swinomish Indian Tribal Community to U.S. citizen tribal members as an acceptable travel document for purposes of the Western Hemisphere Travel Initiative. The approved card may be used to denote identity and citizenship of Swinomish Indian Tribal Community members entering the United States from contiguous territory or adjacent islands at land and sea ports of entry.

**DATES:** This designation will become effective on December 26, 2019.

**FOR FURTHER INFORMATION CONTACT:** Colleen Manaher, Executive Director, Planning, Program Analysis, and Evaluation, Office of Field Operations, U.S. Customs and Border Protection, via email at [Colleen.M.Manaher@cbp.dhs.gov](mailto:Colleen.M.Manaher@cbp.dhs.gov) or 202-344-3003.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

##### *The Western Hemisphere Travel Initiative*

Section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), Public Law 108-458, as amended, required the Secretary of Homeland Security (Secretary), in consultation with the Secretary of State, to develop and implement a plan to require U.S. citizens and individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)) to present a passport or other document or combination of documents as the Secretary deems sufficient to denote identity and citizenship for all travel into the United States. *See* 8 U.S.C. 1185 note. On April 3, 2008, the Department of Homeland Security (DHS) and the Department of

State promulgated a joint final rule, effective on June 1, 2009, that implemented the plan known as the Western Hemisphere Travel Initiative (WHTI) at U.S. land and sea ports of entry. *See* 73 FR 18384 (the WHTI Land and Sea Final Rule). It amended various sections of the Code of Federal Regulations (CFR), including 8 CFR 212.0, 212.1, and 235.1. The WHTI Land and Sea Final Rule specifies the documents that U.S. citizens and nonimmigrant aliens from Canada, Bermuda, and Mexico are required to present when entering the United States at land and sea ports of entry.

Under the WHTI Land and Sea Final Rule, one type of citizenship and identity document that may be presented upon entry to the United States at land and sea ports of entry from contiguous territory or adjacent islands<sup>1</sup> is a Native American tribal card that has been designated as an acceptable document to denote identity and citizenship by the Secretary, pursuant to section 7209 of IRTPA. Specifically, 8 CFR 235.1(e), as amended by the WHTI Land and Sea Final Rule, provides that upon designation by the Secretary of Homeland Security of a United States qualifying tribal entity document as an acceptable document to denote identity and citizenship for the purposes of entering the United States, Native Americans may be permitted to present tribal cards upon entering or seeking admission to the United States according to the terms of the voluntary agreement entered between the Secretary of Homeland Security and the tribe. It provides that the Secretary of Homeland Security will announce, by publication of a notice in the **Federal Register**, documents designated under this paragraph. It further provides that a list of the documents designated under this section will also be made available to the public.

A United States qualifying tribal entity is defined as a tribe, band, or other group of Native Americans formally recognized by the United States Government which agrees to meet WHTI document standards. *See* 8 CFR 212.0.<sup>2</sup> Native American tribal cards are also referenced in 8 CFR 235.1(b), which lists the documents U.S. citizens may use to establish identity and citizenship when entering the United States. *See* 8 CFR 235.1(b)(7).

The Secretary has delegated to the Commissioner of U.S. Customs and Border Protection (CBP) the authority to designate certain documents as acceptable border crossing documents for persons arriving in the United States by land or sea from within the Western Hemisphere, including certain United States Native American tribal cards. *See* DHS Delegation Number 7105 (Revision 00), dated January 16, 2009.

#### *Tribal Card Program*

The WHTI Land and Sea Final Rule allowed U.S. federally recognized Native American tribes to work with CBP to enter into agreements to develop tribal ID cards that can be designated as acceptable to establish identity and citizenship when entering the United States at land and sea ports of entry from contiguous territory or adjacent islands. CBP has been working with various U.S. federally recognized Native American tribes to facilitate the development of such cards.<sup>3</sup> As part of the process, CBP will enter into one or more agreements with a U.S. federally recognized tribe that specify the requirements for developing and issuing WHTI-compliant Native American tribal cards, including a testing and auditing process to ensure that the cards are produced and issued in accordance with the terms of the agreements.

After production of the cards in accordance with the specified requirements, and successful testing and auditing by CBP of the cards and program, the Secretary of Homeland Security or the Commissioner of CBP may designate the Native American tribal card as an acceptable WHTI-compliant document for the purpose of establishing identity and citizenship when entering the United States by land or sea from contiguous territory or adjacent islands. Such designation will be announced by publication of a notice in the **Federal Register**. More information about WHTI-compliant documents is available at [www.cbp.gov/travel](http://www.cbp.gov/travel).

The Pascua Yaqui Tribe of Arizona became the first Native American tribe to have its Native American tribal card designated as a WHTI-compliant document by the Commissioner of CBP. This designation was announced in a notice published in the **Federal Register** on June 9, 2011 (76 FR 33776). Subsequently, the Commissioner of CBP announced the designation of several other Native American tribal cards as

WHTI compliant documents. *See, e.g.,* the Native American tribal cards of the Kootenai Tribe of Idaho, 77 FR 4822 (January 31, 2012); the Seneca Nation of Indians, 80 FR 40076 (July 13, 2015); the Hydaburg Cooperative Association of Alaska, 81 FR 33686 (May 27, 2016); and the Pokagon Band of Potawatomi Indians, 82 FR 42351 (September 7, 2017).

#### *Swinomish Indian Tribal Community WHTI-Compliant Native American Tribal Card Program*

The Swinomish Indian Tribal Community has voluntarily established a program to develop a WHTI-compliant Native American tribal card that denotes identity and U.S. citizenship. On October 7, 2015, CBP and the Swinomish Indian Tribal Community entered into a Memorandum of Agreement (MOA) to develop, issue, test, and evaluate tribal cards to be used for border crossing purposes. Pursuant to this MOA, the cards are issued to members of the Swinomish Indian Tribal Community who can establish identity, tribal membership, and U.S. citizenship. The cards incorporate physical security features acceptable to CBP as well as facilitative technology allowing for electronic validation of identity, citizenship, and tribal membership by CBP.<sup>4</sup>

CBP has tested the cards developed by the Swinomish Indian Tribal Community pursuant to the above MOA and related agreements, and has performed an audit of the tribe's card program. On the basis of these tests and audit, CBP has determined that the Native American tribal cards meet the requirements of section 7209 of the IRTPA and are acceptable documents to denote identity and U.S. citizenship for purposes of entering the United States at land and sea ports of entry from contiguous territory or adjacent islands. CBP's continued acceptance of the Native American tribal card as a WHTI-compliant document is conditional on compliance with the MOA and related agreements.

Acceptance and use of the WHTI-compliant Native American tribal card

<sup>4</sup> Beginning in 2016, CBP and the Swinomish Indian Tribal Community entered into additional agreements related to the MOA. CBP and the Swinomish Indian Tribal Community entered into a Service Level Agreement (SLA) on September 14, 2016, concerning technical requirements and support for the production, issuance, and verification of the Native American tribal cards. CBP and the Swinomish Indian Tribal Community also entered into an Interconnection Security Agreement on March 15, 2017, with respect to individual and organizational security responsibilities for the protection and handling of unclassified information.

<sup>1</sup> "Adjacent islands" is defined in 8 CFR 212.0 as "Bermuda and the islands located in the Caribbean Sea, except Cuba." This definition applies to 8 CFR 212.1 and 235.1.

<sup>2</sup> This definition applies to 8 CFR 212.1 and 235.1.

<sup>3</sup> The Native American tribal cards qualifying to be a WHTI-compliant document for border crossing purposes are commonly referred to as "Enhanced Tribal Cards" or "ETCs."

is voluntary for tribe members. If an individual is denied a WHTI-compliant Native American tribal card, he or she may still apply for a passport or other WHTI-compliant document.

#### *Designation*

This notice announces that the Commissioner of CBP designates the Native American tribal card issued by the Swinomish Indian Tribal Community in accordance with the MOA and related agreements as an acceptable WHTI-compliant document pursuant to section 7209 of the IRTPA and 8 CFR 235.1(e). In accordance with these provisions, the approved card, if valid and lawfully obtained, may be used to denote identity and U.S. citizenship of Swinomish Indian Tribal Community members for the purposes of entering the United States from contiguous territory or adjacent islands at land and sea ports of entry.

Dated: December 17, 2019.

**Mark A. Morgan,**

*Acting Commissioner.*

[FR Doc. 2019-27721 Filed 12-23-19; 8:45 am]

**BILLING CODE 9111-14-P**

## **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR-7015-N-11]

### **60-Day Notice of Proposed Information Collection: Application for Resident Opportunity & Self Sufficiency (ROSS) Grant Forms**

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing (PIH), HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** *Comments Due Date:* February 24, 2020.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410-5000; telephone 202-402-3400

(this is not a toll-free number) or email at [Colette.Pollard@hud.gov](mailto:Colette.Pollard@hud.gov) for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

#### **FOR FURTHER INFORMATION CONTACT:**

Dawn Smith, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW, (L'Enfant Plaza, Room 2206), Washington, DC 20410; telephone 202-402-6488, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at (800) 877-8339. Copies of available documents submitted to OMB may be obtained from Ms. Smith.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

#### **A. Overview of Information Collection**

*Title of Information Collection:* Application for the Resident Opportunities and Self Sufficiency (ROSS) Program.

*OMB Approval Number:* 2577-0229.

*Type of Request:* Reinstatement, without change, of previously approved collection.

*Form Number:* ROSS Grant

*Application forms:* HUD 52752; HUD 52753; HUD-52755; HUD-57268; SF-424; HUD-2880; HUD-2990; HUD-2991; SF-LLL, HUD-2993, HUD-2994-A.

The Department is submitting this PRA request in order to reinstate, without change, a previously approved collection that has an upcoming PRA expiration date.

*Description of the need for the information and proposed use:* The forms are used to evaluate capacity and eligibility of applicants to the ROSS program.

*Respondents (i.e., affected public):* Public Housing Authorities, tribes/TDHEs, public housing resident associations, and nonprofit organizations.

*Estimated Number of Respondents:* 350.

*Estimated Number of Responses:* 350.

*Frequency of Response:* 1.

*Average Hours per Response:* 5 hours.

*Total Estimated Burdens:* 1,907 hours.

#### **B. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected

parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

#### **C. Authority**

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: December 13, 2019.

**Nora McArdle,**

*Senior Policy Analyst, Office of Policy, Programs and Legislative Initiatives.*

[FR Doc. 2019-27840 Filed 12-23-19; 8:45 am]

**BILLING CODE 4210-67-P**

## **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR-7015-N-10]

### **60-Day Notice of Proposed Information Collection: Project Based Vouchers (PBV) Online Form**

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** *Comments Due:* February 24, 2020.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management

Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at [Colette.Pollard@hud.gov](mailto:Colette.Pollard@hud.gov) for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

**FOR FURTHER INFORMATION CONTACT:**

Dawn Smith, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW, Room 3178, Washington, DC 20410; telephone 202–402–6488, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Smith.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

**A. Overview of Information Collection**

*Title of Information Collection:* Project Based Vouchers (PBV) Online Form.

*OMB Approval Number:* Pending OMB Approval.

*Type of Request:* New.

*Form Number:* HUD is developing a standardized electronic system and data exchange standard for this collection and will provide a web service to support electronic file transfer using Java Script Object Notation (JSON).”. Within the scope of this collection, HUD requests the information in this notice from participating PHAs

*Description of the need for the information and proposed use:* Public Housing Agencies (PHAs) apply for funding to assist low-income families to lease housing. One of the programs through which PHAs provide housing assistance is the Housing Choice Voucher (HCV) Program, a tenant-based rental assistance program. This program operates by providing vouchers that cover a portion of the contract rent for a unit. Some PHAs project-base their vouchers (the rental assistance is connected to a unit, not a family). Project-based vouchers (PBVs) are becoming a larger percentage of PHAs overall HCV portfolios, rising from just over 110,000 in 2016 to approximately 215,000 in mid-2019. The PBV portfolio is expected to grow even more with the on-going conversion of up to 455,000

public housing units to project-based assistance under the Congressionally authorized Rental Assistance Demonstration (RAD). HUD currently collects information on individual participants in the HCV program who are in PBV units and Project certificate (PBC) housing through the PIC system. In addition, HUD collects aggregate information on the total number of PBVs under contract at the PHA level. HUD currently does not systematically collect information on the project or development level for PBVs.

This leaves a gap in HUD’s information collection of PBVs between the individual tenant data and the aggregated PHA data. HUD does not systematically collect information on the development or project level, including the number of units at PBV projects, what exceptions apply, their rents, the terms of contract, and numerous other potential data points. This creates a challenge for monitoring, tracking and analyzing PBV projects, and limits HUD’s ability to respond to requests for information on the PBV program from Congress and other sources. Additionally, it prevents HUD from having data with which to make informed decisions on risk-mitigation strategies with respect to PBVs.

Potential risks are particularly heightened in the case of two specific program categories; Rental Assistance Demonstration (RAD) that transition to be Project Based Vouchers and PHA-owned units where an independent entity performs inspections and determines the rent amounts. What distinguishes RAD PBVs from regular Project-Based Vouchers is their initial construction was paid for by HUD, rents are initially set below market level, and they are supposed to remain affordable in perpetuity. Currently, HUD has very limited information about RAD–PBV properties after their conversion and is unable to adequately monitor their long-term viability. PHA-owned PBVs pose a risk because PHAs may assist properties they own, subject to the independent entity requirement. PHAs may assist properties they own, subject to the independent entity requirement. In addition, many other non-RAD or PHA-owned projects, such as those with 100% PBVs serving disabled or requiring supporting services represent crucial affordable housing resources for vulnerable communities that cannot be quickly and easily replaced through providing a voucher.

Through this collection, HUD is requiring the submission of project-level data on all Project-Based Vouchers, including but not limited to Rental Assistance Demonstration Project

Based-Vouchers, mixed finance Project-Based Vouchers, all Project-Based Vouchers at Moving to Work Agencies, and all Project Based Vouchers at non-Moving to Work Agencies.

The fields of collection for PBV projects may include:

HAP Contract Number  
Name of Project  
Address of Building(s) and Units  
Number of Units Under AHAP  
Number of Units Under HAP Contract by Bedroom Size  
Number of Total Units in the Project  
Structure Type  
Type: Existing, Rehabilitated, or Newly Constructed  
Effective Date(s) of AHAP  
Effective Date(s) of HAP Contract  
Expiration Date  
Owner Name  
Owner Tax ID  
Management Entity  
PHA-Owned, PHA Has Ownership Interest but Not PHA-Owned, No PHA Ownership Interest  
If PHA-Owned: Name of Independent Entity or Entities  
Other Related Programs: Tax Credit, RAD, HUD-insured, VASH, or Other  
Population Served: General, Homeless, Veterans, Families Eligible for Supportive Services, Families Receiving Supportive Services, Elderly Family, Disabled Family  
Does an Exception to the Income-Mixing Requirement Apply?  
If Yes, Which Exceptions(s)  
Supportive Services Available (Y/N)?  
Vacancy Payments Permitted (Y/N)?  
Program Cap Exception (Y/N)?  
Program Cap Exception Category  
Unique Project Building Code\*  
HAP Contract Code\*  
Number of RAD PBVs  
Use Restriction End Date  
Year Built  
Number and Bedroom Distribution of PBV-Assisted Section 504 Mobility Units at the Project  
Number and Bedroom Distribution of PBV-Assisted Section 504 Hearing/Vision Units at the Project

\* The Unique Project Building Code and HAP Contract Code may be produced by the system or a protocol for numbering may be established by HUD.

HUD recognizes that some of this information may be submitted to HUD, for instance as part of the initial subsidy layering review process, however, these submissions are insufficient to give HUD a universal and currently accurate picture of the Project Based Voucher universe. Therefore, HUD is proposing this information collection.

*Definitions***HAP Contract Number**

A unique number assigned to a Form HUD-52530-A (PBV HAP Contract—New Construction or Rehabilitation) or Form HUD-52530-B (PBV HAP Contract—Existing Housing) (hereinafter “HAP contract”) executed for the project, which may be produced by the system or a protocol for numbering may be established by HUD.

**Name of Project**

The name of the project as determined by the PHA as used in public or property records (where such records contain a name of the property as a whole) or the commonly used name of the project (such as the name on a sign at the property entrance). If no such name exists, a name for the project designated by the PHA for use in the system. “Project” is defined consistent with 24 CFR 983.3(b) as “a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land.”

**Address of Building(s) and Units**

The street address, city, state, and zip code of the building or buildings covered by the HAP contract and all units covered under the HAP contract.

**Number of Units Under AHAP**

Total number of units in the project covered by the Form HUD-52523-A and Form HUD-52523-B (Agreement to Enter into a Housing Assistance Payment Contract) (hereinafter “AHAP”).

**Number of Units Under HAP Contract by Bedroom Size**

Total number of contract units in the project covered by the HAP contract, broken out by each bedroom size (0, 1, 2, 3, 4, 5+).

**Number of Total Units in the Project**

Total number of units in the project, including those covered by an AHAP or HAP contract and non-contract units.

**Structure Type**

The most closely matching description of the project from among this list: Elevator Structure, Mixed Type, Row or Townhouse Style (Separate Entrances), Semi Detached, Single Family/Detached, Walkup/Multifamily Apt (Shared Entrance).

**Type: Existing, Rehabilitation or Newly Constructed**

The following definitions apply consistent with 24 CFR 983.3(b), as amended by 82 FR 5458 (Jan. 18, 2017), 82 FR 32461 (Jul. 14, 2017):

**Existing Housing**

Housing units that already exist on the proposal selection date and that substantially comply with the HQS on that date.

**Rehabilitated Housing**

Housing units that exist on the proposal selection date, but do not substantially comply with the HQS on that date, and are developed, pursuant to an Agreement between the PHA and owner, for use under the PBV program.

**Newly Constructed Housing**

Housing units that do not exist on the proposal selection date and are developed after the date of selection pursuant to an Agreement between the PHA and owner for use under the PBV program.

Upon amendment of 24 CFR 983.3(b), the new definitions therein will supersede the definitions listed here.

**Effective Date(s) of AHAP**

Effective date(s) listed in § 1.4 of Part 1 the AHAP. A single-stage project will have the same Agreement effective date for all contract units. A multi-stage project will separate effective dates for each stage.

**Effective Date(s) of HAP Contract**

Effective date(s) listed in § 1(d) of Part 1 of the HAP contract. A single-stage project will have the same effective date for all contract units. For a multi-stage project, include the dates of each stage and the contract units covered by each stage.

**Expiration Date**

The HAP contract term end date, as determined by adding the length of the HAP contract term (initial and any extensions) to the effective date listed in § 1(d) of Part 1 of the HAP contract (for a multi-stage project, use the effective date of the first stage). The length of the initial and extension HAP contract terms shall be those listed in the HAP contract (for existing projects: § 1(d) of Part 1 of the Form HUD-52530-B HUD and associated exhibits; for newly constructed and rehabilitated projects: § 1(e) of Part 1 of the Form HUD-52530-A and associated exhibits).

**Owner Name**

The owner name as listed in § 1(a) of Part 1 of the HAP contract and contact information (telephone and email).

**Owner Tax ID**

The owner's federal tax identification number.

**Management Entity**

Name of the company or agency that manages the property and contact information (telephone and email).

PHA-Owned, PHA Has Ownership Interest But Not PHA-Owned, No PHA Ownership Interest

The following definitions apply consistent with 24 CFR part 983, as amended by 82 FR 5458 (Jan. 18, 2017), 82 FR 32461 (Jul. 14, 2017):

**(1) PHA-owned:**

a. Owned by the PHA (which includes a PHA having a “controlling interest” in the entity that owns the unit);

b. Owned by an entity wholly controlled by the PHA; or

c. Owned by a limited liability company (LLC) or limited partnership in which the PHA (or an entity wholly controlled by the PHA) holds a controlling interest in the managing member or general partner.

“Controlling interest” means:

a. Holding more than 50 percent of the stock of any corporation;

b. Having the power to appoint more than 50 percent of the members of the board of directors of a non-stock corporation (such as a non-profit corporation);

c. Where more than 50 percent of the members of the board of directors of any corporation also serve as directors, officers, or employees of the PHA;

d. Holding more than 50 percent of all managing member interests in an LLC;

e. Holding more than 50 percent of all general partner interests in a partnership; or

f. Having equivalent levels of control in other ownership structures. Most ownership structures are already covered in the categories listed above. This last category is meant to cover any ownership structure not already listed in the categories above. Also, under this category (f), a PHA must have more than 50 percent control in that ownership structure (an equivalent level of control) for the project to be considered PHA-owned.

(2) PHA ownership interest: An ownership interest means that the PHA or its officers, employees, or agents are in an entity that holds any direct or indirect interest in the project in which the units are located, including, but not limited to, an interest as:

a. Titleholder;

b. Lessee;

c. Stockholder;

d. Member, or general or limited partner; or

e. Member of a limited liability corporation.

(3) No PHA ownership interest: The PHA has no ownership interest in the property.

Upon amendment of 24 CFR part 983, the new definitions therein will supersede the definitions listed here.

If PHA-Owned: Name of Independent Entity or Entities

If the project is PHA-owned, the independent entity or entities which perform the following functions consistent with 24 CFR part 983:

1. Review the PHA's PBV selection process.
2. Establish PBV contract rents (initial rent to owner and redetermined rent to owner).
3. Determine rent reasonableness.
4. Provide a copy of the rent reasonableness determination to the PHA and the HUD field office where the project is located.
5. Establish term of initial and any renewal HAP contract as required in 24 CFR 983.205.
6. Inspect units.
7. Provide a copy of the inspection report to PHA and HUD field office where the project is located.

Other Related Programs: Tax Credit, RAD, HUD-Insured, VASH, or Other

List any HUD voucher authority other than regular Housing Choice Vouchers used to provide PBVs to the project (*e.g.*, RAD, VASH). List other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits (*e.g.*, HUD-insured, Tax Credit).

Population Served: General, Homeless, Veterans, Families Eligible for Supportive Services, Families Receiving Supportive Services, Elderly Family, Disabled Family

List the population(s) served if the project contains units specifically made available for or exclusively made available to a specific population. If some units are not specifically made available for or exclusively made available to a specific population listed below, mark "General." The definitions of each population are found in the following locations, consistent with 24 CFR parts 5, 983, as amended by 82 FR 5458 (Jan. 18, 2017), 82 FR 32461 (Jul. 14, 2017):

1. Homeless: PIH Notice 2017–21, Attachment D.
2. Veterans: PIH Notice 2017–21, Attachment D.
3. Families eligible for supportive services: PIH Notice 2017–21, Attachments D and E.
4. Families receiving supportive services: PIH Notice 2017–21, Attachment E.

5. Elderly family: 24 CFR 5.403.

6. Disabled family: 24 CFR 5.403.

Upon amendment of 24 CFR part 983, the new definitions therein will supersede the definitions listed here.

Does an Exception to the Income-Mixing Requirement Apply?

Provide an answer (yes/no) to the question of whether the project qualifies for an exception to the income-mixing requirement under 24 CFR 983.56, as amended by 82 FR 5458 (Jan. 18, 2017), 82 FR 32461 (Jul. 14, 2017).

If Yes, Which Exception(s)

Choose the applicable exception from among those allowed by 24 CFR 983.56, as amended by 82 FR 5458 (Jan. 18, 2017), 82 FR 32461 (Jul. 14, 2017). The definitions of the exception categories are found in the following locations:

1. Units that are exclusively made available to households eligible for supportive services: PIH Notice 2017–21, Attachment E.
  2. Units that are specifically made available for families receiving supportive services: PIH Notice 2017–21, Attachment E, for grandfathered projects as described therein.
  3. Units that are exclusively made available to elderly families: PIH Notice 2017–21, Attachment E.
  4. Units that are specifically made available for disabled families: PIH Notice 2017–21, Attachment E, for grandfathered projects as described therein.
  5. Units located in a census tract with a poverty rate of 20 percent or less: PIH Notice 2017–21, Attachment E.
  6. Units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD: PIH Notice 2017–21, Attachment F, for projects that meet the additional requirements as described therein.
  7. RAD PBV units: PIH Notice 2017–21, Attachment F.
  8. HUD–VASH vouchers specifically designated for project-based assistance: PIH Notice 2017–21, Attachment F.
- Upon amendment of 24 CFR part 983, the new definitions therein will supersede the definitions listed here.

Supportive Services Required/Available

If the project has supportive services available to residents so as to qualify for an exception to 24 CFR 983.56

Vacancy Payments Permitted

Provide an answer (yes/no) to the question of whether the PHA has included the vacancy payment provision in this HAP contract (for existing projects: § 1(e)(2) of Part 1 of

the Form HUD–52530–B HUD; for newly constructed and rehabilitated projects: § 1(f)(2) of Part 1 of the Form HUD–52530–A).

Program Cap Exception (Y/N)?

Provide an answer (yes/no) to the question of whether the project qualifies for an exception to the program cap under 24 CFR 983.6, as amended by 82 FR 5458 (Jan. 18, 2017), 82 FR 32461 (Jul. 14, 2017).

Program Cap Exception Category

Choose the applicable exception from among those allowed by 24 CFR 983.6, as amended by 82 FR 5458 (Jan. 18, 2017), 82 FR 32461 (Jul. 14, 2017). The definitions of the exception categories are found in the following locations:

1. Units that are specifically made available to house homeless individuals and families: PIH Notice 2017–21, Attachment D.
2. Units that are specifically made available to house families that are comprised of or include a veteran: PIH Notice 2017–21, Attachment D.
3. Units that provide supportive housing to persons with disabilities or to elderly persons: PIH Notice 2017–21, Attachment D.
4. Units located in a census tract with a poverty rate of 20 percent or less: PIH Notice 2017–21, Attachment D.
5. Units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD: PIH Notice 2017–21, Attachment F, for projects that meet the additional requirements as described therein.
6. RAD PBV units: PIH Notice 2017–21, Attachment F.
7. HUD–VASH vouchers specifically designated for project-based assistance: PIH Notice 2017–21, Attachment F.

Upon amendment of 24 CFR part 983, the new definitions therein will supersede the definitions listed here.

Unique Project Building Code \*

Code may be produced by the system or a protocol for numbering may be established by HUD.

Use Restriction End Date

Provide an answer (yes/no) to the question of whether the project is subject to a use restriction imposed by HUD. If yes, provide the end date of the use restriction.

Number of RAD PBVs

Number of PBVs that converted under the Rental Assistance Demonstration Program.

**HAP Contract Amount**

Code may be produced by the system or a protocol for numbering may be established by HUD.

**Year Built**

The year the project's construction was first completed.

**Number and Bedroom Distribution of PBV-Assisted Section 504 Mobility Units at the Project**

This field captures the number of PBV-assisted units at the project that are accessible for persons with mobility impairments in accordance with Section

504 of the Rehabilitation Act of 1973 and HUD's implementing regulations at 24 CFR part 8. Such units must meet either the Uniform Federal Accessibility Standards (UFAS) or 2010 Americans with Disabilities Act (ADA) Standards (in accordance with HUD's Deeming Notice published in the **Federal Register** on May 23, 2014 (79 FR 29671)).

**Number and Bedroom Distribution of PBV-Assisted Section 504 Hearing/Vision Units at the Project**

PHAs would be required to enter this information into the online form when a new project came under Housing

Assistance Payment (HAP) contract, and when project or development information changed. The unique project code identifier will tie to future potential changes to the 50058 which will permit linking HUD assisted-tenants to HUD assisted-properties. This is a new information collection.

*Respondents (i.e. affected public):* Public housing authorities (PHAs) that have project-based vouchers (PBVs) as a part of their portfolio.

*Note: Preparer of this notice may substitute the chart for everything beginning with estimated number of respondents above:*

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
PBV Property Information .....	668	6	4,008	1,5	6,012	\$40.10	\$241,0188

Our burden estimate for the number of respondents is based on a recent VMS total of the number of PHAs reporting PBVs in VMS. It is assumed PHAs will have to do a one-time submission for all the projects as well as potentially make updates when changes occur to the PBV projects (frequency of responses). The "responses per annum" represents an estimate of the amount of PBV projects that will need to be entered into the system. This number is multiplied by the frequency of responses to arrive at an annual estimate of burden hours. This is then multiplied by median average wage of a "Management Analyst" according to the Bureau of Labor Statistics for 2019 to arrive at a total annual cost.<sup>1</sup> It is anticipated that this cost will decline in subsequent years as PHAs only need to update information already in the system when changes are made to PBV projects.

**B. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

- (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) The accuracy of the agency's estimate of the burden of the proposed collection of information;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- (4) Ways to minimize the burden of the collection of information on those who are to respond; including through

the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

(5) In this information collection, HUD has proposed collecting information on PBV-assisted units in PBV projects that are Section 504 accessible. Would it be feasible and useful to also collect this information on non-assisted units at PBV projects that do not receive PBV assistance Project-Based Voucher projects? Are there any potential barriers to collecting this information?

HUD encourages interested parties to submit comment in response to these questions.

**C. Authority**

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: December 13, 2019.

**Nora McArdle,**

*Senior Program Analyst, Office of Policy, Program and Legislative Initiatives.*

[FR Doc. 2019-27841 Filed 12-23-19; 8:45 am]

**BILLING CODE 4210-67-P**

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service**

**[FWS-R5-ES-2019-N168;  
FXES11130500000-201-FF05E00000]**

**Endangered and Threatened Species; Receipt of Recovery Permit Applications**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of permit applications; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct activities intended to enhance the propagation or survival of endangered or threatened species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

**DATES:** We must receive your written comments on or before January 27, 2020.

**ADDRESSES:** Use one of the following methods to request documents or submit comments. Requests and comments should specify the applicant name(s) and application number(s) (e.g., TE123456):

- *Email:* [permitsR5ES@fws.gov](mailto:permitsR5ES@fws.gov).
- *U.S. Mail:* Abby Gelb, Ecological Services, U.S. Fish and Wildlife Service, 300 Westgate Center Dr., Hadley, MA 01035.

**FOR FURTHER INFORMATION CONTACT:** Abby Gelb, 413-253-8212 (phone), or [permitsR5ES@fws.gov](mailto:permitsR5ES@fws.gov) (email). Individuals who are hearing or speech impaired may call the Federal Relay Service at 1-800-877-8339 for TTY assistance.

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service, invite the public to comment on applications for permits under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested permits would allow the applicants to conduct activities intended to promote recovery of species

<sup>1</sup> <https://www.bls.gov/oes/current/oes131111.htm>.

that are listed as endangered or threatened under the ESA.

### Background

With some exceptions, the ESA prohibits activities that constitute take of listed species unless a Federal permit is issued that allows such activity. The ESA's definition of "take" includes such activities as pursuing, harassing, trapping, capturing, or collecting in

addition to hunting, shooting, harming, wounding, or killing.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered or threatened species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. Our regulations implementing section 10(a)(1)(A) for these permits are found

at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

### Permit Applications Available for Review and Comment

We invite local, State, and Federal agencies; Tribes; and the public to comment on the following applications.

Application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE60415D .....	Mass Audubon Wellfleet Bay Wildlife Sanctuary, South Wellfleet, MA.	Kemp's ridley sea turtle ( <i>Lepidochelys kempii</i> ); Leatherback sea turtle ( <i>Dermochelys coriacea</i> ); Loggerhead sea turtle ( <i>Caretta caretta</i> ); Green sea turtle ( <i>Chelonia mydas</i> ).	Massachusetts .....	Stranding Response, Triage Rehabilitation, Transport, Necropsy.	Salvage, Capture, Collect..	New.
TE60419D .....	MERR Institute, Lewes, DE.	Kemp's ridley sea turtle ( <i>Lepidochelys kempii</i> ); Leatherback sea turtle ( <i>Dermochelys coriacea</i> ); Loggerhead sea turtle ( <i>Caretta caretta</i> ); Green sea turtle ( <i>Chelonia mydas</i> ).	Delaware .....	Stranding Response, Transport, Necropsy.	Salvage, Capture, Collect.	New.
TE60418D .....	Marine Mammal Stranding Center, Brigantine, NJ.	Kemp's ridley sea turtle ( <i>Lepidochelys kempii</i> ); Leatherback sea turtle ( <i>Dermochelys coriacea</i> ); Loggerhead sea turtle ( <i>Caretta caretta</i> ); Green sea turtle ( <i>Chelonia mydas</i> ).	New Jersey .....	Stranding Response, Rehabilitation, Transport, Necropsy, Release.	Salvage, Capture, Collect, Euthanize.	New.
TE60434D .....	Sea Turtle Recovery, Inc., West Orange, NJ.	Kemp's ridley sea turtle ( <i>Lepidochelys kempii</i> ); Leatherback sea turtle ( <i>Dermochelys coriacea</i> ); Loggerhead sea turtle ( <i>Caretta caretta</i> ); Green sea turtle ( <i>Chelonia mydas</i> ); Hawksbill sea turtle ( <i>Eretmochelys imbricata</i> ).	New Jersey .....	Rehabilitation, Transport, Necropsy, Release.	Collect, Euthanize ....	New.
TE60921D .....	Pittsburgh Zoo & PPG Aquarium, Pittsburgh, PA.	Kemp's ridley sea turtle ( <i>Lepidochelys kempii</i> ); Leatherback sea turtle ( <i>Dermochelys coriacea</i> ); Loggerhead sea turtle ( <i>Caretta caretta</i> ); Green sea turtle ( <i>Chelonia mydas</i> ); Hawksbill sea turtle ( <i>Eretmochelys imbricata</i> ).	Pennsylvania .....	Rehabilitation, Transport, Necropsy, Release.	Collect, Euthanize ....	New.
TE60928D .....	National Marine Life Center, Buzzards Bay, MA.	Kemp's ridley sea turtle ( <i>Lepidochelys kempii</i> ); Loggerhead sea turtle ( <i>Caretta caretta</i> ); Green sea turtle ( <i>Chelonia mydas</i> ).	Massachusetts .....	Rehabilitation, Transport, Necropsy, Release.	Collect, Euthanize ....	New.
TE60406D .....	Atlantic Marine Conservation Society, Hampton Bays, NY.	Kemp's ridley sea turtle ( <i>Lepidochelys kempii</i> ); Leatherback sea turtle ( <i>Dermochelys coriacea</i> ); Loggerhead sea turtle ( <i>Caretta caretta</i> ); Green sea turtle ( <i>Chelonia mydas</i> ).	New York .....	Stranding Response, Triage Rehabilitation, Transport, Satellite Tagging.	Salvage, Capture, Wound, Collect.	New.
TE60422D .....	Sea Research Foundation, Inc, dba Mystic Aquarium, Mystic, CT.	Kemp's ridley sea turtle ( <i>Lepidochelys kempii</i> ); Leatherback sea turtle ( <i>Dermochelys coriacea</i> ); Loggerhead sea turtle ( <i>Caretta caretta</i> ); Green sea turtle ( <i>Chelonia mydas</i> ); Hawksbill sea turtle ( <i>Eretmochelys imbricata</i> ).	Connecticut .....	Stranding Response, Rehabilitation, Transport, Necropsy, Release.	Salvage, Capture, Collect, Euthanize.	New.
TE61005D .....	Mark J. Hepner, Buckhannon, WV.	Rusty patched bumble bee ( <i>Bombus affinis</i> ).	West Virginia .....	Presence/absence survey, Research.	Capture, Collect .....	New.



### Public Availability of Comments

Written comments we receive become part of the administrative 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 that 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. Moreover, 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.

### Next Steps

If we decide to issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**.

### Authority

Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

### Martin Miller,

*Chief, Division of Endangered Species, Ecological Services, Northeast Region.*

[FR Doc. 2019-27727 Filed 12-23-19; 8:45 am]

**BILLING CODE 4333-15-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[LLNML00000 L12200000.DF0000 20XL1109AF]

### Notice of Public Meeting for the Las Cruces District Resource Advisory Council Meeting, New Mexico

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of public meeting.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act, the Bureau of Land Management's (BLM) Las Cruces District Resource Advisory Council (RAC) will meet as indicated below.

**DATES:** The RAC will hold a full-day field trip and a half-day public meeting on January 22 and 23, 2020, from 9:00 a.m. to 12:00 p.m. The public comment period is scheduled for 11:30 a.m. on January 23.

**ADDRESSES:** The field trip will originate and end at the BLM Las Cruces District Office, 1800 Marquess Street, Las Cruces, NM 88001. The meeting will be held at the same address. The public may send written comments to the RAC at this same address, Attn: Bill Childress. In order to be considered during the meeting, comments must be received no later than January 17, 2020.

**FOR FURTHER INFORMATION CONTACT:** Designated Federal Official Bill Childress, BLM Las Cruces District, 1800 Marquess Street, Las Cruces, NM 88001, telephone: 575-525-4421, email: [wchildre@blm.gov](mailto:wchildre@blm.gov). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339, to contact Mr. Childress during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The 10-member Las Cruces District RAC advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in the Las Cruces District.

A field trip will take RAC members to several areas in the District related to the Rincon Watershed Restoration Project and ongoing collaborative efforts. The planned meeting agenda includes updates on current and proposed land/realty, planning, and energy projects in the Las Cruces District, including an update on the American Magnesium Mining Plan of Operation. In addition, the RAC will discuss the field trip points about the Rincon Watershed Restoration Project.

The field trip and meeting are open to the public. Persons wishing to attend the field trip will need to provide their own transportation. In addition, persons wishing to make comments during the public comment period should register in person with the BLM by 11:00 a.m. on the meeting day, at the meeting location. Depending on the number of persons wishing to comment, the length of comments may be limited.

**Public Disclosure of Comments:** Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 CFR 1784.4-1)

**Timothy R. Spisak,**

*BLM New Mexico State Director.*

[FR Doc. 2019-27689 Filed 12-23-19; 8:45 am]

**BILLING CODE 4310-FB-P**

## DEPARTMENT OF THE INTERIOR

### National Indian Gaming Commission

### Submission of Information Collections Under the Paperwork Reduction Act

**AGENCY:** National Indian Gaming Commission, Interior.

**ACTION:** Second notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the National Indian Gaming Commission (NIGC or Commission) is announcing its submission, concurrently with the publication of this notice or soon thereafter, of the following information collection requests to the Office of Management and Budget (OMB) for review and approval. The Commission is seeking comments on the renewal of information collections for the following activities: Compliance and enforcement actions under the Indian Gaming Regulatory Act as authorized by OMB Control Number 3141-0001; tribal gaming ordinance approvals, background investigations, and issuance of licenses as authorized by OMB Control Number 3141-0003; National Environmental Policy Act submissions as authorized by OMB Control Number 3141-0006; and issuance to tribes of certificates of self-regulation for class II gaming as authorized by OMB Control Number 3141-0008. These information collections all expire on January 31, 2020.

**DATES:** The OMB has up to 60 days to approve or disapprove the information collection requests, but may respond after 30 days. Therefore, public comments should be submitted to OMB by no later than January 27, 2020 in order to be assured of consideration.

**ADDRESSES:** Submit comments directly to OMB's Office of Information and Regulatory Affairs, Attn: Policy Analyst/Desk Officer for the National Indian Gaming Commission. Comments can also be emailed to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov); include reference to "NIGC PRA Renewals" in the subject line.

**FOR FURTHER INFORMATION CONTACT:** For further information, including copies of the proposed collections of information and supporting documentation, contact Tim Osumi at (202) 632-7054; fax (202)

632–7066 (not toll-free numbers). You may also review these information collection requests by going to <<http://www.reginfo.gov>> (Information Collection Review, Currently Under Review, Agency: National Indian Gaming Commission).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Abstract**

The gathering of this information is in keeping with the purposes of the Indian Gaming Regulatory Act of 1988 (IGRA or the Act), Public Law 100–497, 25 U.S.C. 2701, *et seq.*, which include: Providing a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments; ensuring that the Indian tribe is the primary beneficiary of the gaming operation; and declaring that the establishment of independent federal regulatory authority for gaming on Indian lands, the establishment of federal standards for gaming on Indian lands, and the establishment of the Commission, are necessary to meet congressional concerns regarding gaming and to protect such gaming as a means of generating tribal revenue. 25 U.S.C. 2702. The Act established the Commission and laid out a comprehensive framework for the regulation of gaming on Indian lands.

##### **II. Data**

*Title:* Indian Gaming Compliance and Enforcement.

*OMB Control Number:* 3141–0001.

*Brief Description of Collection:*

Although IGRA places primary responsibility with the tribes for regulating their gaming activities, 25 U.S.C. 2706(b) directs the Commission to monitor class II gaming conducted on Indian lands on a continuing basis. Amongst other actions necessary to carry out the Commission's statutory duties, the Act authorizes the Commission to access and inspect all papers, books, and records relating to gross revenues of a gaming operation. The Act also requires tribes to provide the Commission with annual independent audits of their gaming operations, including audits of all contracts in excess of \$25,000. 25 U.S.C. 2710(b)(2)(C), (D); 2710(d)(1)(A)(ii). The Act also authorizes the Commission to “promulgate such regulations and guidelines as it deems appropriate to implement” IGRA. 25 U.S.C. 2706(b)(10). Part 571 of title 25, Code of Federal Regulations, implements these statutory requirements.

Section 571.7(a) requires Indian gaming operations to keep/maintain

permanent books of account and records sufficient to establish the amount of gross and net income, deductions and expenses, receipts and disbursements, and other relevant financial information. Section 571.7(c) requires that these records be kept for at least five years. Under § 571.7(b), the Commission may require a gaming operation to submit statements, reports, accountings, and specific records that will enable the NIGC to determine whether or not such operation is liable for fees payable to the Commission (and in what amount). Section 571.7(d) requires a gaming operation to keep copies of all enforcement actions that a tribe or a state has taken against the operation.

Section 571.12 requires tribes to prepare comparative financial statements covering all financial activities of each class II and class III gaming operation on the tribe's Indian lands, and to engage an independent certified public accountant to provide an annual audit of the financial statements of each gaming operation. Section 571.13 requires tribes to prepare and submit to the Commission two paper copies or one electronic copy of the financial statements and audits, together with management letter(s) and other documented auditor communications and/or reports as a result of the audit, setting forth the results of each fiscal year. The submission must be sent to the Commission within 120 days after the end of the fiscal year of each gaming operation, including when a gaming operation changes its fiscal year or when gaming ceases to operate. Section 571.14 requires tribes to reconcile quarterly fee reports with audited financial statements and to keep/maintain this information to be available to the NIGC upon request in order to facilitate the performance of compliance audits.

This information collection is mandatory and allows the Commission to fulfill its statutory responsibilities under IGRA to regulate gaming on Indian lands.

*Respondents:* Indian tribal gaming operations.

*Estimated Number of Respondents:* 723.

*Estimated Annual Responses:* 723.

*Estimated Time per Response:*

Depending on the type of information collection, the range of time can vary from 25 burden hours to 2,250 burden hours for one item.

*Frequency of Responses:* 1 per year.

*Estimated Total Annual Burden Hours on Respondents:* 127,489.

*Estimated Total Non-hour Cost Burden:* \$35,033,688.

*Title:* Approval of Class II and Class III Ordinances, Background Investigations, and Gaming Licenses.

*OMB Control Number:* 3141–0003.

*Brief Description of Collection:* The Act sets standards for the regulation of gaming on Indian lands, including requirements for the approval or disapproval of tribal gaming ordinances. Specifically, § 2705(a)(3) requires the NIGC Chair to review all class II and class III tribal gaming ordinances. Section 2710 sets forth the specific requirements for the tribal gaming ordinances, including the requirement that there be adequate systems in place: To cause background investigations to be conducted on individuals in key employee and primary management official (PMO) positions (§ 2710(b)(2)(F)(i)); and to provide two prompt notifications to the Commission, including one containing the results of the background investigations before the issuance of any gaming licenses, and the other one of the issuance of such gaming licenses to key employees and PMOs (§ 2710(b)(2)(F)(ii)). In addition, § 2710(d)(2)(D)(ii) requires tribes who have, in their sole discretion, revoked any prior class III ordinance or resolution to submit a notice of such revocation to the NIGC Chair. The Act also authorizes the Commission to “promulgate such regulations and guidelines as it deems appropriate to implement” IGRA. 25 U.S.C. 2706(b)(10). Parts 519, 522, 556, and 558 of title 25, Code of Federal Regulations, implement these statutory requirements.

Sections 519.1 and 519.2 require a tribe, management contractor, and a tribal operator to designate an agent for service of process, and § 522.2(g) requires it to be submitted by written notification to the Commission. Section 522.2(a) requires a tribe to submit a copy of an ordinance or resolution certified as authentic, and that meets the approval requirements in 25 CFR 522.4(b) or 522.6. Sections 522.10 and 522.11 require tribes to submit, respectively, an ordinance for the licensing of individually owned gaming operations other than those operating on September 1, 1986, and for the licensing of individually owned gaming operations operating on September 1, 1986. Section 522.3(a) requires a tribe to submit an amendment to an ordinance or resolution within 15 days after adoption of such amendment.

Section 522.2(b)–(h) requires tribes to submit to the Commission: (i) Procedures that the tribe will employ in conducting background investigations

on key employees and PMOs, and to ensure that key employees and PMOs are notified of their rights under the Privacy Act; (ii) procedures that the tribe will use to issue licenses to key employees and PMOs; (iii) copies of all tribal gaming regulations; (iv) a copy of any applicable tribal-state compact or procedures as prescribed by the Secretary of the Interior; (v) procedures for resolving disputes between the gaming public and the tribe or the management contractor; and (vi) the identification of the law enforcement agent that will take fingerprints and the procedures for conducting criminal history checks, including a check of criminal history records information maintained by the Federal Bureau of Investigation. Section 522.3(b) requires a tribe to submit any amendment to these submissions within 15 days after adoption of such amendment. Section 522.12(a) requires a tribe to submit to the Commission a copy of an authentic ordinance revocation or resolution.

Section 556.4 requires tribes to mandate the submission of the following information from applicants for key employee and PMO positions: (i) Name(s), Social Security number(s), date and place of birth, citizenship, gender, and languages; (ii) present and past business and employment positions, ownership interests, business and residential addresses, and driver's license number(s); (iii) the names and addresses of personal references; (iv) current business and personal telephone numbers; (v) a description of any existing and previous business relationships with Indian tribes, including ownership interests; (vi) a description of any existing and previous business relationships with the gaming industry generally, including ownership interests; (vii) the name and address of any licensing/regulatory agency with which the person has filed an application for a license or permit related to gaming, even if the license or permit was not granted; (viii) for each ongoing felony prosecution or conviction, the charge, the name and address of the court, and the date and disposition, if any; (ix) for each misdemeanor conviction or ongoing prosecution within the past 10 years, the name and address of the court and the date and disposition; (x) for each criminal charge in the past 10 years that is not otherwise listed, the criminal charge, the name and address of the court, and the date and disposition; (xi) the name and address of any licensing/regulatory agency with which the person has filed an application for an occupational license or permit, even if

the license or permit was not granted; (xii) a photograph; and (xiii) fingerprints. Sections 556.2 and 556.3 require tribes to place a specific Privacy Act notice on their key employee and PMO applications, and to warn applicants regarding the penalty for false statements by also placing a specific false statement notice on their applications.

Sections 556.6(a) and 558.3(e) require tribes to keep/maintain the individuals' complete application files, investigative reports, and eligibility determinations during their employment and for at least three years after termination of their employment. Section 556.6(b)(1) requires tribes to create and maintain an investigative report on each background investigation that includes: (i) The steps taken in conducting a background investigation; (ii) the results obtained; (iii) the conclusions reached; and (iv) the basis for those conclusions. Section 556.6(b)(2) requires tribes to submit, no later than 60 days after an applicant begins work, a notice of results of the applicant's background investigation that includes: (i) The applicant's name, date of birth, and Social Security number; (ii) the date on which the applicant began or will begin work as a key employee or PMO; (iii) a summary of the information presented in the investigative report; and (iv) a copy of the eligibility determination.

Section 558.3(b) requires a tribe to notify the Commission of the issuance of PMO and key employee licenses within 30 days after such issuance. Section 558.3(d) requires a tribe to notify the Commission if the tribe does not issue a license to an applicant, and requires it to forward copies of its eligibility determination and notice of results to the Commission for inclusion in the Indian Gaming Individuals Record System. Section 558.4(e) requires a tribe, after a gaming license revocation hearing, to notify the Commission of its decision to revoke or reinstate a gaming license within 45 days of receiving notification from the Commission that a specific individual in a PMO or key employee position is not eligible for continued employment.

These information collections are mandatory and allow the Commission to carry out its statutory duties.

*Respondents:* Indian tribal gaming operations.

*Estimated Number of Respondents:* 1,626.

*Estimated Annual Responses:* 220,461.

*Estimated Time per Response:* Depending on the type of information collection, the range of time can vary

from 3.0 burden hour to 3,807 burden hours for one item.

*Frequency of Response:* Varies.

*Estimated Total Annual Burden*

*Hours on Respondents:* 972,377.

*Estimated Total Non-hour Cost Burden:* \$1,287,967.

*Title:* NEPA Compliance.

*OMB Control Number:* 3141-0006.

*Brief Description of Collection:* The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, and the Council on Environmental Quality's (CEQ) implementing regulations, require federal agencies to prepare (or cause to be prepared) environmental documents for agency actions that may have a significant impact on the environment. Under NEPA, an Environmental Assessment (EA) must be prepared when the agency action cannot be categorically excluded, or the environmental consequences of the agency action will not result in a significant impact or the environmental impacts are unclear and need to be further defined. An Environmental Impact Statement (EIS) must be prepared when the agency action will likely result in significant impacts to the environment.

Amongst other actions necessary to carry out the Commission's statutory duties, the Act requires the NIGC Chair to review and approve third-party management contracts that involve the operation of tribal gaming facilities. 25 U.S.C. 2711. The Commission has taken the position that the NEPA process is triggered when a tribe and a potential contractor seek approval of a management contract. Normally, an EA or EIS and its supporting documents are prepared by an environmental consulting firm and submitted to the Commission by the tribe. In the case of an EA, the Commission independently evaluates the NEPA document, verifies its content, and assumes responsibility for the accuracy of the information contained therein. In the case of an EIS, the Commission directs and is responsible for the preparation of the NEPA document, but the tribe or potential contractor is responsible for paying for the preparation of the document. The information collected includes, but is not limited to, maps, charts, technical studies, correspondence from other agencies (federal, tribal, state, and local), and comments from the public. These information collections are mandatory and allow the Commission to carry out its statutory duties.

*Respondents:* Tribal governing bodies, management contractors.

*Estimated Number of Respondents:* 7.

*Estimated Annual Responses:* 7.

*Estimated Time per Response:*

Depending on whether the response is an EA or an EIS, the range of time can vary from 2 burden hours to 30 burden hours for one item.

*Frequency of Response:* Varies.

*Estimated Total Annual Burden*

*Hours on Respondents:* 33.

*Estimated Total Non-hour Cost Burden:* \$494,132.

*Title:* Issuance of Certificates of Self-Regulation to Tribes for Class II Gaming.

*OMB Control Number:* 3141-0008.

*Brief Description of Collection:* The Act sets the standards for the regulation of Indian gaming, including a framework for the issuance of certificates of self-regulation for class II gaming operations to tribes that meet certain qualifications. Specifically, 25 U.S.C. 2710(c) authorizes the Commission to issue a certificate of self-regulation if it determines that a tribe has: (i) Conducted its gaming activity in a manner that has resulted in an effective and honest accounting of all revenues, in a reputation for safe, fair, and honest operation of the activity, and has been generally free of evidence of criminal or dishonest activity; (ii) adopted and is implementing adequate systems for the accounting of all revenues from the activity, for the investigation, licensing, and monitoring of all employees of the gaming activity, and for the investigation, enforcement, and prosecution of violations of its gaming ordinance and regulations; and (iii) conducted the operation on a fiscally and economically sound basis. The Act also authorizes the Commission to “promulgate such regulations and guidelines as it deems appropriate to implement” IGRA. 25 U.S.C. 2706(b)(10). Part 518 of title 25, Code of Federal Regulations, implements these statutory requirements.

Section 518.3(e) requires a tribe’s gaming operation(s) and the tribal regulatory body (TRB) to have kept all records needed to support the petition for self-regulation for the three years immediately preceding the date of the petition submission. Section 518.4 requires a tribe petitioning for a certificate of self-regulation to submit the following to the Commission, accompanied by supporting documentation: (i) Two copies of a petition for self-regulation approved by the tribal governing body and certified as authentic; (ii) a description of how the tribe meets the eligibility criteria in § 518.3; (iii) a brief history of each gaming operation, including the opening dates and periods of voluntary or involuntary closure(s); (iv) a TRB

organizational chart; (v) a brief description of the criteria that individuals must meet before being eligible for employment as a tribal regulator; (vi) a brief description of the process by which the TRB is funded, and the funding level for the three years immediately preceding the date of the petition; (vii) a list of the current regulators and TRB employees, their complete resumes, their titles, the dates that they began employment, and if serving limited terms, the expiration date of such terms; (viii) a brief description of the accounting system(s) at the gaming operation that tracks the flow of the gaming revenues; (ix) a list of the gaming activity internal controls at the gaming operation(s); (x) a description of the recordkeeping system(s) for all investigations, enforcement actions, and prosecutions of violations of the tribal gaming ordinance or regulations, for the three-year period immediately preceding the date of the petition; and (xi) the tribe’s current set of gaming regulations, if not included in the approved tribal gaming ordinance. Section 518.10 requires each Indian gaming tribe that has been issued a certificate of self-regulation to submit to the Commission the following information by April 15th of each year following the first year of self-regulation, or within 120 days after the end of each gaming operation’s fiscal year: (i) An annual independent audit; and (ii) a complete resume for all TRB employees hired and licensed by the tribe subsequent to its receipt of a certificate of self-regulation.

Submission of the petition and supporting documentation is voluntary. Once a certificate of self-regulation has been issued, the submission of certain other information is mandatory.

*Respondents:* Tribal governments.

*Estimated Number of Respondents:* 11.

*Estimated Annual Responses:* 11.

*Estimated Time per Response:*

Depending on the information collection, the range of time can vary from 1 burden hour to 284 burden hours for one item.

*Frequency of Responses:* One per year.

*Estimated Total Annual Burden*

*Hours on Respondents:* 257.

*Estimated Total Non-hour Cost Burden:* \$203,825.

### III. Request for Comments

Regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act, require that interested members of the public have an opportunity to comment on an agency’s information collection and

recordkeeping activities. See 5 CFR 1320.8(d). To comply with the public consultation process, the Commission previously published its 60-day notice of its intent to submit the above-mentioned information collection requests to OMB for approval. See 81 FR 36322 (June 6, 2016). The Commission did not receive any comments in response to that notice and request for comments.

The Commission will submit the preceding requests to OMB to renew its approval of the information collections. The Commission is requesting a three-year term of approval for each of these information collection and recordkeeping activities.

You are again invited to comment on these collections concerning: (i) Whether the collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (ii) the accuracy of the agency’s estimates of the burdens (including the hours and cost) of the proposed collections of information, including the validity of the methodologies and assumptions used; (iii) ways to enhance the quality, utility, and clarity of the information to be collected; (iv) ways to minimize the burdens of the information collections on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or forms of information technology. It should be noted that as a result of the Commission reviewing its own records that track the number of tribal and/or management contractor submissions and after surveying tribal gaming operators, tribal gaming regulatory authorities, and/or management contractors regarding the Commission’s submission and recordkeeping requirements, many of the previously published burden estimates have changed since the publication of the Commission’s 60-day notice on July 1, 2019. If you wish to comment in response to this notice, you may send your comments to the office listed under the **ADDRESSES** section of this notice by January 27, 2020.

Comments submitted in response to this second notice will be summarized and become a matter of public record. The NIGC will not request nor sponsor a collection of information, and you need not respond to such a request, if there is no valid OMB Control Number.

Dated: December 19, 2019.

**Christinia Thomas,**

*Chief of Staff (Acting).*

[FR Doc. 2019–27839 Filed 12–23–19; 8:45 am]

**BILLING CODE 7565–01–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NRNHL–DTS#–29448;  
PPWOCRADIO, PCU00RP14.R50000]**

### National Register of Historic Places; Notification of Pending Nominations and Related Actions

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The National Park Service is soliciting comments on the significance of properties nominated before November 30, 2019, for listing or related actions in the National Register of Historic Places.

**DATES:** Comments should be submitted by January 10, 2020.

**ADDRESSES:** Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW, MS 7228, Washington, DC 20240.

**SUPPLEMENTARY INFORMATION:** The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before November 30, 2019. Pursuant to Section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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.

Nominations submitted by State or Tribal Historic Preservation Officers:

### CALIFORNIA

#### Los Angeles County

Eastern Star Home, 11725 Sunset Blvd., Los Angeles, SG100004858

#### San Francisco County

Japanese YWCA, (Asian Americans and Pacific Islanders in California, 1850–1970

MPS), 1830 Sutter St., San Francisco, MP100004868

### MINNESOTA

#### Clay County

Moorhead Storage and Transfer Company Warehouse, 1010 Center Ave., Moorhead, SG100004863

#### Kandiyohi County

Sperry, Albert H. and Jennie C., House, 228 Porto Rico St., Willmar, SG100004861

#### Waseca County

Waseca Commercial Historic District, Centering on State St. between Third Ave. NE/NW and Second Ave. SE/SW; Roughly Bounded by Second St. NW/SW and the Canadian Pacific RR Tracks, Waseca, SG100004864

### NEW HAMPSHIRE

#### Sullivan County

Langdon Meeting House, Five Walker Hill Rd., Langdon, SG100004859

### TEXAS

#### Galveston County

Galveston, Houston & Henderson (GH&H) Freight Depot, 325 33rd St., Galveston, SG100004866

An owner objection was received for the following resource:

### CALIFORNIA

#### San Francisco County

Gran Oriente Filipino Hotel, (Asian Americans and Pacific Islanders in California, 1850–1970 MPS), 104–106 South Park St., San Francisco, MP100004869

A request for removal has been made for the following resource:

### MINNESOTA

#### Wright County

Mealey, Tobias G., House, Territorial Rd., Monticello, OT76001082

Additional documentation has been received for the following resources:

### ILLINOIS

#### Winnebago County

Haight Village Historic District (Additional Documentation), Roughly bounded by Walnut & Kishwaukee Sts., Chicago Northwestern RR tracks & Madison St., Rockford, AD87002044

### MINNESOTA

#### Wright County

Akerlund, August, Photographic Studio (Additional Documentation), 390 Broadway Ave., Cokato, AD77000777 (Authority: Section 60.13 of 36 CFR part 60)

Dated: December 2, 2019.

**Julie H. Earnstein,**

*Supervisory Archeologist, National Register of Historic Places/National Historic Landmarks Program.*

[FR Doc. 2019–27737 Filed 12–23–19; 8:45 am]

**BILLING CODE 4312–52–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NRNHL–DTS#–29477;  
PPWOCRADIO, PCU00RP14.R50000]**

### National Register of Historic Places; Notification of Pending Nominations and Related Actions

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The National Park Service is soliciting comments on the significance of properties nominated before December 7, 2019, for listing or related actions in the National Register of Historic Places.

**DATES:** Comments should be submitted by January 10, 2020.

**ADDRESSES:** Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW, MS 7228, Washington, DC 20240.

**SUPPLEMENTARY INFORMATION:** The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before December 7, 2019. Pursuant to Section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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.

Nominations submitted by State or Tribal Historic Preservation Officers:

### HAWAII

#### Hawaii County

Awong Brothers Store, (Honoka'a Town, Hawaii MPS), 45–3600 Mamane St., Honoka'a, MP100004873

Honoka's Public Library, (Honoka'a Town, Hawaii MPS), 45-3380 Mamane St., Bldg. # 3, Honoka'a, MP100004874

## MISSOURI

### St. Louis Independent City

United Railways Spring Avenue Substation-Trouble Station, 2423 North Spring Ave., St. Louis, SG100004876

Standard Stamping Company Factory, 2000 North Broadway, St. Louis, SG100004877

## OHIO

### Montgomery County

Summit Street Young Women's Christian Association (YWCA), (Twentieth-Century African American Civil Rights Movement in Ohio), 236 South Paul Laurence Dunbar St., Dayton, MP100004870

### Summit County

Camp Crowell Hilaka Historic District, 4374 Broadview Rd., Richfield, SG100004871

## UTAH

### Summit County

Park City Main Street Historic District (Boundary Increase II), Main St., Park City, BC100004881

### Tooele County

Kirk Hotel, The, 57 West Vine St., Tooele, SG100004880

### Washington County

Toquerville Hall, 212 North Toquerville Blvd., Toquerville, SG100004878

### Weber County

Ogden Fire Station No. 2, 1585 25th St., Ogden, SG100004879

Additional documentation has been received for the following resource:

## UTAH

### Summit County

Park City Main Street Historic District (Additional Documentation), Main St., Park City, AD79002511

Nominations submitted by Federal Preservation Officers:

The State Historic Preservation Officer reviewed the following nominations and responded to the Federal Preservation Officer within 45 days of receipt of the nominations and supports listing the properties in the National Register of Historic Places.

## CALIFORNIA

### Ventura County

Burro Flats Site (Boundary Decrease), Address Restricted, Canoga Park vicinity, BC100004883

Burro Flats Site (Additional Documentation), Address Restricted, Canoga Park vicinity, AD76000539

**Authority:** Section 60.13 of 36 CFR part 60.

Dated: December 9, 2019.

**Julie H. Earnstein,**

*Supervisory Archeologist, National Register of Historic Places/National Historic Landmarks Program.*

[FR Doc. 2019-27742 Filed 12-23-19; 8:45 am]

**BILLING CODE 4312-52-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-1465 (Preliminary)]

### 4th Tier Cigarettes From Korea; Institution of Antidumping Duty Investigation and Scheduling of Preliminary Phase Investigation

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping duty investigation No. 731-TA-1465 (Preliminary) pursuant to the Tariff Act of 1930 ("the Act") to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of 4th tier cigarettes from Korea, provided for in subheading 2402.20.80 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce ("Commerce") extends the time for initiation, the Commission must reach a preliminary determination in antidumping duty investigations in 45 days, or in this case by February 3, 2020. The Commission's views must be transmitted to Commerce within five business days thereafter, or by February 10, 2020.

**DATES:** December 18, 2019.

### FOR FURTHER INFORMATION CONTACT:

Lawrence Jones ((202) 205-3358), 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://](https://www.usitc.gov)

[www.usitc.gov](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>.

### SUPPLEMENTARY INFORMATION:

**Background.**—This investigation is being instituted, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), in response to a petition filed on December 18, 2019, by the Coalition Against Korean Cigarettes ("CAKC"), the coalition members are Xcaliber International, Pryor, Oklahoma and Cheyenne International, Grover, North Carolina.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

**Participation in the investigation and public service list.**—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty investigation. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

**Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.**—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

**Conference.**—The Commission's Director of Investigations has scheduled a conference in connection with this investigation for 9:30 a.m. on Wednesday, January 8, 2020, at the U.S. International Trade Commission

Building, 500 E Street SW, Washington, DC. Requests to appear at the conference should be emailed to [preliminaryconferences@usitc.gov](mailto:preliminaryconferences@usitc.gov) (DO NOT FILE ON EDIS) on or before Monday, January 6, 2020. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

**Written submissions.**—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before January 13, 2020, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference. 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](https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf), elaborates upon the Commission's procedures with respect to filings.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: December 18, 2019.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2019-27722 Filed 12-23-19; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1118]

### Certain Movable Barrier Operator Systems and Component Thereof; Notice of Request for Statements on the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the presiding administrative law judge ("ALJ") has issued an Initial Determination on Violation of Section 337 and Recommended Determination on Remedy and Bond in the above-captioned investigation. The Commission is soliciting comments on public interest issues raised by the recommended relief, should the Commission find a violation. This notice is soliciting public interest comments from the public only. Parties are to file public interest submissions pursuant to Commission rules.

**FOR FURTHER INFORMATION CONTACT:** Carl Bretscher, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2382. 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 (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's Electronic Docket Information System ("EDIS") (<https://edis.usitc.gov>). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** Section 337 of the Tariff Act of 1930, as amended ("Section 337"), provides that if the Commission finds a violation, it shall direct that the concerned articles be excluded from entry into the United States, unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds such articles should

not be excluded from entry. 19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is soliciting comments on public interest issues raised by the recommended relief should the Commission find a violation, specifically, whether the Commission should issue: (1) A limited exclusion order ("LEO") against infringing movable barrier operator systems and components thereof that are combined into infringing products after importation that are imported into the United States, sold for importation, or sold in the United States after importation by respondents Nortek, Inc. of Providence, Rhode Island; Nortek Security & Control, LLC of Carlsbad, California; and GTO Access Systems of Tallahassee, Florida (collectively, "Nortek"); and (2) cease and desist orders ("CDO") against the Nortek respondents.

The Commission is interested in developing the record on the public interest in this investigation. The parties are to file their public interest submissions pursuant to 19 CFR 210.50(a)(4). Members of the public are hereby invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ's Recommended Determination on Remedy and Bond that issued in this investigation on November 25, 2019. Comments should address whether issuance of an LEO or CDO in this investigation, if a violation is found, would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

- (i) Explain how the articles potentially subject to the recommended orders are used in the United States;
- (ii) Identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;
- (iii) Identify like or directly competitive articles that complainants, their licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;
- (iv) Indicate whether complainants, complainants' licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the recommended exclusion order and/or a cease and



desist order within a commercially reasonable time; and

(v) Explain how the LEO and CDO would impact consumers in the United States.

Written submissions from the public must be filed no later than the close of business on Friday, January 17, 2020.

Persons filing written submissions must file the original document electronically on or before the deadline stated above and submit eight (8) true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-1118") in a prominent place on the cover page and/or first page. (See *Handbook for Electronic Filing Procedures*, [https://www.usitc.gov/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf)). Persons with questions regarding filing should contact the Secretary (202-205-2000). Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: December 18, 2019.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2019-27712 Filed 12-23-19; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1068]

### Certain Microfluidic Devices; Notice of the Commission's Final Determination Finding a Violation of Section 337; Issuance of a Limited Exclusion Order and Cease and Desist Order; Termination of the Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission ("Commission") has found a violation of section 337 in the above-captioned investigation. The Commission has determined to issue tailored remedial orders that permit researchers to continue their work in ongoing research projects using the infringing microfluidic devices as explained in the accompanying opinion. These remedial orders include: (1) A limited exclusion order ("LEO") prohibiting the unlicensed entry of infringing microfluidic devices covered by certain claims of U.S. Patent Nos. 9,500,664 ("the '664 patent"); 9,636,682 ("the '682 patent"); and 9,649,635 ("the '635 patent") that are manufactured abroad for or on behalf of, or imported by or on behalf of 10X Genomics, Inc. of Pleasanton, California ("10X") or any of its affiliated companies, parents, subsidiaries, or other related business entities, or its successors or assigns; and (2) a cease and desist order ("CDO") directed against 10X and its affiliated companies, parents, subsidiaries, or other related business entities, or its successors or assigns. This investigation is terminated.

**FOR FURTHER INFORMATION CONTACT:** Ron Traud, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202-205-3427. 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, telephone 202-205-1810.

**SUPPLEMENTARY INFORMATION:** On September 6, 2017, the Commission instituted this investigation based on a complaint filed by Bio-Rad Laboratories, Inc. of Hercules, California; and Lawrence Livermore National Security, LLC of Livermore, California. 82 FR 42115 (Sept. 6, 2017). The complaint (and supplement thereto) alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337") based upon the importation into the United States, the sale for importation, or the sale within the United States after importation of certain microfluidic devices by reason of infringement of one or more claims of the '664 patent, the '682 patent, the '635 patent, and U.S. Patent Nos. 9,089,844 ("the '844 patent") and 9,126,160 ("the '160 patent"). *Id.* The Commission's notice of investigation named as the sole respondent 10X. *Id.* The Office of Unfair Import Investigations was also named as a party to this investigation. *Id.*

Prior to the issuance of the final initial determination ("ID") by the presiding administrative law judge (the "ALJ"), the investigation was terminated as to the '844 patent in its entirety and as to certain claims of the '160, '664, '682, and '635 patents. See Order No. 12, *unreviewed*, Notice (Mar. 6, 2018); Order No. 16, *unreviewed*, Notice (Mar. 26, 2018); Order No. 19, *unreviewed*, Notice (Apr. 16, 2018); Order No. 29, *unreviewed*, Notice (June 1, 2018). The ALJ's final ID addressed the following claims: (i) Claim 20 of the '160 patent; (ii) claims 1, 2, 14, and 15 of the '664 patent; (iii) claims 14, 16, and 17 of the '682 patent; and (iv) claims 1, 13, 14, 16, and 21 of the '635 patent.

On September 20, 2018, the ALJ issued the final ID, which finds 10X in violation of section 337 as to the remaining asserted claims of the '664, '682 patent, and '635 patents. On September 28, 2018, the ALJ issued her recommendations on remedy, bond, and the public interest. The ALJ recommended that the Commission issue a limited exclusion order directed to 10X's infringing products and a cease and desist order directed to 10X. The ALJ also recommended a bond of 100 percent of entered value during the



period of Presidential review. *See* 19 U.S.C. 1337(j)(3).

The private parties petitioned for the Commission to review certain of the ALJ's determinations. On December 4, 2018, after considering the parties' petitions and responses thereto, the Commission determined to review the following issues:

(1) Whether 10X indirectly infringes the '682 and '635 patents;

(2) Whether 10X's Chip GB infringes claims 1 and 14 of the '664 patent; and

(3) Whether 10X's Chip SE infringes claim 20 of the '160 patent and claim 1 of the '664 patent.

83 FR 63672 (Dec. 11, 2018). The Commission thereafter requested briefing only on remedy, the public interest, and bonding.

On June 10, 2019, the Commission requested supplemental briefing on the public interest. 84 FR 27802 (June 14, 2019); 84 FR 31912 (July 3, 2019) (modifying briefing schedule).

Thereafter, the parties, members of the public, and a government agency submitted public interest briefing.

On review, and consistent with the simultaneously-issued Commission opinion, the Commission has determined to affirm with modification the final ID's finding of a violation of section 337 with respect to claims 1, 2, 14, and 15 of the '664 patent, claims 14, 16, and 17 of the '682 patent, and claims 1, 13, 14, 16, and 21 of the '635 patent.

The Commission has further determined that the public interest factors enumerated in subsections (d)(I) and (f)(1) (19 U.S.C. 1337(d)(I), (f)(1)) do not preclude issuance of the above-referenced remedial orders. However, the Commission has determined to tailor the LEO and CDO to allow research studies using the infringing articles at issue as of the date of issuance of the remedial orders to continue to use those infringing articles.

The Commission has determined to impose a bond of three (3) percent of entered value of the covered products during the period of Presidential review (19 U.S.C. 1337(j)).

This investigation is terminated.

This action is taken under the authority of 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: December 18, 2019.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2019-27759 Filed 12-23-19; 8:45 am]

BILLING CODE 7020-02-P

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. DEA-562]

#### Bulk Manufacturer of Controlled Substances Application: Bulk Manufacturers of Marihuana: Stanley Brothers Bio Tec Inc.

**ACTION:** Notice of application.

**SUMMARY:** The Drug Enforcement Administration (DEA) is providing notice of an application it has received from an entity applying to be registered to manufacture in bulk basic classes of controlled substances listed in schedule I. Prior to making decisions on this and other pending applications, DEA intends to promulgate regulations that govern the program of growing marihuana for scientific and medical research under DEA registration.

**DATES:** Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before February 24, 2020.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW 8701 Morrisette Drive, Springfield, Virginia 22152. To ensure proper handling of comments, please reference Docket No. DEA-562 in all correspondence, including attachments.

**SUPPLEMENTARY INFORMATION:** The Controlled Substances Act (CSA) prohibits the cultivation and distribution of marihuana except by persons who are registered under the CSA to do so for lawful purposes. In accordance with the purposes specified in 21 CFR 1301.33(a), DEA is providing notice that the entity identified below has applied for registration as a bulk manufacturer of schedule I controlled substances. In response, registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections of the requested registration, as provided in this notice. This notice does not constitute any evaluation or determination of the merits of the application submitted.

The applicant plans to manufacture bulk active pharmaceutical ingredients (APIs) for product development and distribution to DEA registered researchers. If its application for registration is granted, the registrant would not be authorized to conduct other activity under this registration aside from those coincident activities

specifically authorized by DEA regulations. DEA will evaluate the application for registration as a bulk manufacturer for compliance with all applicable laws, treaties, and regulations and to ensure adequate safeguards against diversion are in place.

As this applicant has applied to become registered as a Bulk Manufacturer of Marihuana, the application will be evaluated under the criteria of 21 U.S.C. 823(a) as described in 84 FR 44920, published on August 27, 2019.

In accordance with 21 CFR 1301.33(a), DEA is providing notice that on October 31, 2019, STANLEY BROTHERS BIO TECH INC., 66 South Logan Street, Suite 209, Denver, Colorado 80209-1809 applied to be registered as a bulk manufacturer of the following basic class of controlled substances:

Controlled substance	Drug code	Schedule
Marihuana .....	7360	I
Tetrahydrocannabinols.	7370	I

The applicant noticed above applied to become registered with DEA to grow marihuana as a bulk manufacturer subsequent to a 2016 DEA policy statement that provided information on how it intended to expand the number of registrations, and described in general terms the way it would oversee those additional growers. Before DEA completes the evaluation and registration process for applicants to grow marihuana, DEA intends to propose regulations in the near future that would supersede the 2016 policy statement and govern persons seeking to become registered with DEA to grow marihuana as bulk manufacturers, consistent with applicable law, as described in 84 FR 44920.

Dated: December 6, 2019.

**William T. McDermott,**

*Assistant Administrator.*

[FR Doc. 2019-27782 Filed 12-23-19; 8:45 am]

BILLING CODE 4410-09-P

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. DEA-561]

#### Bulk Manufacturer of Controlled Substances Application: Kinetochem LLC

**ACTION:** Notice of application.

**DATES:** Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before February 24, 2020.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW 8701 Morrisette Drive, Springfield, Virginia 22152.

**SUPPLEMENTARY INFORMATION:** In accordance with 21 CFR 1301.33(a), this is notice that on October 25, 2019, Kinetochem LLC, 111 W Cooperative Way, Suite 310-B, Georgetown, Texas 78626 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Marihuana .....	7360	I
Tetrahydrocannabinols.	7370	I

The company plans to synthetically manufacture drug codes 7360 (marihuana) and 7370 (tetrahydrocannabinols), in bulk for distribution and sale to its customers. No other activities for these drug codes are authorized for this registration.

Dated: December 6, 2019.

**William T. McDermott,**  
Assistant Administrator.

[FR Doc. 2019-27784 Filed 12-23-19; 8:45 am]

**BILLING CODE 4410-09-P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. DEA-559]

#### Bulk Manufacturer of Controlled Substances Application: Bulk Manufacturers of Marihuana: Royal Emerald Pharmaceuticals Research and Development

**ACTION:** Notice of application.

**SUMMARY:** The Drug Enforcement Administration (DEA) is providing notice of an application it has received from an entity applying to be registered to manufacture in bulk basic classes of controlled substances listed in schedule I. Prior to making decisions on this and other pending applications, DEA intends to promulgate regulations that govern the program of growing marihuana for scientific and medical research under DEA registration.

**DATES:** Registered bulk manufacturers of the affected basic classes, and

applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before February 24, 2020.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW 8701 Morrisette Drive, Springfield, Virginia 22152. To ensure proper handling of comments, please reference Docket No. DEA-559 in all correspondence, including attachments.

**SUPPLEMENTARY INFORMATION:** The Controlled Substances Act (CSA) prohibits the cultivation and distribution of marihuana except by persons who are registered under the CSA to do so for lawful purposes. In accordance with the purposes specified in 21 CFR 1301.33(a), DEA is providing notice that the entity identified below has applied for registration as a bulk manufacturer of schedule I controlled substances. In response, registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections of the requested registration, as provided in this notice. This notice does not constitute any evaluation or determination of the merits of the application submitted.

The applicant plans to manufacture bulk active pharmaceutical ingredients (APIs) for product development and distribution to DEA registered researchers. If its application for registration is granted, the registrant would not be authorized to conduct other activity under this registration aside from those coincident activities specifically authorized by DEA regulations. DEA will evaluate the application for registration as a bulk manufacturer for compliance with all applicable laws, treaties, and regulations and to ensure adequate safeguards against diversion are in place.

As this applicant has applied to become registered as a Bulk Manufacturer of Marihuana, the application will be evaluated under the criteria of 21 U.S.C. 823(a) as described in 84 FR 44920, published on August 27, 2019.

In accordance with 21 CFR 1301.33(a), DEA is providing notice that on September 24, 2019, Royal Emerald Pharmaceuticals Research and Development, 7220 Trade Street, Suite 340, San Diego, California 92121-2324 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Marihuana Extract	7350	1
Marihuana .....	7360	I
Tetrahydrocannabinols .....	7370	I

The applicant noticed above applied to become registered with DEA to grow marihuana as a bulk manufacturer subsequent to a 2016 DEA policy statement that provided information on how it intended to expand the number of registrations, and described in general terms the way it would oversee those additional growers. Before DEA completes the evaluation and registration process for applicants to grow marihuana, DEA intends to propose regulations in the near future that would supersede the 2016 policy statement and govern persons seeking to become registered with DEA to grow marihuana as bulk manufacturers, consistent with applicable law, as described in 84 FR 44920.

Dated: December 6, 2019.

**William T. McDermott,**  
Assistant Administrator.

[FR Doc. 2019-27783 Filed 12-23-19; 8:45 am]

**BILLING CODE 4410-09-P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. DEA-563]

#### Bulk Manufacturer of Controlled Substances Application: Bulk Manufacturers of Marihuana: Agronomed Pharmaceuticals

**ACTION:** Notice of application.

**SUMMARY:** The Drug Enforcement Administration (DEA) is providing notice of an application it has received from an entity applying to be registered to manufacture in bulk basic classes of controlled substances listed in schedule I. Prior to making decisions on this and other pending applications, DEA intends to promulgate regulations that govern the program of growing marihuana for scientific and medical research under DEA registration.

**DATES:** Registered bulk manufacturers of the affected basic classes, and applicants therefor, may file written comments on or objections to the issuance of the proposed registration on or before February 24, 2020.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW 8701 Morrisette Drive, Springfield, Virginia

22152. To ensure proper handling of comments, please reference "Docket No. DEA-563" in all correspondence, including attachments.

**SUPPLEMENTARY INFORMATION:** The Controlled Substances Act (CSA) prohibits the cultivation and distribution of marihuana except by persons who are registered under the CSA to do so for lawful purposes. In accordance with the purposes specified in 21 CFR 1301.33(a), DEA is providing notice that the entity identified below has applied for registration as a bulk manufacturer of schedule I controlled substances. In response, registered bulk manufacturers of the affected basic classes, and applicants therefor, may file written comments on or objections of the requested registration, as provided in this notice. This notice does not constitute any evaluation or determination of the merits of the application submitted.

The applicant plans to manufacture bulk active pharmaceutical ingredients (APIs) for product development and distribution to DEA registered researchers. If its application for registration is granted, the registrant would not be authorized to conduct other activity under this registration aside from those coincident activities specifically authorized by DEA regulations. DEA will evaluate the application for registration as a bulk manufacturer for compliance with all applicable laws, treaties, and regulations and to ensure adequate safeguards against diversion are in place.

As this applicant has applied to become registered as a Bulk Manufacturer of Marihuana, the application will be evaluated under the criteria of 21 U.S.C. 823(a) as described in 84 FR 44920, published on August 27, 2019.

In accordance with 21 CFR 1301.33(a), DEA is providing notice that on November 1, 2019, Agronomed Pharmaceuticals, 740 Springdale Drive, Suite 130, Exton, Pennsylvania 19341-2876 applied to be registered as a bulk manufacturer of the following basic class of controlled substances:

Controlled substance	Drug code	Schedule
Marihuana .....	7360	I
Tetrahydrocannabinols.	7370	I

The applicant noticed above applied to become registered with DEA to grow marihuana as bulk manufacturer subsequent to a 2016 DEA policy statement that provided information on

how it intended to expand the number of registrations, and described in general terms the way it would oversee those additional growers. Before DEA completes the evaluation and registration process for applicants to grow marihuana, DEA intends to propose regulations in the near future that would supersede the 2016 policy statement and govern persons seeking to become registered with DEA to grow marihuana as bulk manufacturers, consistent with applicable law, as described in 84 FR 44920.

Dated: December 6, 2019.

**William T. McDermott,**

*Assistant Administrator.*

[FR Doc. 2019-27781 Filed 12-23-19; 8:45 am]

**BILLING CODE 4410-09-P**

## DEPARTMENT OF JUSTICE

[OMB Number 1140-0020]

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Currently Approved Collection; Firearms Transaction Record/Registro de Transacción de Armas de Fuego—ATF Form 4473 (5300.9)

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

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed collection is being revised to include a Continuation Sheet, as well as changes to the content and layout of the form. There is also a decrease in the total respondents and burden hours associated with this information collection (IC). The proposed IC is also being published to obtain comments from the public and affected agencies. **DATES:** Comments are encouraged and will be accepted for 60 days until February 24, 2020.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments, regarding the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact: Helen Koppe, ATF Firearms & Explosives Industry Division either by mail at 99 New York Avenue NE, 6 N—

652, Washington, DC 20226, by email at [FederalRegisterNoticeATFF4473@atf.gov](mailto:FederalRegisterNoticeATFF4473@atf.gov), or by telephone at 202-648-7173.

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

### Overview of This Information Collection

(1) *Type of Information Collection* (check justification or form 83): Revision of a currently approved collection.

(2) *The Title of the Form/Collection:* Firearms Transaction Record/Registro de Transacción de Armas de Fuego.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form number (if applicable): ATF Form 4473 (5300.9).

*Component:* Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Other (if applicable): Business or other for-profit.

*Abstract:* The Firearms Transaction Record/Registro de Transacción de Armas de Fuego allows Federal firearms licensees to determine the eligibility of persons purchasing firearms. It also alerts buyers to certain restrictions on the receipt and possession of firearms.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to*

*respond*: An estimated 17,189,101 respondents will utilize the form annually, and it will take each respondent approximately 30 minutes to complete their responses.

(6) *An estimate of the total public burden (in hours) associated with the collection*: The estimated annual public burden associated with this collection is 8,594,551 hours, which is equal to 17,189,101 (# of respondents) \* 1 (# of responses per respondent) \* .5 (30 minutes).

(7) *An Explanation of the Change in Estimates*: The adjustments associated with this information collection include a reduction in the total respondents to this IC by 1,086,139. Consequently, the hourly burden for this IC has also decreased by 543,069 hours, since the last renewal in 2016.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: December 18, 2019.

**Melody Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2019-27719 Filed 12-23-19; 8:45 am]

**BILLING CODE 4410-FY-P**

## DEPARTMENT OF JUSTICE

[OMB Number 1190-NEW]

### Agency Information Collection Activities; Proposed eCollection eComments Requested

**AGENCY**: Civil Rights Division, Department of Justice.

**ACTION**: 60-Day notice.

**SUMMARY**: The Department of Justice, Civil Rights Division, is submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

**DATES**: Comments are encouraged and will be accepted for 60 days until February 24, 2020.

**FOR FURTHER INFORMATION CONTACT**: If you have additional comments especially on the estimated public burden or associated response time, suggestions or need a copy of the proposed information collection instrument with instructions or additional information, please contact Daniel Yi, Senior Counsel for Innovation, Civil Rights Division, U.S.

Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20009.

**SUPPLEMENTARY INFORMATION**: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Civil Rights Division, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

### Overview of This Information Collection

1. *Type of Information Collection*: New Collection.

2. *The Title of the Form/Collection*: Reporting Portal for Civil Rights Violations.

3. *The agency for number, if any, and the applicable component of the Department sponsoring the collection*:

There is no agency form number for this collection. The applicable component within the Department of Justice is the Civil Rights Division.

4. *Affected public who will be asked or required to respond, as well as a brief abstract*:

This form will be made available online to be used by individual complainants at their discretion and convenience. The use of the form is voluntary.

The Civil Rights Division of the U.S. Department of Justice enforces the nation's federal civil rights statutes. Members of the public play a critical role in this effort by reporting civil rights violations to the Division. To facilitate this reporting process, the Division is developing a streamlined online Reporting Portal for Civil Rights Violations. This Portal is designed to facilitate and enhance individual complainant's reporting opportunities,

save members of the public time in reporting violations, and improve how the Division responds to those reports. The information the Division plans to collect using the reporting portal will help the Division fulfill its enforcement responsibilities under the statutes outlined above.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond*: There are an estimated 36,000 respondents for this information collection a year. The respondent normally responds 1 time annually. The total number of yearly responses is 36,000. It is estimated that it takes 10 minutes to learn about the law and the Complaint Form and 20 minutes to complete the Complaint Form.

6. *An estimate of the total public burden (in hours) associated with the collection*: Total burden hours are estimated at 18,000.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: December 18, 2019.

**Melody Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2019-27720 Filed 12-23-19; 8:45 am]

**BILLING CODE 4410-FY-P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE: 19-082]

### Agency Information Collection Activity; Request for Comments

**AGENCY**: National Aeronautics and Space Administration (NASA).

**ACTION**: Notice of information collection.

**SUMMARY**: The National Aeronautics and Space Administration, 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.

**DATES**: Comments are due by February 24, 2020.

**ADDRESSES**: All comments should be addressed to Claire Little, National Aeronautics and Space Administration, 300 E Street SW, Washington, DC 20546-0001 or call 202-358-2375.

**FOR FURTHER INFORMATION CONTACT**: Requests for additional information or

copies of the information collection instrument(s) and instructions should be directed to Claire Little, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546 or email [claire.a.little@nasa.gov](mailto:claire.a.little@nasa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

The Electronic Health Record System is used by the NASA Occupational Health Program to generate records of medical care, diagnosis, treatment, surveillance examinations (e.g., flight certification, special purpose and health maintenance), and exposure records (e.g., hazardous materials and ionizing radiation). Management and utilization of the Electronic Health Record System provides necessary supportive clerical services for the Occupational Health Program. Occupational Health clinics create, maintain and securely archive digital medical records and physical examination records of (1) NASA civil service employees and applicants; (2) other Agency civil service and military employees working at NASA; (3) active or retired astronauts and active astronaut family members; (4) International Space Partner personnel, their families, or other space flight personnel on temporary or extended duty at NASA; (5) onsite contractor personnel who receive job-related examinations under the NASA Occupational Health Program, have work-related mishaps or accidents, or visit clinics for emergency or first-aid treatment; and (6) visitors to NASA Centers who use clinics for emergency or first-aid treatment or who apply for use of NASA facilities. The legal medical record is the documentation of health care services provided to an individual; it is used for clinical decision making, following accurate recording of observations, actions and analysis of diagnostic tests. The legal medical record in this instance is digital recorded data collected and used for providing healthcare at the NASA Occupational Health clinics. Additionally, the medical record is used as a tool for evaluating the adequacy, appropriateness and quality of care. Such records contain standard clinical information resulting from physical examinations, laboratory and other relevant diagnostic tests, and medical history surveys; screening examination results; immunization records; administration of medications prescribed by private/personal or NASA physicians; consultation records; and hazardous exposure as well as other health hazard/abatement data.

NASA collects, archives, and secures information from individuals visiting the Occupational Health clinics requiring routine medical examination in compliance with the following regulations:

- 2015 Joint Commission (JC) Standards for Ambulatory Care IM.01.01.01, IM.02.01.03, IM.02.02.01, IM.02.02.03
- NASA Procedural Requirements, NPR 1800.1C.
- NASA Records Retention Schedules NRRS 1441.1
- 5 U.S.C. 552a, Privacy Act, 1974
- 42 U.S.C. 2472; 44 U.S.C. 3101; Public Law 92–255
- NIST SP 800–53 revision 4, Recommended Security Controls for Federal Information Systems
- NIST SP 800–53A, Techniques and Procedures for Verifying the Effectiveness of Security Controls in Federal Information Systems
- NPR 2810.1, Security of Information Technology.

##### II. Methods of Collection

Electronically and optionally by paper.

##### III. Data

*Title:* NASA Electronic Health Record System (EHRS).

*OMB Number:* 2700–xxxx.

*Type of review:* New.

*Affected Public:* Individuals.

*Estimated Annual Number of*

*Activities:* 63,260.

*Estimated Number of Respondents per Activity:* 1.

*Annual Responses:* 63,260.

*Estimated Time per Response:* 0.5 hours.

*Estimated Total Annual Burden Hours:* 31,630.

*Estimated Total Annual Cost:* \$819,217.00.

##### IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection.

They will also become a matter of public record.

**Cheryl Parker,**

*NASA Federal Liaison Officer.*

[FR Doc. 2019–27776 Filed 12–23–19; 8:45 am]

BILLING CODE 7510–13–P

#### EXECUTIVE OFFICE OF THE PRESIDENT

##### Office of National Drug Control Policy

##### Submission for Review: Survey on the Treatment of Opioid Use Disorders; Correction

**AGENCY:** Office of National Drug Control Policy, Executive Office of the President.

**ACTION:** 30-Day notice and request for comments; correction.

**SUMMARY:** The Office of National Drug Control Policy published a document in the **Federal Register** on December 12, 2019 concerning the Paperwork Reduction Act; Proposed Collection; Comment Request. The document contained an incorrect address and contact information.

#### SUPPLEMENTARY INFORMATION:

##### Correction

In the **Federal Register** of December 12, 2019 84 FR 67963, correct the **ADDRESSES** caption to read:

**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, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the Office of National Drug Control Policy or sent via electronic mail to [oira\\_submission@omb.eop.gov](mailto:oira_submission@omb.eop.gov) or faxed to (202) 395–6974.

##### Correction

In the **Federal Register** of December 12, 2019 84 FR 67963, correct the **FOR FURTHER INFORMATION CONTACT** caption to read:

**FOR FURTHER INFORMATION CONTACT:** A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the Office of National Drug Control Policy or sent via electronic mail [oira\\_submission@omb.eop.gov](mailto:oira_submission@omb.eop.gov) or faxed to (202) 395–6974.

Dated: December 18, 2019.

Michael Passante,

Acting General Counsel.

[FR Doc. 2019-27708 Filed 12-23-19; 8:45 am]

BILLING CODE 3280-F5-P

## EXECUTIVE OFFICE OF THE PRESIDENT

### Office of National Drug Control Policy

#### Submission for Review: Survey on Practices and Policies Related to the Treatment of Opioid Use Disorders; Correction

**AGENCY:** Office of National Drug Control Policy.

**ACTION:** 30-Day Notice and request for comments; correction

**SUMMARY:** The Office of National Drug Control Policy published a document in the **Federal Register** on December 12, 2019 concerning the Paperwork Reduction Act; Proposed Collection; Comment Request. The document contained an incorrect address and contact information.

#### SUPPLEMENTARY INFORMATION:

##### Correction

In the **Federal Register** of December 12, 2019 84 FR 67964, correct the **ADDRESSES** caption to read:

**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, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the Office of National Drug Control Policy or sent via electronic mail to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov) or faxed to (202) 395-6974.

##### Correction

In the **Federal Register** of December 12, 2019 84 FR 67964, correct the **FOR FURTHER INFORMATION** caption to read:

**FOR FURTHER INFORMATION CONTACT:** A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the Office of National Drug Control Policy or sent via electronic mail [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov) or faxed to (202) 395-6974.

Dated: December 18, 2019.

Michael Passante,

Acting General Counsel.

[FR Doc. 2019-27709 Filed 12-23-19; 8:45 am]

BILLING CODE 3280-F5-P

## NUCLEAR REGULATORY COMMISSION

[NRC-2019-0158]

### Information Collection: NRC Form 327, Special Nuclear Material and Source Material Physical Inventory Summary Reports, and NUREG/BR-0096, Instructions and Guidance for Completing Physical Inventory Summary Reports

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of submission to the Office of Management and Budget; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, "NRC Form 327, Special Nuclear Material and Source Material Physical Inventory Summary Reports, and NUREG/BR-0096, Instructions and Guidance for Completing Physical Inventory Summary Reports."

**DATES:** Submit comments by January 27, 2020. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** Submit comments directly to the OMB reviewer at: OMB Office of Information and Regulatory Affairs (3150-0139), Attn: Desk Officer for the Nuclear Regulatory Commission, 725 17th Street, NW Washington, DC 20503; email: [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2084; email: [INFOCOLLECTS.Resource@nrc.gov](mailto:INFOCOLLECTS.Resource@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. Obtaining Information and Submitting Comments

##### A. Obtaining Information

Please refer to Docket ID NRC-2019-0158 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-2019-0158. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC-2019-0158 on this website.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession ML19161A296 and ML082620258. The supporting statement is available in ADAMS under Accession No. ML19318C417.

- **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.

- **NRC's Clearance Officer:** A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2084; email: [INFOCOLLECTS.Resource@NRC.GOV](mailto:INFOCOLLECTS.Resource@NRC.GOV).

##### B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at <https://www.regulations.gov> and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

## II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, "NRC Form 327, Special Nuclear Material and

Source Material Physical Inventory Summary Reports, and NUREG/BR-0096, Instructions and Guidance for Completing Physical Inventory Summary Reports.” The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on September 4, 2019 (84 FR 46568).

1. *The title of the information collection:* NRC Form 327, “Special Nuclear Material and Source Material Physical Inventory Summary Reports, and NUREG/BR-0096, Instructions and Guidance for Completing Physical Inventory Summary Reports.”

2. *OMB approval number:* 3150-0139.

3. *Type of submission:* Extension.

4. *The form number if applicable:* NRC Form 327.

5. *How often the collection is required or requested:* Certain licensees possessing strategic SNM are required to report inventories on NRC Form 327 every 6 months. Licensees possessing SNM of moderate strategic significance must report every nine months. Licensees possessing SNM of low strategic significance must report annually, except one licensee (enrichment facility) that must report its dynamic inventories every 2 months and its static inventory annually.

6. *Who will be required or asked to respond:* Fuel facility licensees possessing SNM, i.e., enriched uranium, plutonium, or U-233.

7. *The estimated number of annual responses:* 68.

8. *The estimated number of annual respondents:* 6.

9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 272 hours (4 hours per response x 68 responses).

10. *Abstract:* NRC Form 327 is submitted by certain fuel cycle facility licensees to account for SNM. The data is used by the NRC to assess licensee material control and accounting programs and to confirm the absence of (or detect the occurrence of) SNM theft or diversion. NUREG/BR-0096 provides guidance and instructions for completing the form in accordance with the requirements appropriate for a particular licensee.

Dated at Rockville, Maryland, this 18th day of December 2019.

For the Nuclear Regulatory Commission.

**David C. Cullison,**

*NRC Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 2019-27693 Filed 12-23-19; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[NRC-2019-0218]

### Information Collection: Notice of Enforcement Discretion (NOED) for Operating Power Reactors and Gaseous Diffusion Plants (NRC Enforcement Policy)

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Renewal of existing information collection; request for comments.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, “Notice of Enforcement Discretion (NOED) for Operating Power Reactors and Gaseous Diffusion Plants (NRC Enforcement Policy).”

**DATES:** Submit comments by February 24, 2020. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2019-0218. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T-6 A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2084; email: [Infocollects.Resource@nrc.gov](mailto:Infocollects.Resource@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

## I. Obtaining Information and Submitting Comments

### A. Obtaining Information

Please refer to Docket ID NRC-2019-0218 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-2019-0218. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC-2019-0218 on this website.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML19302F408. The supporting statement is available in ADAMS under Accession No. ML19308A020.

- *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.

- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2084; email: [Infocollects.Resource@nrc.gov](mailto:Infocollects.Resource@nrc.gov).

### B. Submitting Comments

Please include Docket ID NRC-2019-0218 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit



comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

## II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* Notices of Enforcement Discretion (NOEDs) for Operating Power Reactors and Gaseous Diffusion Plants (GDP), (NRC Enforcement Policy).
2. *OMB approval number:* 3150–0136.
3. *Type of submission:* Extension.
4. *The form number:* N/A.
5. *How often the collection is required or requested:* On Occasion.
6. *Who will be required or asked to respond:* Those licensees that voluntarily request enforcement discretion through the NOED process.
7. *The estimated number of annual responses:* 8.
8. *The estimated number of annual respondents:* 4.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 680 (600 reporting + 80 recordkeeping).
10. *Abstract:* The NRC's Enforcement Policy includes the circumstances in which the NRC may grant a NOED. On occasion, circumstances arise when a power plant licensee's compliance with a Technical Specification (TS) Limiting Condition for Operation or any other license condition would involve an unnecessary plant shutdown or transient. Similarly, for a gaseous diffusion plant, circumstances may arise where compliance with a Technical Safety Requirement (TSR) or other condition would unnecessarily call for a total plant shutdown, or, compliance would unnecessarily place the plant in a condition where safety, safeguards, or security features were degraded or inoperable.

In these circumstances, a licensee or certificate holder may request that the NRC exercise enforcement discretion,

and the NRC staff may choose to not enforce the applicable TS, TSR, or other license or certificate condition. This enforcement discretion is designated as a NOED.

A licensee or certificate holder seeking the issuance of a NOED must justify, in accordance with NRC Enforcement Manual (ADAMS Accession No. ML19193A023), the safety basis for the request, including an evaluation of the safety significance and potential consequences of the proposed request, a description of proposed compensatory measures, a justification for the duration of the request, the basis for the licensee's or certificate holder's conclusion that the request does not have a potential adverse impact on the public health and safety, and does not involve adverse consequences to the environment, and any other information the NRC staff deems necessary before making a decision to exercise discretion.

## III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the estimate of the burden of the information collection accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 18th day of December 2019.

For the Nuclear Regulatory Commission.

**David C. Cullison,**

*NRC Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 2019–27692 Filed 12–23–19; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

[NRC–2019–0001]

### Sunshine Act Meetings

**TIME AND DATE:** Weeks of December 23, 30, 2019, January 6, 13, 20, 27, 2020.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public.

### Week of December 23, 2019

There are no meetings scheduled for the week of December 23, 2019.

### Week of December 30, 2019—Tentative

There are no meetings scheduled for the week of December 30, 2019.

### Week of January 6, 2020—Tentative

There are no meetings scheduled for the week of January 6, 2020.

### Week of January 13, 2020—Tentative

There are no meetings scheduled for the week of January 13, 2020.

### Week of January 20, 2020—Tentative

There are no meetings scheduled for the week of January 20, 2020.

### Week of January 27, 2020—Tentative

*Tuesday, January 28, 2020*

9:00 a.m.—Discussion of Medical Uses of Radioactive Materials (Public Meeting) (Contact: Denise McGovern: 301–415–0681)

This meeting will be webcast live at the web address—<https://www.nrc.gov/>.

### CONTACT PERSON FOR MORE INFORMATION:

For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at [Denise.McGovern@nrc.gov](mailto:Denise.McGovern@nrc.gov). The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: <https://www.nrc.gov/public-involve/public-meetings/schedule.html>.

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., Braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at [Anne.Silk@nrc.gov](mailto:Anne.Silk@nrc.gov). Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or by email at [Wendy.Moore@nrc.gov](mailto:Wendy.Moore@nrc.gov) or [Tyesha.Bush@nrc.gov](mailto:Tyesha.Bush@nrc.gov).

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated at Rockville, Maryland, this 20th day of December 2019.



For the Nuclear Regulatory Commission.  
**Richard J. Laufer,**  
*Technical Coordinator, Office of the  
 Secretary.*  
 [FR Doc. 2019-27905 Filed 12-20-19; 11:15 am]  
**BILLING CODE 7590-01-P**

## POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020-79 and CP2020-78]

### New Postal Products

**AGENCY:** Postal Regulatory Commission.  
**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* December 30, 2019.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202-789-6820.

#### SUPPLEMENTARY INFORMATION:

#### Table of Contents

- I. Introduction
- II. Docketed Proceeding(s)

#### I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also

establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.<sup>1</sup>

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

#### II. Docketed Proceeding(s)

1. *Docket No(s):* MC2020-79 and CP2020-78; *Filing Title:* USPS Request to Add Priority Mail Contract 586 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 18, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.*, and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* December 30, 2019.

This Notice will be published in the **Federal Register**.

**Ruth Ann Abrams,**  
*Acting Secretary.*

[FR Doc. 2019-27794 Filed 12-23-19; 8:45 am]

**BILLING CODE 7710-FW-P**

## POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020-78 and CP2020-77]

### New Postal Products

**AGENCY:** Postal Regulatory Commission.  
**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

<sup>1</sup> See Docket No. RM2018-3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19-22 (Order No. 4679).

**DATES:** *Comments are due:* December 27, 2019.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202-789-6820.

#### SUPPLEMENTARY INFORMATION:

#### Table of Contents

- I. Introduction
- II. Docketed Proceeding(s)

#### I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.<sup>1</sup>

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s)

<sup>1</sup> See Docket No. RM2018-3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19-22 (Order No. 4679).

that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

## II. Docketed Proceeding(s)

1. *Docket No(s)*: MC2020–78 and CP2020–77; *Filing Title*: USPS Request to Add First-Class Package Service Contract 106 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: December 17, 2019; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.*, and 39 CFR 3015.5; *Public Representative*: Christopher C. Mohr; *Comments Due*: December 27, 2019.

This Notice will be published in the **Federal Register**.

**Ruth Ann Abrams,**  
*Acting Secretary.*

[FR Doc. 2019–27699 Filed 12–23–19; 8:45 am]

BILLING CODE 7710–FW–P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87788; File No. 4–705]

### Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Notice of Filing and Order Approving and Declaring Effective an Amended Proposed Plan for the Allocation of Regulatory Responsibilities Between the Financial Industry Regulatory Authority, Inc., Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Cboe EDGA Exchange, Inc., and Cboe EDGX Exchange, Inc.

December 18, 2019.

Notice is hereby given that the Securities and Exchange Commission (“Commission”) has issued an Order, pursuant to Section 17(d) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> approving and declaring effective an amendment to the plan for allocating regulatory responsibility (“Plan”) filed on December 3, 2019, pursuant to Rule 17d–2 of the Act,<sup>2</sup> by the Financial Industry Regulatory Authority, Inc. (“FINRA”), Cboe BZX Exchange, Inc. (“BZX”), Cboe BYX Exchange, Inc. (“BYX”), Cboe EDGA Exchange, Inc. (“EDGA”), and Cboe EDGX Exchange, Inc. (“EDGX”) (each, a “Participating Organization,” or “Bats Exchange,” and together, the “Participating Organizations,” “the Bats

Exchanges,” or the “Parties”). The Plan replaces and supersedes the agreement between FINRA and the Bats Exchanges dated September 30, 2016, entitled “Agreement between Financial Industry Regulatory Authority, Inc., Bats BZX Exchange, Inc., Bats BYX Exchange, Inc., Bats EDGA Exchange, Inc., and Bats EDGX Exchange, Inc. Pursuant to Rule 17d–2 under the Securities Exchange Act of 1934.”<sup>3</sup>

## I. Introduction

Section 19(g)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>4</sup> among other things, requires every self-regulatory organization (“SRO”) registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO’s own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d) or Section 19(g)(2) of the Act.<sup>5</sup> Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (“common members”). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act<sup>6</sup> was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.<sup>7</sup> With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.<sup>8</sup> Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority (“DEA”) to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO

rules.<sup>9</sup> When an SRO has been named as a common member’s DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d–1 deals only with an SRO’s obligations to enforce member compliance with financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d–2 under the Act.<sup>10</sup> Rule 17d–2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for appropriate notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors; to foster cooperation and coordination among the SROs; to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system; and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

## II. The Plan

On October 6, 2016, the Commission declared effective the Plan entered into between FINRA and the Bats Exchanges for allocating regulatory responsibility pursuant to Rule 17d–2.<sup>11</sup> The Plan is intended to reduce regulatory duplication for firms that are common members of FINRA and at least one of the Bats Exchanges by allocating regulatory responsibility with respect to certain applicable laws, rules, and regulations that are common among them. Included in the Plan is an exhibit that lists every rule of each Bats Exchange for which FINRA bears responsibility under the Plan for overseeing and enforcing with respect to

<sup>3</sup> See Securities Exchange Act Release No. 79057 (October 6, 2016), 81 FR 70728 (October 13, 2016).

<sup>4</sup> 15 U.S.C. 78s(g)(1).

<sup>5</sup> 15 U.S.C. 78q(d) and 15 U.S.C. 78s(g)(2), respectively.

<sup>6</sup> 15 U.S.C. 78q(d)(1).

<sup>7</sup> See Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session 32 (1975).

<sup>8</sup> 17 CFR 240.17d–1 and 17 CFR 240.17d–2, respectively.

<sup>9</sup> See Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

<sup>10</sup> See Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

<sup>11</sup> See Securities Exchange Act Release No. 79057 (October 6, 2016), 81 FR 70728 (October 13, 2016).

<sup>1</sup> 15 U.S.C. 78q(d).

<sup>2</sup> 17 CFR 240.17d–2.

members of one or more of the Bats Exchanges that are also members of FINRA and the associated persons therewith.

### III. Proposed Amendment to the Plan

On December 3, 2019, the parties submitted a proposed amendment to the Plan (“Amended Plan”). The primary purposes of the Amended Plan are to (1) allocate surveillance, investigation, and enforcement responsibilities for Rule 14e–4 under the Act and (2) amend the Plan to reflect the name changes of the Bats Exchanges. The text of the proposed Amended Plan is as follows (additions are *italicized*; deletions are [bracketed]):

**Agreement Between Financial Industry Regulatory Authority, Inc., [BATS]CBOE BZX Exchange, Inc., [BATS]CBOE BYX EXCHANGE, INC., [BATS]CBOE EDGA Exchange, Inc., and [BATS]CBOE EDGX Exchange, Inc. Pursuant to Rule 17d–2 Under the Securities Exchange Act of 1934**

This Agreement, by and between the Financial Industry Regulatory Authority, Inc. (“FINRA”), [Bats]Cboe BZX Exchange, Inc. (“BZX”), [Bats]Cboe BYX Exchange, Inc. (“BYX”), [Bats]Cboe EDGA Exchange, Inc. (“EDGA”), and [Bats]Cboe EDGX Exchange, Inc. (“EDGX”) (collectively, the “Bats Exchanges” and each a “Bats Exchange”) is made this [30th] 2nd day of [September]December, 201[6]9 (the “Agreement”), pursuant to Section 17(d) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Rule 17d–2 thereunder, which permits agreements between self-regulatory organizations to allocate regulatory responsibility to eliminate regulatory duplication. FINRA and the Bats Exchanges may be referred to individually as a “party” and together as the “parties.” Upon approval by the Securities and Exchange Commission (“Commission” or “SEC”) this Agreement shall replace and supersede the agreement *among FINRA and the Bats Exchanges dated September 30, 2016*[between FINRA and BZX dated August 25, 2008; the agreement between FINRA and BYX dated September 3, 2010; the agreement between FINRA and EDGA dated March 31, 2010; and the agreement between FINRA and EDGX dated March 31, 2010].

Whereas, FINRA and the Bats Exchanges desire to reduce duplication in the examination and surveillance of their Common Members (as defined herein) and in the filing and processing of certain registration and membership records; and

Whereas, FINRA and the Bats Exchanges desire to execute an

agreement covering such subjects pursuant to the provisions of Rule 17d–2 under the Exchange Act and to file such agreement with the Commission for its approval.

Now, therefore, in consideration of the mutual covenants contained hereinafter, FINRA and each Bats Exchange hereby agree as follows:

1. Definitions. Unless otherwise defined in this Agreement or the context otherwise requires, the terms used in this Agreement shall have the same meaning as they have under the Exchange Act and the rules and regulations thereunder. As used in this Agreement, the following terms shall have the following meanings:

(a) “Bats Exchanges Rules” or “FINRA Rules” shall mean: (i) The rules of each Bats Exchange, or (ii) the rules of FINRA, respectively, as the rules of an exchange or association are defined in Exchange Act Section 3(a)(27).

(b) “Common Rules” shall mean the rules of each Bats Exchange that are substantially similar to the applicable FINRA Rules and certain provisions of the Exchange Act and SEC rules set forth on *Exhibit 1* in that examination or surveillance for compliance with such provisions and rules would not require FINRA to develop one or more new examination or surveillance standards, modules, procedures, or criteria in order to analyze the application of the provision or rule, or a Common Member’s activity, conduct, or output in relation to such provision or rule; provided, however, Common Rules shall not include the application of the SEC, each Bats Exchange or FINRA rules as they pertain to violations of insider trading activities, which is covered by a separate 17d–2 Agreement by and among [BATS Exchange, Inc., BATS–Y Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange Inc., EDGX Exchange Inc., Financial Industry Regulatory Authority, Inc., NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange, LLC, NYSE Amex LLC, and NYSE Arca Inc. effective December 16, 2011] *Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Chicago Stock Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., Nasdaq BX, Inc., Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, NYSE National, Inc., New York Stock Exchange LLC, NYSE American LLC, NYSE Arca Inc., Investors’ Exchange LLC and Long-Term Stock Exchange, Inc. effective August 1, 2019*, as may be amended from time to

time. *Common Rules shall not include any provisions regarding (i) notice, reporting or any other filings made directly to or from any Bats Exchange, (ii) incorporation by reference of any Bats Exchange Rules that are not Common Rules, (iii) exercise of discretion in a manner that differs from FINRA’s exercise of discretion including, but not limited to exercise of exemptive authority, by any Bats Exchange, (iv) prior written approval of any Bats Exchange and (v) payment of fees or fines to any Bats Exchange.*

(c) “Common Members” shall mean those Bats Exchange members that are also members of FINRA and the associated persons therewith.

(d) “Effective Date” shall have the meaning set forth in paragraph 13.

(e) “Enforcement Responsibilities” shall mean the conduct of appropriate proceedings, in accordance with FINRA’s Code of Procedure and other applicable FINRA procedural rules, to determine whether violations of Common Rules have occurred, and if such violations are deemed to have occurred, the imposition of appropriate sanctions as specified under FINRA’s Code of Procedure and sanctions guidelines.

(f) “Regulatory Responsibilities” shall mean the examination responsibilities, surveillance responsibilities and Enforcement Responsibilities relating to compliance by the Common Members with the Common Rules and the provisions of the Exchange Act and the rules and regulations thereunder, and other applicable laws, rules and regulations, each as set forth on *Exhibit 1* attached hereto.

2. Regulatory Responsibilities. FINRA shall assume Regulatory Responsibilities for Common Members. Attached as *Exhibit 1* to this Agreement and made part hereof, each Bats Exchange furnished FINRA with a current list of Common Rules and certified to FINRA that such rules that are Bats Exchanges Rules are substantially similar to the corresponding FINRA Rules (the “Certification”). FINRA hereby agrees that the rules listed in the Certification are Common Rules as defined in this Agreement. Each year following the Effective Date of this Agreement, or more frequently if required by changes in either the rules of any Bats Exchange or FINRA, the Bats Exchanges shall submit an updated list of Common Rules to FINRA for review which shall add Bats Exchanges Rules not included in the current list of Common Rules that qualify as Common Rules as defined in this Agreement; delete Bats Exchanges Rules included in the current list of

Common Rules that no longer qualify as Common Rules as defined in this Agreement; and confirm that the remaining rules on the current list of Common Rules continue to be Bats Exchanges Rules that qualify as Common Rules as defined in this Agreement. Within 30 days of receipt of such updated list, FINRA shall confirm in writing whether the rules listed in any updated list are Common Rules as defined in this Agreement. Notwithstanding anything herein to the contrary, it is explicitly understood that the term "Regulatory Responsibilities" does not include, and each Bats Exchange shall retain full responsibility for (unless otherwise addressed by separate agreement or rule) (collectively, the "Retained Responsibilities") the following:

(a) Surveillance, examination, investigation and enforcement with respect to trading activities or practices involving each Bats Exchange's own marketplace for rules that are not Common Rules;

(b) registration pursuant to its applicable rules of associated persons (*i.e.*, registration rules that are not Common Rules);

(c) discharge of its duties and obligations as a Designated Examining Authority pursuant to Rule 17d-1 under the Exchange Act; and

(d) any Bats Exchanges Rules that are not Common Rules, except for any Bats Exchanges Rules for any broker-dealer subsidiary of [Bats Global Markets] *Choe Trading, Inc.*, as provided in paragraph 6.

3. Common Members. Prior to the Effective Date, each Bats Exchange shall furnish FINRA with a current list of Common Members, which shall be updated no less frequently than once each quarter.

4. No Charge. There shall be no charge to the Bats Exchanges by FINRA for performing the Regulatory Responsibilities under this Agreement except as otherwise agreed by the parties, either herein or in a separate agreement.

5. Reassignment of Regulatory Responsibilities. Notwithstanding any provision hereof, this Agreement shall be subject to any statute, or any rule or order of the Commission, or industry agreement, restructuring the regulatory framework of the securities industry or reassigning Regulatory Responsibilities between self-regulatory organizations. To the extent such action is inconsistent with this Agreement, such action shall supersede the provisions hereof to the extent necessary for them to be properly effectuated and the provisions hereof in that respect shall be null and void.

6. Notification of Violations. In the event that FINRA becomes aware of apparent violations of any Bats Exchanges Rules, which are not listed as Common Rules, discovered pursuant to the performance of the Regulatory Responsibilities assumed hereunder, FINRA shall notify the Bats Exchanges of those apparent violations for such response as the Bats Exchanges deem appropriate. In the event that any of the Bats Exchanges becomes aware of apparent violations of any Common Rules, discovered pursuant to the performance of the Retained Responsibilities, the applicable Bats Exchange shall notify FINRA of those apparent violations and such matters shall be handled by FINRA as provided in this Agreement. With respect to apparent violations of any Bats Exchanges Rules by any broker-dealer subsidiary of Bats Global Markets, Inc., FINRA shall not make referrals to the Bats Exchanges pursuant to this paragraph 6. Such apparent violations shall be processed by, and enforcement proceedings in respect thereto will be conducted by, FINRA as provided in this Agreement. Each party agrees to make available promptly all files, records and witnesses necessary to assist the other in its investigation or proceedings. Apparent violations of Common Rules, FINRA Rules, federal securities laws, and rules and regulations thereunder, shall be processed by, and enforcement proceedings in respect thereto shall be conducted by FINRA as provided hereinbefore; provided, however, that in the event a Common Member is the subject of an investigation relating to a transaction on a Bats Exchange, the Bats Exchange may in its discretion assume concurrent jurisdiction and responsibility.

7. Continued Assistance.

(a) FINRA shall make available to the Bats Exchanges all information obtained by FINRA in the performance by it of the Regulatory Responsibilities hereunder with respect to the Common Members subject to this Agreement. In particular, and not in limitation of the foregoing, FINRA shall furnish the Bats Exchanges any information it obtains about Common Members which reflects adversely on their financial condition. The Bats Exchanges shall make available to FINRA any information coming to its attention that reflects adversely on the financial condition of Common Members or indicates possible violations of applicable laws, rules or regulations by such firms.

(b) The parties agree that documents or information shared shall be held in confidence, and used only for the

purposes of carrying out their respective regulatory obligations. The parties shall not assert regulatory or other privileges as against another with respect to documents or information that is required to be shared pursuant to this Agreement.

(c) The sharing of documents or information between the parties pursuant to this Agreement shall not be deemed a waiver as against third parties of regulatory or other privileges relating to the discovery of documents or information.

8. Statutory Disqualifications. When FINRA becomes aware of a statutory disqualification as defined in the Exchange Act with respect to a Common Member, FINRA shall determine pursuant to Sections 15A(g) and/or Section 6(c) of the Exchange Act the acceptability or continued applicability of the person to whom such disqualification applies and keep the Bats Exchanges advised of its actions in this regard for such subsequent proceedings as the Bats Exchanges may initiate.

9. Customer Complaints. The Bats Exchanges shall forward to FINRA copies of all customer complaints involving Common Members received by the Bats Exchanges relating to FINRA's Regulatory Responsibilities under this Agreement. It shall be FINRA's responsibility to review and take appropriate action in respect to such complaints.

10. Advertising. FINRA shall assume responsibility to review the advertising of Common Members subject to the Agreement, provided that such material is filed with FINRA in accordance with FINRA's filing procedures and is accompanied with any applicable filing fees set forth in FINRA Rules.

11. No Restrictions on Regulatory Action. Nothing contained in this Agreement shall restrict or in any way encumber the right of any party to conduct its own independent or concurrent investigation, examination or enforcement proceeding of or against Common Members, as any party, in its sole discretion, shall deem appropriate or necessary.

12. Termination. This Agreement may be terminated by the Bats Exchanges or FINRA at any time upon the approval of the Commission after one (1) year's written notice to the other party, except as provided in paragraph 4.

13. Effective Date. This Agreement shall be effective upon approval of the Commission.

14. Arbitration. In the event of a dispute among the parties as to the operation of this Agreement, the Bats Exchanges and FINRA hereby agree that

any such dispute shall be settled by arbitration in Washington, DC in accordance with the rules of the American Arbitration Association then in effect, or such other procedures as the parties may mutually agree upon. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction. Each party acknowledges that the timely and complete performance of its obligations pursuant to this Agreement is critical to the business and operations of the other parties. In the event of a dispute between the parties, the parties shall continue to perform their respective obligations under this Agreement in good faith during the resolution of such dispute unless and until this Agreement is terminated in accordance with its provisions. Nothing in this Section 14 shall interfere with a party's right to terminate this Agreement as set forth herein.

15. Notification of Members. The Bats Exchanges and FINRA shall notify Common Members of this Agreement after the Effective Date by means of a uniform joint notice.

16. Amendment. This Agreement may be amended in writing duly approved by each party. All such amendments must be filed with and approved by the Commission before they become effective.

17. Limitation of Liability. Neither FINRA nor any Bats Exchange nor any of their respective directors, governors, officers or employees shall be liable to the other parties to this Agreement for

any liability, loss or damage resulting from or claimed to have resulted from any delays, inaccuracies, errors or omissions with respect to the provision of Regulatory Responsibilities as provided hereby or for the failure to provide any such responsibility, except with respect to such liability, loss or damages as shall have been suffered by one or the other of FINRA or any Bats Exchange and caused by the willful misconduct of the other party or their respective directors, governors, officers or employees. No warranties, express or implied, are made by FINRA or any Bats Exchange with respect to any of the responsibilities to be performed by each of them hereunder.

18. Relief from Responsibility. Pursuant to Sections 17(d)(1)(A) and 19(g) of the Exchange Act and Rule 17d-2 thereunder, FINRA and the Bats Exchanges join in requesting the Commission, upon its approval of this Agreement or any part thereof, to relieve the Bats Exchanges of any and all responsibilities with respect to matters allocated to FINRA pursuant to this Agreement; provided, however, that this Agreement shall not be effective until the Effective Date.

19. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or

affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction.

20. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

#### Exhibit 1

**Cboe [Bats] BZX Exchange, Inc. ("BZX"), Cboe [Bats] BYX Exchange, Inc. ("BYX"), Cboe [Bats] EDGA Exchange, Inc. ("EDGA"), and Cboe [Bats] EDGX Exchange, Inc. ("EDGX") Rules Certification for 17d-2 Agreement with FINRA**

Each Bats Exchange hereby certifies that the requirements contained in the rules listed below are identical to, or substantially similar to, the comparable FINRA Rule, NASD Rule, Exchange Act provision or SEC Rule identified ("Common Rules").

*# Common Rules shall not include provisions regarding (i) notice, reporting or any other filings made directly to or from any Bats Exchange, (ii) incorporations by reference of any Bats Exchange Rules that are not Common Rules (iii) exercise of discretion in a manner that differs from FINRA's exercise of discretion including, but not limited to exercise of exemptive authority, by any Bats Exchanges, (iv) prior written approval of any Bats Exchanges, and (v) payment of fees or fines to any Bats Exchange.*

BZX Rule	BYX Rule	EDGA Rule	EDGX Rule	FINRA Rule, NASD Rule, Exchange Act Provision or SEC Rule
Rule 2.5 Restrictions, Interpretation and Policy .02 Continuing Education Requirements #.	Rule 2.5 Restrictions, Interpretation and Policy .02 Continuing Education Requirements #.	Rule 2.5 Restrictions, Interpretation and Policy .02 Continuing Education Requirements #.	Rule 2.5 Restrictions, Interpretation and Policy .02 Continuing Education Requirements #.	FINRA Rule 12[5]40(a)(1)–(4) Continuing Education Requirements <sup>1</sup> ; FINRA Rule 1010(a); FINRA By-laws Article V, Sec. 2.
Rule 2.5 Restrictions, Interpretation and Policy .04 Termination of Employment.	Rule 2.5 Restrictions, Interpretation and Policy .04 Termination of Employment.	Rule 2.5 Restrictions, Interpretation and Policy .04 Termination of Employment.	Rule 2.5 Restrictions, Interpretation and Policy .04 Termination of Employment.	FINRA By-Laws of the Corporation, Article V, Section 3 Notification by Member to the Corporation and Associated Person of Termination; Amendments to Notification.
Rule 2.6(g) Application Procedures for Membership or to become an Associated Person of a Member #.	Rule 2.6(g) Application Procedures for Membership or to become an Associated Person of a Member #.	Rule 2.6(g) Application Procedures for Membership or to become an Associated Person of a Member #.	Rule 2.6(g) Application Procedures for Membership or to become an Associated Person of a Member #.	FINRA By-Laws of the Corporation, Article IV, Section 1(c) Application for Membership.
Rule 3.1 Business Conduct of Members*.	Rule 3.1 Business Conduct of Members*.	Rule 3.1 Business Conduct of Members*.	Rule 3.1 Business Conduct of Members*.	FINRA Rule 2010 Standards of Commercial Honor and Principles of Trade.*
Rule 3.2 Violations Prohibited*.	Rule 3.2 Violations Prohibited*.	Rule 3.2 Violations Prohibited*.	Rule 3.2 Violations Prohibited*.	FINRA Rule 2010 Standards of Commercial Honor and Principles of Trade and FINRA Rule 3110 Supervision.* <sup>2</sup>
Rule 3.3 Use of Fraudulent Devices*.	Rule 3.3 Use of Fraudulent Devices*.	Rule 3.3 Use of Fraudulent Devices*.	Rule 3.3 Use of Fraudulent Devices*.	FINRA Rule 2020 Use of Manipulative, Deceptive or Other Fraudulent Devices.*
Rule 3.5 Communications with the Public.	Rule 3.5 Communications with the Public.	Rule 3.5 Communications with the Public.	Rule 3.5 Communications with the Public.	FINRA Rule 2210 Communications with the Public.
Rule 3.6 Fair Dealing with Customers.	Rule 3.6 Fair Dealing with Customers.	Rule 3.6 Fair Dealing with Customers.	Rule 3.6 Fair Dealing with Customers.	FINRA Rule 2020 Use of Manipulative, Deceptive or Other Fraudulent Devices.* <sup>3</sup>
Rule 3.7(a) Recommendations to Customers.	Rule 3.7(a) Recommendations to Customers.	Rule 3.7(a) Recommendations to Customers.	Rule 3.7(a) Recommendations to Customers.	FINRA Rule 2111(a) Suitability.
Rule 3.8(a) The Prompt Receipt and Delivery of Securities.	Rule 3.8(a) The Prompt Receipt and Delivery of Securities.	Rule 3.8(a) The Prompt Receipt and Delivery of Securities.	Rule 3.8(a) The Prompt Receipt and Delivery of Securities.	FINRA Rule 11860 COD Orders.

BZX Rule	BYX Rule	EDGA Rule	EDGX Rule	FINRA Rule, NASD Rule, Exchange Act Provision or SEC Rule
Rule 3.8(b) The Prompt Receipt and Delivery of Securities.	Rule 3.8(b) The Prompt Receipt and Delivery of Securities.	Rule 3.8(b) The Prompt Receipt and Delivery of Securities.	Rule 3.8(b) The Prompt Receipt and Delivery of Securities.	SEC Regulation SHO.
Rule 3.9 Charges for Services Performed.	Rule 3.9 Charges for Services Performed.	Rule 3.9 Charges for Services Performed.	Rule 3.9 Charges for Services Performed.	FINRA Rule 2122 Charges for Services Performed.
Rule 3.10 Use of Information.	Rule 3.10 Use of Information.	Rule 3.10 Use of Information.	Rule 3.10 Use of Information.	FINRA Rule 2060 Use of Information Obtained in Fiduciary Capacity.
Rule 3.11 Publication of Transactions and Quotations #.	Rule 3.11 Publication of Transactions and Quotations #.	Rule 3.11 Publication of Transactions and Quotations #.	Rule 3.11 Publication of Transactions and Quotations #.	FINRA Rule 5210 Publication of Transactions and Quotations.
Rule 3.12 Offers at Stated Prices.	Rule 3.12 Offers at Stated Prices.	Rule 3.12 Offers at Stated Prices.	Rule 3.12 Offers at Stated Prices.	FINRA Rule 5220 Offers at Stated Prices.
Rule 3.13 Payment Designed to Influence Market Prices, Other than Paid Advertising.	Rule 3.13 Payment Designed to Influence Market Prices, Other than Paid Advertising.	Rule 3.13 Payments Involving Publications that Influence the Market Price of a Security.	Rule 3.13 Payments Involving Publications that Influence the Market Price of a Security.	FINRA Rule 5230 Payments Involving Publications that Influence the Market Price of a Security.
Rule 3.14 Disclosure on Confirmations.	Rule 3.14 Disclosure on Confirmations.	Rule 3.14 Disclosure on Confirmations.	Rule 3.14 Disclosure on Confirmations.	FINRA Rule 2232(a) Customer Confirmations and SEC Rule 10b-10 Confirmation of Transactions.
Rule 3.15 Disclosure of Control.	Rule 3.15 Disclosure of Control.	Rule 3.15 Disclosure of Control.	Rule 3.15 Disclosure of Control.	FINRA Rule 2262 Disclosure of Control Relationship With Issuer.
Rule 3.16 Discretionary Accounts.	Rule 3.16 Discretionary Accounts.	Rule 3.16 Discretionary Accounts.	Rule 3.16 Discretionary Accounts.	NASD Rule 2510 Discretionary Accounts. <sup>4</sup>
Rule 3.17 Customer's Securities or Funds.	Rule 3.17 Customer's Securities or Funds.	Rule 3.17 Customer's Securities or Funds.	Rule 3.17 Customer's Securities or Funds.	FINRA Rule 2150(a) Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts—Improper Use.
Rule 3.18 Prohibition Against Guarantees.	Rule 3.18 Prohibition Against Guarantees.	Rule 3.18 Prohibition Against Guarantees.	Rule 3.18 Prohibition Against Guarantees.	FINRA Rule 2150(b) Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts—Prohibition Against Guarantees.
Rule 3.19 Sharing in Accounts; Extent Permissible.	Rule 3.19 Sharing in Accounts; Extent Permissible.	Rule 3.19 Sharing in Accounts; Extent Permissible.	Rule 3.19 Sharing in Accounts; Extent Permissible.	FINRA Rule 2150(c)(1) Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts—Sharing in Accounts; Extent Permissible.
Rule 3.21[(a)–(f)] Customer Disclosures.	Rule 3.21[(a)–(f)] Customer Disclosures.	Rule 3.21[(a)–(f)] Customer Disclosures.	Rule 3.21[(a)–(f)] Customer Disclosures.	FINRA Rule 2265 Extended Hours Trading Risk Disclosure.
Rule 3.22 Influencing or Rewarding Employees of Others.	Rule 3.22 Influencing or Rewarding Employees of Others.	Rule 3.20 Influencing or Rewarding Employees of Others.	Rule 3.20 Influencing or Rewarding Employees of Others.	FINRA Rule 3220 Influencing or Rewarding Employees of Others.
Rule 3.23 Telemarketing and Interpretations and Policies .01.	Rule 3.23 Telemarketing and Interpretations and Policies .01.	Rule 3.26 Telemarketing and Interpretations and Policies .01.	Rule 3.26 Telemarketing and Interpretations and Policies .01.	FINRA Rule 3230 Telemarketing.
Rule 4.1 Requirements .....	Rule 4.1 Requirements ...	Rule 4.1 Requirements ...	Rule 4.1 Requirements ...	<i>Section 17 of the Exchange Act and the rules thereunder</i> <sup>5</sup> , and <i>FINRA Rule 4511(a) and (c) General Requirements.</i>
Rule 4.3 Record of Written Complaints.	Rule 4.3 Record of Written Complaints.	Rule 4.3 Record of Written Complaints.	Rule 4.3 Record of Written Complaints.	FINRA Rule 4513 Records of Written Customer Complaints.
Rule 5.1 Written Procedures.	Rule 5.1 Written Procedures.	Rule 5.1 Written Procedures.	Rule 5.1 Written Procedures.	FINRA Rule 3110(b)(1) Supervision-Written Procedures.*
Rule 5.2 Responsibility of Members.	Rule 5.2 Responsibility of Members.	Rule 5.2 Responsibility of Members.	Rule 5.2 Responsibility of Members.	FINRA Rule 3110 (a)(4), (b)(4) and (b)(7) Supervision—Supervisory System/Written Procedures—Review of Correspondence and Internal Communications.*
Rule 5.3 Records .....	Rule 5.3 Records .....	Rule 5.3 Records .....	Rule 5.3 Records .....	FINRA Rule 3110 Supervision.*
Rule 5.4 Review of Activities.	Rule 5.4 Review of Activities.	Rule 5.4 Review of Activities.	Rule 5.4 Review of Activities.	FINRA Rule 3110(c) and (d) Supervision—Internal Inspections/Transaction Review and Investigation.*
Rule 5.6 Anti-Money Laundering Compliance Program #.	Rule 5.6 Anti-Money Laundering Compliance Program #.	Rule 5.6 Anti-Money Laundering Compliance Program #.	Rule 5.6 Anti-Money Laundering Compliance Program #.	FINRA Rule 3310 Anti-Money Laundering Compliance Program.
Rule 9.3 Predispute Arbitration Agreements.	Rule 9.3 Predispute Arbitration Agreements.	Rule 9.3 Predispute Arbitration Agreements.	Rule 9.3 Predispute Arbitration Agreements.	FINRA Rule 2268 Requirements When Using Predispute Arbitration Agreements for Customer Accounts.
Rule 11.18(e)(3) & (4) Trading Halts Due to Extraordinary Market Volatility.	Rule 11.18(e)(3) & (4) Trading Halts Due to Extraordinary Market Volatility.	Rule 11.16(e)(3) & (4) Trading Halts Due to Extraordinary Market Volatility.	Rule 11.16(e)(3) & (4) Trading Halts Due to Extraordinary Market Volatility.	FINRA Rule 6190(a)[(1) & (2)]& (b) Compliance with Regulation NMS Plan to Address Extraordinary Market Volatility.
Rule 11.19(a) Short Sales # ^.^.	Rule 11.19(a) Short Sales # ^.^.	Rule 11.10(a)(5) Order Execution-Short Sales # ^.^.	Rule 11.10(a)(5) Order Execution-Short Sales # ^.^.	FINRA Rule 6182 Trade Reporting of Short Sales.^.^
Rule 12.1 Market Manipulation**.	Rule 12.1 Market Manipulation**.	Rule 12.1 Market Manipulation**.	Rule 12.1 Market Manipulation**.	FINRA Rule 6140(a) Other Trading Practices.**
Rule 12.2 Fictitious Transactions**.	Rule 12.2 Fictitious Transactions**.	Rule 12.2 Fictitious Transactions**.	Rule 12.2 Fictitious Transactions**.	FINRA Rule 6140(b) Other Trading Practices.**
Rule 12.3 Excessive Sales by a Member**.	Rule 12.3 Excessive Sales by a Member**.	Rule 12.3 Excessive Sales by a Member**.	Rule 12.3 Excessive Sales by a Member**.	FINRA Rule 6140(c) Other Trading Practices.**
Rule 12.4 Manipulative Transactions**.	Rule 12.4 Manipulative Transactions**.	Rule 12.4 Manipulative Transactions**.	Rule 12.4 Manipulative Transactions**.	FINRA Rule 6140(d) Other Trading Practices.**
Rule 12.5 Dissemination of False Information**.	Rule 12.5 Dissemination of False Information**.	Rule 12.5 Dissemination of False Information**.	Rule 12.5 Dissemination of False Information**.	FINRA Rule 6140(e) Other Trading Practices.**
Rule 12.6 Prohibition Against Trading Ahead of Customer Orders ^.^.	Rule 12.6 Prohibition Against Trading Ahead of Customer Orders ^.^.	Rule 12.6 Prohibition Against Trading Ahead of Customer Orders ^.^.	Rule 12.6 Prohibition Against Trading Ahead of Customer Orders ^.^.	FINRA Rule 5320 Prohibition Against Trading Ahead of Customer Orders.^.^

BZX Rule	BYX Rule	EDGA Rule	EDGX Rule	FINRA Rule, NASD Rule, Exchange Act Provision or SEC Rule
Rule 12.9 Trade Shredding	Rule 12.9 Trade Shredding.	Rule 12.9 Trade Shredding.	Rule 12.9 Trade Shredding.	FINRA Rule 5290 Order Entry and Execution Practices.
Rule 12.11 Best Execution ^^.	Rule 12.11 Best Execution ^^.	Rule 12.11 Best Execution ^^.	Rule 12.11 Best Execution ^^.	FINRA Rule 5310 Best Execution and Interpositioning. ^^
Rule 12.13 Trading Ahead of Research Reports ^^.	Rule 12.13 Trading Ahead of Research Reports ^^.	Rule 12.13 Trading Ahead of Research Reports ^^.	Rule 12.13 Trading Ahead of Research Reports ^^.	FINRA Rule 5280 Trading Ahead of Research Reports. ^^
Rule 12.14(a) Front Running of Block Transactions ^^.	Rule 12.14(a) Front Running of Block Transactions ^^.	Rule 12.14(a) Front Running of Block Transactions ^^.	Rule 12.14(a) Front Running of Block Transactions ^^.	FINRA Rule 5270 Front Running of Block Transactions. ^^
Rule 13.2 Failure to Deliver and Failure to Receive.	Rule 13.2 Failure to Deliver and Failure to Receive.	Rule 13.2 Short Sale Borrowing and Delivery Requirements.	Rule 13.2 Short Sale Borrowing and Delivery Requirements.	Regulation SHO Rules 200 and 203.
Rule 13.3(a), (b)(i), (d) and Interpretation and Policy .01 Forwarding of Proxy and Other Issuer-Related Materials; Proxy Voting.	Rule 13.3(a), (b)(i), (d) and Interpretation and Policy .01 Forwarding of Proxy and Other Issuer-Related Materials; Proxy Voting.	Rule 13.3(a), (b)(i), (d) and Interpretation and Policy .01 Forwarding of Proxy and Other Issuer-Related Materials.	Rule 13.3(a), (b)(i), (d) and Interpretation and Policy .01 Forwarding of Proxy and Other Issuer-Related Materials.	FINRA Rule 2251 Processing and Forwarding of Proxy and Other Issuer-Related Materials.
Rule 26.11 Restrictions on Pledge and Lending of Public Customers' Securities.	.....	.....	Rule 26.11 Restrictions on Pledge and Lending of Public Customers' Securities.	FINRA Rule 4330 Customer Protection—Permissible Uses of Customers' Securities.

<sup>1</sup> FINRA shall only have Regulatory Responsibilities to the extent that the allowance for additional time for a registered person to satisfy the regulatory element is consistently granted.

<sup>2</sup> FINRA shall only have Regulatory Responsibilities regarding the first phrase of the Bats Exchanges rules regarding prohibitions from violating the Securities Exchange Act of 1934 and the rules and regulations thereunder; responsibility for the remainder of the rule shall remain with the Bats Exchanges.

<sup>3</sup> FINRA shall not have Regulatory Responsibilities regarding .01 of each Bats Exchange Rule 3.6.

<sup>4</sup> FINRA shall not have Regulatory Responsibilities for the Bats Exchanges' Rule to the extent the exception in NASD Rule 2510(d)(2) applies.

<sup>5</sup> FINRA shall not have Regulatory Responsibilities regarding requirements to keep records "in conformity with . . . Exchange Rules;" responsibility for such requirement remains with the Bats Exchanges.

In addition, the following provisions shall be part of this 17d–2 Agreement:

#### Securities Exchange Act of 1934 ("SEA")

##### Section 15(g)

#### SEC Rules Under the SEA

SEC Rule 200 of Regulation SHO—Definition of "Short Sale" and Marking Requirements ^^

SEC Rule 201 of Regulation SHO—Circuit Breaker ^^

SEC Rule 203 of Regulation SHO—Borrowing and Delivery Requirements ^^

SEA Rule 204 of Regulation SHO—Close-Out Requirement ^^

SEC Rule 101 of Regulation M—Activities by Distribution Participants ^^

SEC Rule 102 of Regulation M—Activities by Issuers and Selling Security Holders During a Distribution ^^

SEC Rule 103 of Regulation M—Nasdaq Passive Market Making ^^

SEC Rule 104 of Regulation M—Stabilizing and Other Activities in Connection with an Offering ^^

SEC Rule 105 of Regulation M—Short Selling in Connection With a Public Offering ^^

SEC Rules 17a–3 / 17a–4—Records to be made by Certain Exchange Members, Brokers, and Dealers/Records to be Preserved by Certain Exchange Members, Brokers, and Dealers \*

#### SEC Rule 14e–4—Prohibited Transactions in Connection with Partial Tender Offers ++

[# FINRA shall not have Regulatory Responsibilities regarding notification or reporting to the Bats Exchanges and to the extent any exercise of discretion is the same.]

\* FINRA shall not have any Regulatory Responsibilities for these rules as they pertain to violations of insider trading activities, which is covered by a separate 17d–2 Agreement by and among [BATS Exchange, Inc., BATS Y Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange Inc., EDGX Exchange Inc., Financial Industry Regulatory Authority, Inc., NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange, LLC, NYSE Amex LLC, and NYSE Arca, Inc. effective December 16, 2011] *Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Chicago Stock Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., Nasdaq BX, Inc., Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, NYSE National, Inc., New York Stock Exchange LLC, NYSE American LLC, NYSE Arca Inc., Investors' Exchange LLC and Long-Term Stock Exchange, Inc. effective August 1, 2019*, as may be amended from time to time.

\*\* FINRA shall not have Regulatory Responsibilities for these rules as they pertain to trading practices involving securities that do not meet the definition of NMS stock as defined in Rule 600(b)(47) of Regulation NMS. As of the current date, Bats Exchanges do not trade any non-NMS stock.

^^ FINRA shall perform the surveillance responsibilities for the double caret rules.

These rules may be cited by FINRA in both the context of this Agreement and the Regulatory Services Agreement.

++ FINRA shall perform the surveillance responsibilities for SEC Rule 14e–4(a)(1)(ii)(D).

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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](mailto:rule-comments@sec.gov). Please include File Number 4–705 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 4–705. 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 plan that are filed with the Commission,



and all written communications relating to the proposed plan 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 plan also will be available for inspection and copying at the principal offices of FINRA, BZX, BYX, EDGX, and EDGA. 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 4–705 and should be submitted on or before January 16, 2020.

## V. Discussion

The Commission finds that the proposed Amended Plan is consistent with the factors set forth in Section 17(d) of the Act<sup>12</sup> and Rule 17d–2(c) thereunder<sup>13</sup> in that the proposed Amended Plan is necessary or appropriate in the public interest and for the protection of investors, fosters cooperation and coordination among SROs, and removes impediments to and fosters the development of the national market system. In particular, the Commission believes that the proposed Amended Plan should reduce unnecessary regulatory duplication by allocating to FINRA certain examination and enforcement responsibilities for Common Members that would otherwise be performed by FINRA and at least one of the Bats Exchanges. Accordingly, the proposed Amended Plan promotes efficiency by reducing costs to Common Members. Furthermore, because the Bats Exchanges and FINRA will coordinate their regulatory functions in accordance with the Amended Plan, the Amended Plan should promote investor protection.

The Commission notes that, under the Amended Plan, the Bats Exchanges and FINRA have allocated regulatory responsibility for those rules of the Bats Exchanges, set forth in the Certification, that are substantially similar to the applicable FINRA rules in that examination for compliance with such provisions and rules would not require FINRA to develop one or more new

examination standards, modules, procedures, or criteria in order to analyze the application of the rule, or a Common Member's activity, conduct, or output in relation to such rule. In addition, under the Amended Plan, FINRA would assume regulatory responsibility for certain provisions of the federal securities laws and the rules and regulations thereunder that are set forth in the Certification. The Common Rules covered by the Amended Plan are specifically listed in the Certification, as may be amended by the Parties from time to time.

According to the Amended Plan, the Bats Exchanges will review the Certification, at least annually, or more frequently if required by changes in either the rules of any one of the Bats Exchanges or FINRA, and, if necessary, submit to FINRA an updated list of Common Rules to add rules of any Bats Exchange not included on the then-current list of Common Rules that are substantially similar to FINRA rules; delete rules of any Bats Exchange included in the then-current list of Common Rules that no longer qualify as common rules;<sup>14</sup> FINRA will then confirm in writing whether the rules listed in any updated list are Common Rules as defined in the Amended Plan. Under the Amended Plan, each Bats Exchange will also provide FINRA with a current list of Common Members and shall update the list no less frequently than once each quarter.<sup>15</sup> The Commission believes that these provisions are designed to provide for continuing communication between the Parties to ensure the continued accuracy of the scope of the proposed allocation of regulatory responsibility.

The Commission is hereby declaring effective an Amended Plan that, among other things, allocates regulatory responsibility to FINRA for the oversight and enforcement of all rules of the Bats Exchanges that are substantially similar to the rules of FINRA for Common Members of FINRA and the Bats Exchanges. Therefore, modifications to the Certification need not be filed with the Commission as an amendment to the Amended Plan, provided that the Parties are only adding to, deleting from, or confirming changes to the rules of the Bats Exchanges in the Certification in conformance with the definition of Common Rules provided in the

Amended Plan. However, should the Parties decide to add a rule of a Bats Exchange to the Certification that is not substantially similar to a FINRA rule; delete a rule of a Bats Exchange from the Certification that is substantially similar to a FINRA rule; or leave on the Certification a Bats Exchange rule that is no longer substantially similar to a FINRA rule, then such a change would constitute an amendment to the Amended Plan, which must be filed with the Commission pursuant to Rule 17d–2 under the Act.<sup>16</sup>

Under paragraph (c) of Rule 17d–2, the Commission may, after appropriate notice and comment, declare a plan, or any part of a plan, effective. In this instance, the Commission believes that appropriate notice and comment can take place after the proposed amendment is effective. The primary purposes of the amendment are to allocate surveillance, investigation, and enforcement responsibilities for Rule 14e–4 under the Act, and to update the names of the Bats Exchanges. By declaring it effective today, the Amended Plan can become effective and be implemented without undue delay. The Commission notes that the prior version of this plan immediately prior to this proposed amendment was published for comment and the Commission did not receive any comments thereon.<sup>17</sup> Furthermore, the Commission does not believe that the amendment to the plan raises any new regulatory issues that the Commission has not previously considered.<sup>18</sup>

## VI. Conclusion

This Order gives effect to the Plan filed with the Commission in File No. 4–705. The Parties shall notify all members affected by the Plan of their rights and obligations under the Plan.

*It is therefore ordered*, pursuant to Section 17(d) of the Act, that the Plan in File No. 4–705, between FINRA, BZX, BYX, EDGA, and EDGX, filed pursuant to Rule 17d–2 under the Act, is approved and declared effective.

*It is further ordered* that BZX, BYX, EDGA, and EDGX are relieved of those

<sup>16</sup> The Commission also notes that the addition to or deletion from the Certification of any federal securities laws, rules, and regulations for which FINRA would bear responsibility under the Amended Plan for examining, and enforcing compliance by, Common Members, also would constitute an amendment to the Amended Plan.

<sup>17</sup> See Securities Exchange Act Release No. 79057 (October 6, 2016), 81 FR 70728 (October 13, 2016).

<sup>18</sup> See, e.g., Securities Exchange Act Release No. 85189 (February 25, 2019), 84 FR 7153 (March 1, 2019) (order approving an amendment to add Rule 14e–4 to a plan between FINRA and Miami International Securities Exchange, LLC, MIAX PEARL, LLC, and MIAX Emerald, LLC).

<sup>12</sup> 15 U.S.C. 78q(d).

<sup>13</sup> 17 CFR 240.17d–2(c).

<sup>14</sup> See paragraph 2 of the Amended Plan.

<sup>15</sup> See paragraph 3 of the Amended Plan.

responsibilities allocated to FINRA under the Plan in File No. 4–705.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**J. Matthew DeLesDernier,**  
Assistant Secretary.

[FR Doc. 2019–27696 Filed 12–23–19; 8:45 am]

BILLING CODE 8011–01–P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87796; File No. SR–NYSEArca–2019–89]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 6.60–O (Price Protection—Orders)

December 18, 2019.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”)<sup>2</sup> and Rule 19b–4 thereunder,<sup>3</sup> notice is hereby given that, on December 5, 2019, NYSE Arca, 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.60–O (Price Protection—Orders) to modify and enhance certain of its current price protection mechanisms. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://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 amend paragraph (c) of Rule 6.60–O to modify and enhance its Price Reasonability Checks for options orders to sell puts or calls (the “Sell Check”). As proposed, the Exchange would enhance the Sell Checks applied when the National Best Bid (“NBB”) is below a specified price and would exclude from the Sell Check any Intermarket Sweep Orders, both of which changes would allow for a more finely calibrated Sell Check.

##### Price Reasonability Checks

The Exchange has in place various price check mechanisms that are designed to prevent incoming orders from automatically executing at potentially erroneous prices.<sup>4</sup> In particular, the Exchange has Price Reasonability Checks (“Price Checks”) for Limit Orders based on the principle that an option order is in error and should be rejected (or canceled) when the same result can be achieved on the market for the underlying equity security at a lesser cost.<sup>5</sup> The Price Checks are based on the consolidated last sale price of the security underlying the option, once the security opens for trading (or reopens following a Trading Halt).<sup>6</sup> The Exchange offers Price Checks for buy and sell options orders.<sup>7</sup> The proposed change relates only to the Price Checks for sell options orders (*i.e.*, the Sell Check).<sup>8</sup>

<sup>4</sup> See, *e.g.*, Rules 6.60–O(a) (trading collars) and (b) (limit order price filter), 6.61–O(a) (price protection for Market Maker quotes).

<sup>5</sup> A Limit Order is an order to buy or sell a stated number of option contracts at a specified price, or better. See Rule 6.62–O(b).

<sup>6</sup> See Rule 6.60–O(c).

<sup>7</sup> The Price Checks—or arbitrage checks—for buy orders operate as follows: Unless otherwise provided in Commentary .01 of the Rule, the Exchange rejects or cancels any limit order to buy a put option if the price of the order is equal to or greater than the strike price of the option; and, the Exchange rejects or cancels any limit order to buy a call option if the price of the order is equal to or greater than the consolidated last sale price of the underlying security, plus a dollar amount to be determined by the Exchange and announced by Trader Update. See Rule 6.60–O(c)(1)(A), (B).

<sup>8</sup> The proposed rule change would not impact the securities that are excluded from the Price Checks per Commentary .01 to the Rule, which currently are options series for which the underlying security has a non-standard cash or stock deliverable as part of a corporate action; options series for which the underlying security is identified as OTC; option series on an index; and ByRDS. See Commentary .01 to Rule 6.60–O.

Current Rule 6.60–O(c)(2) sets forth the current Sell Check, which is designed to protect sellers of calls and puts from presumptively erroneous executions based on the “Intrinsic Value” of an option. The Intrinsic Value of an option series is measured as the difference between the strike price and the consolidated last sale price. A sell order in a call series creates an obligation to *sell* the underlying security at the strike price and a sell order in a put series creates an obligation to *buy* the underlying security at the strike price. Thus, the Intrinsic Value for a call option is equal to the consolidated last sale price of the underlying security minus the strike price; whereas the Intrinsic Value for a put option is equal to the strike price minus the consolidated last sale price of the underlying security.<sup>9</sup> Under the current Rule, the Exchange rejects or cancels options Limit Orders to sell a call or to sell a put if the price of the order is equal to or lower than its Intrinsic Value, minus a threshold percentage (“percentage threshold”), which is determined by the Exchange and announced by Trader Update.<sup>10</sup> The percentage threshold buffer is an important aspect of the Sell Check because there may be situations in which market participants willingly opt to execute certain trading strategies even if such trade or trades occur for a price less than the Intrinsic Value of the options series.<sup>11</sup> Absent this percentage threshold buffer, application of the Sell Check could result in the rejection or cancellation of certain options sell orders where market participants seek an execution.

#### Proposed Low Price Intrinsic Value Percentage Threshold

The Exchange proposes to modify the Sell Check to introduce a separate percentage threshold to better account for sell orders in options series that are trading at relatively low prices so as to avoid such orders potentially being (incorrectly) rejected or canceled.

<sup>9</sup> See Rule 6.60–O(c)(2).

<sup>10</sup> See Rule 6.60–O(c)(2)(A). The percentage threshold for sell orders is currently set to twenty-five percent (25%). The Exchange refers to this existing percentage threshold as the “Regular Intrinsic Value percentage threshold” to differentiate from the proposed threshold. See proposed Rule 6.60–O(c)(2)(A).

<sup>11</sup> For example, if the market participant is looking to close out a position, it may be financially beneficial to pay a small premium and close out the position rather than carry such position to expiration and take delivery. See, *e.g.*, Securities Exchange Act Release No. 85922 (May 23, 2019), 84 FR 25093, 25094, fn10 (May 30, 2019) (SR–NYSEArca–2019–35) (immediately effective filing implementing Price Checks, including the Sell Check).

<sup>19</sup> 17 CFR 200.30–3(a)(34).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b–4.

Specifically, the Exchange would apply this modified check to limit orders to sell when the NBB for the option series is equal to or below a specified minimum price, as determined and announced by the Exchange (the “Minimum Price”).<sup>12</sup> As proposed, if the Exchange receives an order to sell a put or a call in an option series where the NBB “is equal to or below the Minimum Price,” such order would be canceled or rejected “if the price of the order is equal to or lower than its Intrinsic Value, minus a threshold percentage” to be determined by the Exchange and announced by Trader Update (the “Low Price Intrinsic Value percentage threshold”).<sup>13</sup> The rule text would also make clear that this Low Price Intrinsic Value percentage threshold would be calculated as a percentage of the Intrinsic Value.<sup>14</sup> The Exchange believes this proposed modification would enable the Exchange to apply a more finely calibrated Sell Check (*i.e.*, to options orders trading at or below a certain price), which is distinct from the Regular Intrinsic Value percentage threshold, and should reduce the possibility of such orders on lower-priced options being improperly canceled or rejected.<sup>15</sup>

As noted above, market participants may opt to willingly execute trading strategies regardless of whether the result is an execution for a price less than the Intrinsic Value of the options series. The Low Price Intrinsic Value percentage threshold is designed to allow greater flexibility to market participants submitting sell orders in option series trading at lower prices. This would allow participants additional opportunities to execute certain orders (rather than reject or cancel), while still maintaining a tolerance range. Thus, the proposal would protect investors by adding flexibility and sensitivity to the Sell Check for orders in lower-priced options and allow the balance of the Price Checks to continue to operate as intended.

The following examples illustrate this proposed functionality.

*Assumptions:*

- Minimum Price is \$1.00
- (Regular) Intrinsic Value percentage threshold is 25%
- Low Price Intrinsic Value percentage threshold is 100%
- Series A: XYZ DEC 136 Call
- XYZ Stock is trading at \$136.36

*Example 1:* NBBO for Series A: (100) \$2.00 × \$3.00 (100)

- The NBB of \$2.00 is above the Minimum Price (*i.e.*, \$1.00), thus, the (Regular) Intrinsic Value percentage threshold, per Rule 6.60–O(c)(2)(A), applies.
- The Intrinsic Value of Series A is \$0.36 (\$136.36–\$136.00); and
- The lowest acceptable price for a sell in Series A is \$0.27 (after applying the 25% percentage threshold (\$0.09)).

*Example 2:* NBBO for Series A: (100) \$0.50 × \$3.00 (100)

- The NBB of \$0.50 is below the Minimum Price (*i.e.*, \$1.00), thus, the Low Price Intrinsic Value percentage threshold, per proposed Rule 6.60–O(c)(2)(A)(i), applies.
- The Intrinsic Value of Series A is \$0.36 (\$136.36–\$136.00); and
- The lowest acceptable price for a sell in Series A is \$0.00 (after applying the 100% percentage threshold (\$0.36)) (*i.e.*, there is no intrinsic check in this case).

**ISOs Excluded From Sell Checks**

The Exchange also proposes to modify the Sell Check to exclude any Intermarket Sweep Order or ISO.<sup>16</sup> An ISO is a Limit Order for an options series that instructs the Exchange to execute the order up to the price of its limit, regardless of the NBBO.<sup>17</sup> An OTP Holder may submit an ISO to sell only if it has simultaneously routed one or more additional ISOs, as necessary, to execute against the full displayed size of any better-priced protected quotations for the options series (*i.e.*, the Protected Bid), with a price that is superior to the limit of the ISO.<sup>18</sup> Because an ISO is

generally used when trying to sweep a price level across multiple exchanges in an effort to post the balance of an order without locking an away market, the Exchange believes it is appropriate to exclude such orders from the Sell Check so as not to interfere with the intended functioning of such order type.

**Implementation**

The Exchange will announce by Trader Update the implementation date of the proposed rule change.

**2. Statutory Basis**

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>19</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>20</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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.

In particular, the Exchange believes the proposed Sell Check as modified to account for lower-priced options and to exclude ISOs would protect investors and the public interest and maintain fair and orderly markets by ensuring that properly entered orders are not inadvertently rejected or canceled by the Exchange. In particular, the Low Price Intrinsic Value percentage threshold would allow for better calibration of the Sell Check (*i.e.*, to options orders trading at or below a certain price), which should reduce the possibility of such orders on lower-priced options being improperly canceled or rejected. Under certain circumstances, market participants may choose to execute trading strategies regardless of whether the result is an execution for a price less than the Intrinsic Value of the options series. The Low Price Intrinsic Value percentage threshold (which is distinct from the Regular Intrinsic Value percentage threshold) is designed to allow greater flexibility to market participants submitting sell orders in option series trading at lower prices. This would allow participants additional

simultaneously routed one or more additional ISOs to buy (sell), as necessary, to execute against the full displayed size of any Protected Bid (Protected Offer) for the options series with a price that is superior to the limit price of the ISO. *See id.*

<sup>19</sup> 15 U.S.C. 78f(b).

<sup>20</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> See proposed Rule 6.60–O(c)(2)(A)(i) (providing that the current Sell Check will apply to orders “provided the NBB for the option series is greater than” the Minimum Price; otherwise the Low Price Intrinsic Value percentage threshold would apply). See also proposed Rule 6.60–O(c)(2)(A)(i) [*sic*].

<sup>13</sup> See proposed Rule 6.60–O(c)(2)(A)(i).

<sup>14</sup> See *id.*

<sup>15</sup> See *id.* The Exchange anticipates setting the Minimum Price to \$1.00 and the Low Price Intrinsic Value percentage threshold to one hundred percent (100%) and whether and when these amounts change would depend upon the interest and/or behavior of market participants.

<sup>16</sup> See proposed Rule 6.60–O(c)(2).

<sup>17</sup> See Rule 6.62–O(aa) (providing, in relevant part, that an ISOs “may only be entered with a time-in-force of IOC, and the entering OTP Holder must comply with the provisions of Rule 6.92–O(a)(8)”).

<sup>18</sup> See Rule 6.92–O(a)(8) (providing that an ISO is “a limit order for an options series that, simultaneously with the routing of the ISO, one or more additional ISOs, as necessary, are routed to execute against the full displayed size of any Protected Bid, in the case of a limit order to sell, or any Protected Offer, in the case of a limit order to buy, for the options series with a price that is superior to the limit price of the ISO.” See *id.* The rule further provides that an OTP Holder may submit an ISO to the Exchange only if it has

opportunities to execute certain orders (rather than reject or cancel), while still maintaining a tolerance range. Thus, the proposal would promote just and equitable principles of trade and would protect investors by adding flexibility and sensitivity to the Sell Check for orders in lower-priced options and allow the balance of the Price Checks to continue to operate as intended.

In addition, with regard to ISOs, the Exchange believes it is appropriate to exclude such orders from the Sell Check to ensure that the order type (as well as the Sell Check) operates as intended. Moreover, modifying the rule to specify that ISOs would be excluded from the Sell Check would add clarity and transparency to Exchange rules.

The Exchange is proposing the modifications to the Sell Check for the benefit of, and in consultation with, OTP Holders and OTP Firms and believes the proposed rule change would help to maintain a fair and orderly market, and provide a valuable service to investors. In particular, the proposed changes to the Sell Check are responsive to member input regarding certain orders being erroneously rejected or canceled by the Sell Check (either an ISO or a sell order on an option series trading at a (relatively) low price). This proposal would thus facilitate transactions in securities and perfect the mechanism of a free and open market by providing OTP Holders and OTP Firms with enhanced functionality that will assist them with managing their portfolio and risk profile.

#### *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 enhances the existing Sell Check for option orders of all OTP Holders submitted to the Exchange and is designed to ensure that properly entered orders are not inadvertently rejected or canceled by the Exchange—insofar as the Sell Check would exclude (and not interfere with the operation of) ISO orders, and, would apply a modified/more finely calibrated percentage threshold to sell orders in option series trading at a relatively low price.

The Exchange further believes that because the proposed rule change would be applicable to all OTP Holders it would not impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>21</sup> and Rule 19b-4(f)(6) thereunder.<sup>22</sup>

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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2019-89 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.

<sup>21</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>22</sup> 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.

All submissions should refer to File Number SR-NYSEArca-2019-89. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2019-89 and should be submitted on or before January 16, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>23</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2019-27724 Filed 12-23-19; 8:45 am]

BILLING CODE 8011-01-P

#### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-87794; File No. SR-NYSEAMER-2019-56]

#### **Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 967NY (Price Protection—Orders)**

December 18, 2019.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934

<sup>23</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

(“Act”)<sup>2</sup> and Rule 19b–4 thereunder,<sup>3</sup> notice is hereby given that on December 5, 2019, NYSE American LLC (“Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### **I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend Rule 967NY (Price Protection—Orders) to modify and enhance certain of its current price protection mechanisms. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://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 amend paragraph (c) of Rule 967NY to modify and enhance its Price Reasonability Checks for options orders to sell puts or calls (the “Sell Check”). As proposed, the Exchange would enhance the Sell Checks applied when the National Best Bid (“NBB”) is below a specified price and would exclude from the Sell Check any Intermarket Sweep Orders, both of which changes would allow for a more finely calibrated Sell Check.

##### **Price Reasonability Checks**

The Exchange has in place various price check mechanisms that are designed to prevent incoming orders from automatically executing at

potentially erroneous prices.<sup>4</sup> In particular, the Exchange has Price Reasonability Checks (“Price Checks”) for Limit Orders based on the principle that an option order is in error and should be rejected (or canceled) when the same result can be achieved on the market for the underlying equity security at a lesser cost.<sup>5</sup> The Price Checks are based on the consolidated last sale price of the security underlying the option, once the security opens for trading (or reopens following a Trading Halt).<sup>6</sup> The Exchange offers Price Checks for buy and sell options orders.<sup>7</sup> The proposed change relates only to the Price Checks for sell options orders (*i.e.*, the Sell Check).<sup>8</sup>

Current Rule 967NY(c)(2) sets forth the current Sell Check, which is designed to protect sellers of calls and puts from presumptively erroneous executions based on the “Intrinsic Value” of an option. The Intrinsic Value of an option series is measured as the difference between the strike price and the consolidated last sale price. A sell order in a call series creates an obligation to *sell* the underlying security at the strike price and a sell order in a put series creates an obligation to *buy* the underlying security at the strike price. Thus, the Intrinsic Value for a call option is equal to the consolidated last sale price of the underlying security minus the strike price; whereas the Intrinsic Value for a put option is equal to the strike price minus the consolidated last sale price of the underlying security.<sup>9</sup> Under the current Rule, the Exchange rejects or cancels options Limit Orders to sell a call or to sell a put if the price of the order is equal to or lower than its Intrinsic

Value, minus a threshold percentage (“percentage threshold”), which is determined by the Exchange and announced by Trader Update.<sup>10</sup> The percentage threshold buffer is an important aspect of the Sell Check because there may be situations in which market participants willingly opt to execute certain trading strategies even if such trade or trades occur for a price less than the Intrinsic Value of the options series.<sup>11</sup> Absent this percentage threshold buffer, application of the Sell Check could result in the rejection or cancellation of certain options sell orders where market participants seek an execution.

##### **Proposed Low Price Intrinsic Value Percentage Threshold**

The Exchange proposes to modify the Sell Check to introduce a separate percentage threshold to better account for sell orders in options series that are trading at relatively low prices so as to avoid such orders potentially being (incorrectly) rejected or canceled. Specifically, the Exchange would apply this modified check to limit orders to sell when the NBB for the option series is equal to or below a specified minimum price, as determined and announced by the Exchange (the “Minimum Price”).<sup>12</sup> As proposed, if the Exchange receives an order to sell a put or a call in an option series where the NBB “is equal to or below the Minimum Price,” such order would be canceled or rejected “if the price of the order is equal to or lower than its Intrinsic Value, minus a threshold percentage” to be determined by the Exchange and announced by Trader Update (the “Low Price Intrinsic Value percentage threshold”).<sup>13</sup> The rule text would also make clear that this Low Price Intrinsic Value percentage threshold would be calculated as a

<sup>4</sup> See, *e.g.*, Rules 967NY(a) (trading collars) and (b) (limit order price filter), Rule 967.1NY(a) (price protection for Market Maker quotes).

<sup>5</sup> A Limit Order is an order to buy or sell a stated number of option contracts at a specified price, or better. See Rule 900.3NY(b).

<sup>6</sup> See Rule 967NY(c).

<sup>7</sup> The Price Checks—or arbitrage checks—for buy orders operate as follows: Unless otherwise provided in Commentary .01 of the Rule, the Exchange rejects or cancels any limit order to buy a put option if the price of the order is equal to or greater than the strike price of the option; and, the Exchange rejects or cancels any limit order to buy a call option if the price of the order is equal to or greater than the consolidated last sale price of the underlying security, plus a dollar amount to be determined by the Exchange and announced by Trader Update. See Rule 967NY(c)(1)(A), (B).

<sup>8</sup> The proposed rule change would not impact the securities that are excluded from the Price Checks per Commentary .01 to the Rule, which currently are options series for which the underlying security has a non-standard cash or stock deliverable as part of a corporate action; options series for which the underlying security is identified as OTC; option series on an index; and ByRds. See Commentary .01 to Rule 967NY.

<sup>9</sup> See Rule 967NY(c)(2).

<sup>10</sup> See Rule 967NY(c)(2)(A). The percentage threshold for sell orders is currently set to twenty-five percent (25%). The Exchange refers to this existing percentage threshold as the “Regular Intrinsic Value percentage threshold” to differentiate from the proposed threshold. See proposed Rule 967NY(c)(2)(A).

<sup>11</sup> For example, if the market participant is looking to close out a position, it may be financially beneficial to pay a small premium and close out the position rather than carry such position to expiration and take delivery. See, *e.g.*, Securities Exchange Act Release No. 85925 (May 23, 2019), 84 FR 24831, 24832, fn14 (May 30, 2019) (SR–NYSEAMER–2019–19) (immediately effective filing implementing Price Checks, including the Sell Check).

<sup>12</sup> See proposed Rule 967NY(c)(2)(A)(i) (providing that the current Sell Check will apply to orders “provided the NBB for the option series is greater than” the Minimum Price; otherwise the Low Price Intrinsic Value percentage threshold would apply). See also proposed Rule 967NY(c)(2)(A)(i) [sic].

<sup>13</sup> See proposed Rule 967NY(c)(2)(A)(i).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b–4.

percentage of the Intrinsic Value.<sup>14</sup> The Exchange believes this proposed modification would enable the Exchange to apply a more finely calibrated Sell Check (*i.e.*, to options orders trading at or below a certain price), which is distinct from the Regular Intrinsic Value percentage threshold, and should reduce the possibility of such orders on lower-priced options being improperly canceled or rejected.<sup>15</sup>

As noted above, market participants may opt to willingly execute trading strategies regardless of whether the result is an execution for a price less than the Intrinsic Value of the options series. The Low Price Intrinsic Value percentage threshold is designed to allow greater flexibility to market participants submitting sell orders in option series trading at lower prices. This would allow participants additional opportunities to execute certain orders (rather than reject or cancel), while still maintaining a tolerance range. Thus, the proposal would protect investors by adding flexibility and sensitivity to the Sell Check for orders in lower-priced options and allow the balance of the Price Checks to continue to operate as intended.

The following examples illustrate this proposed functionality.

*Assumptions:*

- Minimum Price is \$1.00.
- (Regular) Intrinsic Value percentage threshold is 25%.

• Low Price Intrinsic Value percentage threshold is 100%.

- Series A: XYZ DEC 136 Call.
- XYZ Stock is trading at \$136.36.

*Example 1:* NBBO for Series A: (100) \$2.00 × \$3.00 (100).

• The NBB of \$2.00 is above the Minimum Price (*i.e.*, \$1.00), thus, the (Regular) Intrinsic Value percentage threshold, per Rule 967NY(c)(2)(A), applies.

- The Intrinsic Value of Series A is \$0.36 (\$136.36 – \$136.00); and
- The lowest acceptable price for a sell in Series A is \$0.27 (after applying the 25% percentage threshold (\$0.09)).

*Example 2:* NBBO for Series A: (100) \$0.50 × \$3.00 (100).

• The NBB of \$0.50 is below the Minimum Price (*i.e.*, \$1.00), thus, the Low Price Intrinsic Value percentage threshold, per proposed Rule 967NY(c)(2)(A)(i), applies.

- The Intrinsic Value of Series A is \$0.36 (\$136.36 – \$136.00); and
- The lowest acceptable price for a sell in Series A is \$0.00 (after applying the 100% percentage threshold (\$0.36)) (*i.e.* there is no intrinsic check in this case).

#### ISOs Excluded From Sell Checks

The Exchange also proposes to modify the Sell Check to exclude any Intermarket Sweep Order or ISO.<sup>16</sup> An ISO is a Limit Order for an options series that instructs the Exchange to execute the order up to the price of its limit, regardless of the NBBO. An ATP Holder may submit an ISO to sell only if it has simultaneously routed one or more additional ISOs, as necessary, to execute against the full displayed size of any better-priced protected quotations for the options series (*i.e.*, the Protected Bid), with a price that is superior to the limit of the ISO.<sup>17</sup> Because an ISO is generally used when trying to sweep a price level across multiple exchanges in an effort to post the balance of an order without locking an away market, the Exchange believes it is appropriate to exclude such orders from the Sell Check so as not to interfere with the intended functioning of such order type.

#### Implementation

The Exchange will announce by Trader Update the implementation date of the proposed rule change.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>18</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>19</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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.

In particular, the Exchange believes the proposed Sell Check as modified to account for lower-priced options and to exclude ISOs would protect investors and the public interest and maintain fair and orderly markets by ensuring that properly entered orders are not inadvertently rejected or canceled by

the Exchange. In particular, the Low Price Intrinsic Value percentage threshold would allow for better calibration of the Sell Check (*i.e.*, to options orders trading at or below a certain price), which should reduce the possibility of such orders on lower-priced options being improperly canceled or rejected. Under certain circumstances, market participants may choose to execute trading strategies regardless of whether the result is an execution for a price less than the Intrinsic Value of the options series. The Low Price Intrinsic Value percentage threshold (which is distinct from the Regular Intrinsic Value percentage threshold) is designed to allow greater flexibility to market participants submitting sell orders in option series trading at lower prices. This would allow participants additional opportunities to execute certain orders (rather than reject or cancel), while still maintaining a tolerance range. Thus, the proposal would promote just and equitable principles of trade and would protect investors by adding flexibility and sensitivity to the Sell Check for orders in lower-priced options and allow the balance of the Price Checks to continue to operate as intended.

In addition, with regard to ISOs, the Exchange believes it is appropriate to exclude such orders from the Sell Check to ensure that the order type (as well as the Sell Check) operates as intended. Moreover, modifying the rule to specify that ISOs would be excluded from the Sell Check would add clarity and transparency to Exchange rules.

The Exchange is proposing the modifications to the Sell Check for the benefit of, and in consultation with ATP Holders and believes the proposed rule change would help to maintain a fair and orderly market, and provide a valuable service to investors. In particular, the proposed changes to the Sell Check are responsive to member input regarding certain orders being erroneously rejected or canceled by the Sell Check (either an ISO or a sell order on an option series trading at a (relatively) low price). This proposal would thus facilitate transactions in securities and perfect the mechanism of a free and open market by providing ATP Holders with enhanced functionality that will assist them with managing their portfolio and risk profile.

#### 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

<sup>14</sup> See *id.*

<sup>15</sup> See *id.* The Exchange anticipates setting the Minimum Price to \$1.00 and the Low Price Intrinsic Value percentage threshold to one hundred percent (100%) and whether and when these amounts change would depend upon the interest and/or behavior of market participants.

<sup>16</sup> See proposed Rule 967NY(c)(2).

<sup>17</sup> See Rule 900.3NY(u).

<sup>18</sup> 15 U.S.C. 78f(b).

<sup>19</sup> 15 U.S.C. 78f(b)(5).

of the purposes of the Act. The proposed rule change enhances the existing Sell Check for option orders of all ATP Holders submitted to the Exchange and is designed to ensure that properly entered orders are not inadvertently rejected or canceled by the Exchange—insofar as the Sell Check would exclude (and not interfere with the operation of) ISO orders, and, would apply a modified/more finely calibrated percentage threshold to sell orders in option series trading at a relatively low price.

The Exchange further believes that because the proposed rule change would be applicable to all ATP Holders it would not impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>20</sup> and Rule 19b-4(f)(6) thereunder.<sup>21</sup>

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.

<sup>20</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>21</sup> 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.

**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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEAMER-2019-56 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-NYSEAMER-2019-56. 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-NYSEAMER-2019-56 and should be submitted on or before January 16, 2020.<sup>22</sup>

<sup>22</sup> 17 CFR 200.30-3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2019-27734 Filed 12-23-19; 8:45 am]

BILLING CODE 8011-01-P

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-87799; File No. SR-CBOE-2019-124]

**Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule**

December 18, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 18, 2019, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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 Fees Schedule. 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 statements may be examined at the places specified in Item IV below. The

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.



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 various amendments to its Fees Schedule.<sup>3</sup>

SPX Select Market-Makers

Footnote 49 of the Fees Schedule currently provides that any appointed SPX Select Market-Maker ("SMM") will receive a monthly rebate of \$8,000 if the SMM provides continuous electronic quotes in at least 99% of the SPX series 90% of the time in a given month. SMMs are not obligated to satisfy the heightened quoting standards described in the Fees Schedule. Rather, SMMs are eligible to receive a rebate if they satisfy the heightened standards. SMMs must still comply with the continuous quoting obligation and other obligations of Market-Makers described in Cboe Options Rules.<sup>4</sup> The Exchange adopted the monthly rebate program to encourage SMMs to provide liquidity in SPX. The Exchange now proposes to eliminate the SMM rebate program. The Exchange no longer believes additional liquidity by an SMM is necessary and notes the Exchange is not required to maintain such an incentive program. The Exchange also notes that Market-Makers that were previously appointed as SMMs will still be required to comply with the continuous quoting obligation and other obligations of Market-Makers described in Cboe Options Rules.

Linkage

The Exchange currently assesses certain fees in connection with orders routed to other exchanges. The Exchange proposes to not pass through or otherwise charge customer (capacity code "C") orders (of any size) routed to other exchanges that were originally transmitted to the Exchange from the trading floor through an Exchange-sponsored terminal (e.g., PULSe Workstation). The primary objective of linkage fees are to recoup some of the costs associated with large electronic orders that are initially transmitted to the Exchange by parties who, in many

instances, could be seeking to avoid being assessed another market's transaction fees. Orders that are initially transmitted from the trading floor are not attempting to avoid fees since they incur brokerage commission charges in connection with manual handling. Rather, orders that are generally transmitted from the floor are large, complex orders that are primarily executed on the Exchange, which only are transmitted to away markets if, during their execution on the Exchange, it is necessary to sweep some away markets. As such, the Exchange believes it's appropriate to waive linkage fees for these orders. The Exchange lastly notes that the proposed waiver is not novel. Indeed, the Exchange maintained the proposed waiver prior to the migration to a new billing system on October 7, 2019, but had eliminated the waiver upon migration.<sup>5</sup> After further evaluation, the Exchange now wishes to re-adopt the proposed waiver. The Exchange notes the proposed waiver is identical to the waiver in place pre-migration.

Tier Appointment Fees

The Exchange currently assesses a SPX Tier Appointment Fee of \$3,000 per month to any Market-Maker holding a Market-Maker Electronic Access Permit ("EAP") ("MM EAP") that trades any SPX (including SPXW) contracts at any time during the month. The Exchange proposes to amend the Fees Schedule to adopt a contract threshold. Particularly, the Exchange proposes to provide that the SPX Tier Appointment Fee will be assessed to any MM EAP that executes at least 1,000 contracts in SPX (including SPXW) excluding contracts executed during the opening rotation on the final settlement date of VIX options and futures with the expiration used in the VIX settlement calculation. The Exchange proposes to exclude SPX and SPXW volume executed during opening rotation on the final settlement date of VIX options and futures which have the expiration that contribute to the VIX settlement, as such orders help to facilitate the calculation of a settlement price for VIX options and futures and the Exchange does not wish to discourage the sending of such orders.<sup>6</sup> The Exchange notes that the

SPX Tier Appointment fee is intended to be assessed to Market-Maker TPHs who actually act as Market-Makers in SPX and engage in trading in SPX (as opposed to those who primarily execute volume during the opening rotation on VIX settlement days and subsequently execute volume to close out of such positions). The electronic Tier Appointment Surcharges for VIX and RUT similarly have a 1,000 contract threshold.<sup>7</sup>

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.<sup>8</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>9</sup> 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, and does not unfairly discriminate between customers, issuers, brokers or dealers. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>10</sup> 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 eliminating the SPX SMM Program is reasonable, equitable and not unfairly discriminatory because the Exchange is not required to maintain such a rebate program and no longer desires to do so. The Exchange believes that there is sufficient liquidity in SPX and does not believe a rebate program is necessary to further incentivize liquidity. The Exchange believes the proposed change is not unfairly discriminatory because it will apply equally to all SMMs.

The Exchange believes it's reasonable to waive linkage fees for customer

exception to the SPX Tier Appointment for Floor Market-Makers.

<sup>7</sup> See Cboe Options Fees Schedule, Market-Maker Tier Appointment Fees.

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78f(b)(4).

<sup>3</sup> The Exchange originally filed the proposed fee changes on December 2, 2019 (SR-CBOE-2019-114). On December 12, 2019, the Exchange withdrew that filing and submitted SR-CBOE-2019-120. On December 18, 2019, the Exchange withdrew that filing and submitted this filing.

<sup>4</sup> See e.g., Cboe Options Rule 5.51.

<sup>5</sup> See Securities and Exchange Act Release No. 87495 (November 8, 2019), 84 FR 63701 (November 18, 2019) (SR-CBOE-2019-106).

<sup>6</sup> The Exchange notes that only electronic SPX and SPXW orders participate in the opening rotation on the final settlement date of VIX options and futures. As open-outcry volume does not facilitate the calculation of the settlement price for VIX options and futures, the Exchange does not believe it's necessary to adopt a corresponding

orders that were transmitted from the trading floor through an Exchange sponsored terminal (currently only PULSe workstation) as customers would not be subject to linkage fees. The proposed waiver would apply to all similarly situated market participants. The Exchange believes limiting the exception to customer orders that were originally transmitted from the trading floor through an exchange-sponsored terminal is equitable, reasonable and not unfairly discriminatory as the primary objective of linkage fees are to recoup some of the costs associated with large electronic orders that are initially transmitted to the Exchange by parties who, in many instances, could be seeking to avoid being assessed another market's transaction fees. As discussed above, orders that are generally transmitted from the floor are large, complex orders that are primarily executed on the Exchange and transmitted to away markets if, during their execution on the Exchange, it is necessary to sweep some away markets. The Exchange also believes limiting the exception from Linkage Fees to customer orders is equitable, reasonable and not unfairly discriminatory because non-customer (e.g., broker-dealer proprietary) orders originate from broker-dealers who are by and large more sophisticated than public customers (i.e., orders yielding capacity code "C") and can readily control the exchange to which their orders are routed. While there may be some customers who direct the exchange to which their orders are routed, generally, customers submit orders to their brokerages but do not or cannot specify the exchange to which its order is sent. Therefore, non-customer order flow can, in most cases, more easily route directly to other markets if desired and thus avoid Linkage Fees. This includes the ability of broker-dealers to sweep better-priced away markets in connection with routing large orders to the Exchange's floor for handling by floor brokers. Moreover, the Commission has a long history of permitting differential treatment of customers and non-customer investors.

Finally, as noted above, the proposed waiver is not novel. Indeed, the Exchange maintained the proposed waiver prior to the migration to a new billing system on October 7, 2019, but had eliminated the waiver upon migration.<sup>11</sup> After further evaluation, the Exchange has determined to re-adopt the proposed waiver, which

waiver is identical to the waiver in place pre-migration.

The Exchange believes the proposed change to adopt a contract threshold to trigger the electronic SPX Tier Appointment Surcharge is reasonable as MM EAPs that trade below such threshold will not be subject to the MM EAP SPX Tier Appointment Fee. The Exchange believes the proposed change is reasonable as the SPX Tier Appointment surcharge was intended to apply to TPHs who act as Market-Makers in SPX, not those that do not regularly trade SPX electronically. Additionally, while liquidity is important to open all series on the Exchange, given the potential impact on the exercise settlement value determined for expiring volatility index derivatives, it is very important to encourage a fair and orderly opening of the series that are used to calculate the final settlement value of expiring VIX derivatives. Accordingly, the Exchange does not wish to assess the SPX Tier Appointment fee to MM EAPs who do not conduct significant electronic volume in SPX (or SPXW) other than volume executed during opening rotation on the final settlement date of VIX options and futures which have the expiration that are used in the VIX settlement calculation and subsequent volume executed to close out of such positions. The Exchange believes it's equitable and not unfairly discriminatory to adopt a threshold for off-floor Markets-Markets and not on-floor Market-Makers as only electronic SPX and SPXW orders participate in the opening rotation on the final settlement date of VIX options and futures. As open-outcry volume does not facilitate the calculation of the settlement price for VIX options and futures, the Exchange does not believe it's necessary to adopt a corresponding exception to the SPX Tier Appointment for on-floor Market-Makers. The Exchange notes that any TPH that electronically executes more than 1 contract but less than 1,000 contracts in SPX (including SPXW), excluding volume executed during opening rotation on the final settlement date of VIX options and futures which have the expiration that are used in the VIX settlement calculation will no longer have to pay the Tier Appointment Fee. As noted above, the Exchange is not proposing to change the amount assessed for the electronic SPX Tier Appointment Fee. The proposed change is equitable and not unfairly discriminatory because it will apply uniformly to all TPHs. The Exchange lastly notes that a similar 1,000 contract

threshold also applies to MM EAP Tier Appointment Fees in RUT and VIX.<sup>12</sup>

#### *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. Specifically, the Exchange does not believe that the proposed change will impose any burden on intramarket competitions that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes will be applied equally to all similarly situated market participants. For example, although the proposed routing exception only applies to Customers, as discussed, above, the Exchange believes limiting the exception to customer orders is not unfairly discriminatory because non-customer (e.g., broker-dealer proprietary) orders originate from broker-dealers who are by and large more sophisticated than public customers and can readily control the exchange to which their orders are routed. Moreover, as discussed, the Commission has a long history of permitting differential treatment of customers and non-customer investors.

The Exchange does not believe that the proposed rule change regarding the SMM Program or the SPX Tier Appointment Fee will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed waiver applies to a product traded exclusively on the Exchange. Additionally, the Exchange believes the proposed rule change relating to linkage does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including 15 other options exchanges and off-exchange venues. The Exchange represents a small percentage of the overall market. Based on publicly available information, no single options exchange has more than 24% of the market share.<sup>13</sup> Therefore, no exchange possesses significant pricing power in the execution of option order flow. Indeed, participants can choose to send their

<sup>12</sup> See Cboe Options Fees Schedule, Market-Maker Tier Appointment Fees.

<sup>13</sup> See Cboe Global Markets U.S. Options Market Volume Summary (December 2, 2019), available at [https://markets.cboe.com/us/options/market\\_statistics/](https://markets.cboe.com/us/options/market_statistics/).

<sup>11</sup> See Securities and Exchange Act Release No. 87495 (November 8, 2019), 84 FR 63701 (November 18, 2019) (SR-CBOE-2019-106).

orders to other exchanges and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>14</sup> The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’ . . . .”<sup>15</sup> Accordingly, the Exchange does not believe its proposed fee changes imposes any burden on competition that are not necessary or appropriate in furtherance of the purposes of the Act.

### *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 Act<sup>16</sup> and paragraph (f) of Rule 19b-4<sup>17</sup> 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2019-124 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-CBOE-2019-124. 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-2019-124 and should be submitted on or before January 16, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2019-27733 Filed 12-23-19; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Securities Act of 1933 Release No. 33-10735/December 18, 2019; Securities Exchange Act of 1934 Release No. 34-87785/December 18, 2019]**

### **Order Approving Public Company Accounting Oversight Board Budget and Annual Accounting Support Fee for Calendar Year 2020**

The Sarbanes-Oxley Act of 2002, as amended (the “Sarbanes-Oxley Act”),<sup>1</sup> established the Public Company Accounting Oversight Board (“PCAOB”) to oversee the audits of companies that are subject to the securities laws, and related matters, in order to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports. Section 982 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”)<sup>2</sup> amended the Sarbanes-Oxley Act to provide the PCAOB with explicit authority to oversee auditors of broker-dealers registered with the Securities and Exchange Commission (the “Commission”). The PCAOB is to accomplish these goals through registration of public accounting firms and standard setting, inspection, and disciplinary programs. The PCAOB is subject to the comprehensive oversight of the Commission.

Section 109 of the Sarbanes-Oxley Act provides that the PCAOB shall establish a reasonable annual accounting support fee, as may be necessary or appropriate to establish and maintain the PCAOB. Under Section 109(f) of the Sarbanes-Oxley Act, the aggregate annual accounting support fee shall not exceed the PCAOB’s aggregate “recoverable budget expenses,” which may include operating, capital, and accrued items. The PCAOB’s annual budget and accounting support fee are subject to approval by the Commission. In addition, the PCAOB must allocate the

<sup>14</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

<sup>15</sup> *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>17</sup> 17 CFR 240.19b-4(f).

<sup>18</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 7201 *et seq.*

<sup>2</sup> Public Law 111-203, 124 Stat. 1376 (2010).

annual accounting support fee among issuers and among brokers and dealers.

Section 109(b) of the Sarbanes-Oxley Act directs the PCAOB to establish a budget for each fiscal year in accordance with the PCAOB's internal procedures, subject to approval by the Commission. Rule 190 of Regulation P governs the Commission's review and approval of PCAOB budgets and annual accounting support fees.<sup>3</sup> This budget rule provides, among other things, a timetable for the preparation and submission of the PCAOB budget and for Commission actions related to each budget, a description of the information that should be included in each budget submission, limits on the PCAOB's ability to incur expenses and obligations except as provided in the approved budget, procedures relating to supplemental budget requests, requirements for the PCAOB to furnish on a quarterly basis certain budget-related information, and a list of definitions that apply to the rule and to general discussions of PCAOB budget matters.

In accordance with the budget rule, in March 2019 the PCAOB provided the Commission with a narrative description of its program issues and outlook for the 2020 budget year. In response, the Commission provided the PCAOB with economic assumptions and general budgetary guidance for the 2020 budget year. The PCAOB subsequently delivered a preliminary budget and budget justification to the Commission. Staff from the Commission's Office of the Chief Accountant and Office of Financial Management dedicated a substantial amount of time to the review and analysis of the PCAOB's programs, projects, and budget estimates and attended several meetings with staff of the PCAOB to further develop the understanding of the PCAOB's budget and operations. During the course of this review, Commission staff relied upon representations and supporting documentation from the PCAOB. Based on this review, the Commission issued a "passback" letter to the PCAOB on October 31, 2019. On November 19, 2019, the PCAOB adopted its 2020 budget and accounting support fee during an open meeting, and subsequently submitted that budget to the Commission for approval.

After considering the above, the Commission did not identify any proposed disbursements in the 2020 budget adopted by the PCAOB that are not properly recoverable through the annual accounting support fee, and the Commission believes that the aggregate

proposed 2020 annual accounting support fee does not exceed the PCAOB's aggregate recoverable budget expenses for 2020.

The Commission directs the PCAOB during 2020 to schedule monthly meetings, as needed, with the Commission's staff about the transformation initiatives that are expected to have a significant impact on the 2021 PCAOB budget, including significant differences between actual and budgeted amounts, and anticipated cost savings. Separately, the Commission directs the PCAOB to continue its written quarterly updates on recent activities, including transformation initiatives, for the PCAOB's Office of Economic and Risk Analysis, Office of Information Technology, and Division of Registration and Inspections. The PCAOB Board will make itself available to meet with the Commissioners on these and other topics. The PCAOB should also submit its 2019 annual report to the Commission by March 30, 2020.

The Commission understands that the Office of Management and Budget ("OMB") has determined that the 2020 budget of the PCAOB is subject to sequestration under the Budget Control Act of 2011.<sup>4</sup> For 2019, the PCAOB sequestered \$17.0 million. That amount will become available in 2020. For 2020, the sequestration amount will be 5.9% or \$16.8 million. Consequently, we expect the PCAOB will have approximately \$0.2 million in excess funds available from the 2019 sequestration for spending in 2020. Accordingly, the PCAOB has reduced its accounting support fee for 2020 by approximately \$0.2 million.

The Commission has determined that the PCAOB's 2020 budget and annual accounting support fee are consistent with Section 109 of the Sarbanes-Oxley Act. Accordingly,

*It is ordered*, pursuant to Section 109 of the Sarbanes-Oxley Act, that the PCAOB budget and annual accounting support fee for calendar year 2020 are approved.

By the Commission.

**Vanessa A. Countryman,**  
Secretary.

[FR Doc. 2019-27697 Filed 12-23-19; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>4</sup> See "OMB Report to the Congress on the Joint Committee Reductions for Fiscal Year 2020," March 18, 2019, Appendix, pg. 16 of 17 available at [https://www.whitehouse.gov/wp-content/uploads/2019/03/2020\\_JC\\_Sequestration\\_Report\\_3-18-19.pdf](https://www.whitehouse.gov/wp-content/uploads/2019/03/2020_JC_Sequestration_Report_3-18-19.pdf).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87797; File No. SR-NYSENAT-2019-31]

### Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Fees for the NYSE National Integrated Feed

December 18, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on December 4, 2019, NYSE National, Inc. ("NYSE National" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The 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 establish fees for the NYSE National Integrated Feed. The proposed rule change is available on the Exchange's website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to adopt the NYSE National Proprietary Market Data Fee Schedule ("Fee Schedule") and establish the fees for the NYSE National

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 17 CFR 202.190.

Integrated Feed.<sup>3</sup> In summary, the NYSE National Integrated Feed is a NYSE National-only market data feed that provides vendors and subscribers on a real-time basis with a unified view of events, in sequence, as they appear on the NYSE National matching engine. The NYSE National Integrated Feed includes depth-of-book order data, last sale data, security status updates (*e.g.*, trade corrections and trading halts), and stock summary messages. Because the NYSE National Integrated Feed has a unified view of events, in sequence, it also includes information about the Exchange's best bid or offer at any given time.

The Exchange currently does not charge any fees for the NYSE National Integrated Feed market data product.<sup>4</sup>

#### Background

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues, and also recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."<sup>5</sup>

As the Commission itself recognized, the market for trading services in NMS stocks has become "more fragmented and competitive."<sup>6</sup> Equity trading is currently dispersed across 13 exchanges,<sup>7</sup> 31 alternative trading systems,<sup>8</sup> and numerous broker-dealer

internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange has more than 18% market share (whether including or excluding auction volume).<sup>9</sup>

The recent growth of NYSE National's market share demonstrates this competitive marketplace. Between February 2017 and mid-May 2018, NYSE National was non-operational, and therefore had 0% of market share. On May 21, 2018, NYSE National re-launched on its current platform as an affiliated exchange of New York Stock Exchange, LLC ("NYSE"), NYSE Arca, Inc. ("NYSE Arca, Inc."), and NYSE American LLC ("NYSE American"). Within four months, NYSE National began regularly executing 1% of consolidated trading volume. By August 2019, NYSE National began executing approximately 1.5% of consolidated trading volume on a more regular basis. By October 2019, the Exchange had 1.9% market share of executed volume of equity trades.<sup>10</sup>

As NYSE National's transaction market share has increased, so has the value of its market data. For example, in May 2018, when NYSE National re-launched trading operations, the Exchange had 12 customers for its NYSE National Integrated Feed. As NYSE National's market share has increased, the number of subscribers of the NYSE National Integrated Feed has steadily increased and as of October 2019, the Exchange has 56 customers that subscribe to the NYSE National Integrated Feed. In October 2019, customers of the NYSE National Integrated Feed account for over 99% of the executed trade volume on the Exchange.

#### Proposed NYSE National Integrated Feed Fees

To reflect the value of NYSE National's market data, as correlated to the Exchange's increased transaction volume market share, the Exchange proposes to establish the fees listed below for the NYSE National Integrated Feed, operative on February 3, 2020. The Exchange proposes to charge fees for the same categories of market data use as its affiliated exchanges (namely, NYSE, NYSE Arca, and NYSE American) currently charge. The Exchange believes that adopting the same fee structure as its affiliated

*AtsIssueData*. A list of alternative trading systems registered with the Commission is available at <https://www.sec.gov/foia/docs/atslist.htm>.

<sup>9</sup> See Cboe Global Markets, U.S. Equities Market Volume Summary, available at [http://markets.cboe.com/us/equities/market\\_share/](http://markets.cboe.com/us/equities/market_share/).

<sup>10</sup> See *id.*

exchanges would reduce administrative burdens on NYSE National market data subscribers that also currently subscribe to market data feeds from NYSE, NYSE Arca, or NYSE American.

1. *Access Fee*. For the receipt of access to the NYSE National Integrated Feed, the Exchange proposes to charge \$2,500 per month. This proposed Access Fee would be charged to any data recipient that receives a data feed of the NYSE National Integrated Feed. Data recipients that only use display devices to view NYSE National Integrated Feed market data and do not separately receive a data feed would not be charged an Access Fee. The proposed Access Fee is charged only once per firm.

2. *Redistribution Fee*. For redistribution of the NYSE National Integrated Feed, the Exchange proposes to establish a fee of \$1,500 per month. The proposed Redistribution Fee would be charged to any Redistributors of the NYSE National Integrated Feed, which is defined to mean a vendor or any person that provides a real-time NYSE National market data product externally to a data recipient that is not its affiliate or wholly-owned subsidiary, or to any system that an external data recipient uses, irrespective of the means of transmission or access. The proposed Redistribution Fee is charged only once per Redistributor account.

3. *User Fees*. The Exchange proposes to charge a Professional User Fee (Per User) of \$10 per month and a Non-Professional User Fee (Per User) of \$1 per month. These user fees would apply to each display device that has access to the NYSE National Integrated Feed.

4. *Non-Display Use Fees*. The Exchange proposes to establish non-display fees for the NYSE National Integrated Feed that are based on the non-display use categories charged by NYSE, NYSE Arca, NYSE American, the Consolidated Tape Association, and the UTP Plan for non-display use.<sup>11</sup> Non-

<sup>11</sup> See Endnote 1 to the NYSE Proprietary Market Data Fees, available here: [https://www.nyse.com/publicdocs/nyse/data/NYSE\\_Market\\_Data\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Fee_Schedule.pdf); Endnote 1 to the NYSE Arca Equities Proprietary Market Data Fees, available here: [https://www.nyse.com/publicdocs/nyse/data/NYSE\\_Arca\\_Equities\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/data/NYSE_Arca_Equities_Fee_Schedule.pdf); Endnote 1 to the NYSE American LLC Equities Proprietary Market Data Fees, available here: [https://www.nyse.com/publicdocs/nyse/data/NYSE\\_American\\_Equities\\_Market\\_Data\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/data/NYSE_American_Equities_Market_Data_Fee_Schedule.pdf); Endnote 8 to the Schedule of Market Data Charges for the Consolidated Tape Association, available here: <https://www.ctapl.com/publicdocs/ctaplant/notifications/trader-update/Schedule%20Of%20Market%20Data%20Charges%20-%20January%201,%202015.pdf>; and Non-Display Usage Fees as set forth in the UTP Plan Fee Schedule and Non-Display Policy, available here: <http://utpplan.com/DOC/Datapolicies.pdf>. See, *e.g.*,

<sup>3</sup> The proposed rule change establishing the NYSE National Integrated Feed was immediately effective on May 31, 2018. See Securities Exchange Act Release No. 83350 (May 31, 2018), 83 FR 26332 (June 6, 2018) (SR-NYSE-NAT-2018-09) ("NYSE National Integrated Feed Product Filing"). The NYSE National Integrated Feed Product Filing also established the NYSE National BBO and NYSE National Trades market data feeds.

<sup>4</sup> The Exchange also currently does not charge any fees for the NYSE National BBO and NYSE National Trades market data products and proposes to adopt rule text on the Fee Schedule to reflect that there are no fees charged for NYSE National BBO and NYSE National Trades market data products.

<sup>5</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7-10-04) (Final Rule) ("Regulation NMS Adopting Release").

<sup>6</sup> See Securities Exchange Act Release No. 51808, 84 FR 5202, 5253 (February 20, 2019) (File No. S7-05-18) (Transaction Fee Pilot for NMS Stocks Final Rule) ("Transaction Fee Pilot").

<sup>7</sup> See Cboe Global Markets, U.S. Equities Market Volume Summary, available at [http://markets.cboe.com/us/equities/market\\_share/](http://markets.cboe.com/us/equities/market_share/). See generally <https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html>.

<sup>8</sup> See FINRA ATS Transparency Data, available at <https://otctransparency.finra.org/otctransparency/>

display use would mean accessing, processing, or consuming the NYSE National Integrated Feed, delivered directly or through a Redistributor, for a purpose other than in support of a data recipient's display or further internal or external redistribution ("Non-Display Use"). Non-Display Use would include trading uses such as high frequency or algorithmic trading as well as any trading in any asset class, automated order or quote generation and/or order pegging, price referencing for algorithmic trading or smart order routing, operations control programs, investment analysis, order verification, surveillance programs, risk management, compliance, and portfolio management.

The Exchange proposes three categories of Non-Display Use of the NYSE National Integrated Feed and related fees applicable to each category. One, two, or three categories of Non-Display Use may apply to a data recipient.

- As proposed, the Category 1 Fee would be \$5,000 per month and would apply when a data recipient's Non-Display Use of the NYSE National Integrated Feed is on its own behalf, not on behalf of its clients.
- As proposed, Category 2 Fees would be \$5,000 per month and would apply to a data recipient's Non-Display Use of the NYSE National Integrated Feed on behalf of its clients.
- As proposed, Category 3 Fees would be \$5,000 per month and would apply to a data recipient's Non-Display Use of the NYSE National Integrated Feed for the purpose of internally matching buy and sell orders within an organization, including matching customer orders for a data recipient's own behalf and/or on behalf of its clients. This category would apply to Non-Display Use in trading platforms, such as, but not restricted to, alternative trading systems ("ATs"), broker crossing networks, broker crossing systems not filed as ATs, dark pools, multilateral trading facilities, exchanges and systematic internalization systems. A data recipient will be charged \$5,000 per month for each platform on which it uses the Non-Display data internally to match buy and sell orders, up to a cap of \$15,000 per month; even if the data recipient uses the NYSE National Integrated Feed for more than three platforms, it will not pay more than \$15,000 for such Category 3 use per month.

The Exchange proposes to adopt the description of the three non-display use categories in the Fee Schedule in proposed endnote 1 on the Fee Schedule.<sup>12</sup>

Data recipients that receive the NYSE National Integrated Feed for Non-Display Use would be required to complete and submit a Non-Display Use Declaration before they would be authorized to receive the feed. A firm subject to Category 3 Fees would be required to identify each platform that uses the NYSE National Integrated Feed for a Category 3 Non-Display Use basis, such as ATs and broker crossing systems not registered as ATs, as part of the Non-Display Use Declaration.

5. *Non-Display Use Declaration Late Fee.* Data recipients that receive the NYSE National Integrated Feed for Non-Display Use would be required to complete and submit a Non-Display Use Declaration before they would be authorized to receive the feed. NYSE National Integrated Feed data recipients would be required to submit, by December 31 of each year, the Non-Display Use Declaration. The requirement to submit a Non-Display Use Declaration would apply to all real-time NYSE National data feed product recipients. The Exchange proposes to charge a Non-Display Use Declaration Late Fee of \$1,000 per month to any data recipient that pays an Access Fee for the NYSE National Integrated Feed that has failed to timely complete and submit a Non-Display Use Declaration. Specifically, with respect to the Non-Display Use Declaration due by December 31 of each year, the Non-Display Use Declaration Late Fee would apply to data recipients that fail to complete and submit the Non-Display Use Declaration by the December 31 due date, and would apply beginning January 1 and for each month thereafter until the data recipient has completed and submitted the annual Non-Display Use Declaration. The proposed Non-Display Use Declaration Late Fee would be set forth in endnote 2 on the Fee Schedule. Proposed endnote 2 would provide that a data recipient that pays an Access Fee and that fails to timely complete and submit a Non-Display Use Declaration must pay the Non-Display Use Declaration Late Fee.<sup>13</sup> Proposed endnote 2 to the Fee Schedule would also provide that the annual Non-Display Use Declaration would be due by December 31 of each year. Finally, proposed endnote 2 would provide that the Non-Display Use Declaration Late Fee would apply to data recipients that

fail to complete and submit the annual Non-Display Use Declaration by the December 31 due date, and would apply beginning January 1 of each year and for each month thereafter until the data recipient has completed and submitted the annual Non-Display Use Declaration.

In addition, if a data recipient's use of the NYSE National Integrated Feed data changes at any time after the data recipient submits a Non-Display Use Declaration, the data recipient must inform the Exchange of the change by completing and submitting at the time of the change an updated declaration reflecting the change of use.

6. *Multiple Data Feed Fee.* The Exchange proposes to establish a monthly fee, the "Multiple Data Feed Fee," that would apply to data recipients that take a data feed for a market data product in more than two locations. Data recipients taking the NYSE National Integrated Feed in more than two locations would be charged \$200 per additional location per month. No new reporting would be required.<sup>14</sup>

7. *Fee Waiver for Federal Agencies.* The Exchange proposes to adopt rule text in the Fee Schedule with respect to Federal agencies that subscribe to the NYSE National Integrated Feed. The proposed rule would provide that market data fees would not apply to any Federal agency for their use of NYSE National real-time proprietary market data products. The term "Federal agency" as used in the Fee Schedule would include all Federal agencies subject to the Federal Acquisition Regulation (FAR),<sup>15</sup> as well as any Federal agency not subject to FAR that has promulgated its own procurement rules.<sup>16</sup> More specifically, the Exchange proposes to specify that access fees, professional user fees and non-display

<sup>14</sup> Data vendors currently report a unique Vendor Account Number for each location at which they provide a data feed to a data recipient. The Exchange considers each Vendor Account Number a location. For example, if a data recipient has five Vendor Account Numbers, representing five locations, for the receipt of the NYSE National Integrated Feed product, that data recipient will pay the Multiple Data Feed fee with respect to three of the five locations.

<sup>15</sup> FAR is the principal set of rules governing the process by which the U.S. federal government purchases goods and services.

<sup>16</sup> See 48 CFR 2.101. FAR defines "Federal agency" as "any executive agency or any independent establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, the Architect of the Capitol, and any activities under the Architect's direction)." "Executive agency" is defined as "an executive department, a military department, or any independent establishment within the meaning of 5 U.S.C. 101, 102, and 104(1), respectively, and any wholly owned Government corporation within the meaning of 31 U.S.C. 9101."

<sup>12</sup> See Fee Schedule, proposed endnote 1.

<sup>13</sup> See Fee Schedule, proposed endnote 2.

fees would not apply to Federal agencies for those products to which those fees apply.<sup>17</sup> The proposed fee waiver is designed to allow the Exchange to provide Federal agencies with NYSE National real-time proprietary market data products at no cost in support of Federal agencies' regulatory responsibilities. With the adoption of the proposed fee waiver, the Exchange is not waiving any other contractual rights, and all Federal agencies that subscribe to NYSE National real-time proprietary market data products will be required to execute the appropriate subscriber agreement, which includes, among other things, provisions against the redistribution of data.

8. *One-Month Free Trial.* Finally, the Exchange proposes a one-month free trial for any firm that subscribes to a particular NYSE National market data product for the first time. As proposed, a first-time subscriber would be any firm that has not previously subscribed to a particular NYSE National market data product listed on the Fee Schedule. As proposed, a first-time subscriber of a particular NYSE National market data product would not be charged the Access Fee, Non-Display Fee, any applicable Professional and Non-Professional User Fee, and Redistribution Fee for that product for one calendar month. For example, a firm that currently subscribes to NYSE National BBO for free would be eligible to receive a free one-month trial of the NYSE National Integrated Feed, whether in a display-only format or for non-display use. On the other hand, if a firm pays an Access Fee and receives the NYSE National Integrated Feed for non-display use, it would not be eligible to receive a free one-month trial of the NYSE National Integrated Feed in a display-only format (or vice-versa). The proposed free trial would be for the first full calendar month following the date a subscriber is approved to receive trial access to the particular NYSE National market data product. The Exchange would provide the one-month free trial for each particular product to each subscriber once.

The Exchange believes that providing a one-month free trial to NYSE National market data products listed on the Fee Schedule would enable potential subscribers to determine whether a particular NYSE National market data product provides value to their business models before fully committing to expend development and

implementation costs related to the receipt of that product, and is intended to encourage increased use of the Exchange's market data products by defraying some of the development and implementation costs subscribers would ordinarily have to expend before using a product.

#### Application of Proposed Fees

The Exchange is not required to make the NYSE National Integrated Feed available or to offer any specific pricing alternatives to any customers, nor is any firm required to purchase the NYSE National Integrated Feed. Firms that choose to purchase the NYSE National Integrated Feed do so for the primary goals of using it to increase their revenues, reduce their expenses, and in some instances to compete directly with the Exchange (including for order flow). Those firms are able to determine for themselves whether or not the NYSE National Integrated Feed or any other similar products are attractively priced.

The Exchange produces and disseminates the NYSE National Integrated Feed as part of its market data offerings to support its transaction execution services. Since May 2018, when NYSE National relaunched trading, the Exchange has observed a direct correlation between the steady increase of subscribers to the NYSE National Integrated Feed and the increase in the Exchange's transaction market share volume over the same period.

Based on the reported usage of the NYSE National Integrated Feed, the Exchange believes that its data subscribers use the order-by-order detail information available in this market data product to make trading decisions that directly benefit the transaction services that the Exchange offers. Specifically, subscribers of the NYSE National Integrated Feed represent firms that provide over 99% of the Exchange's executed transaction volume. More than half of the feed's subscribers overall (*i.e.*, 33 of 56) report "Category 1" non-display use of the NYSE National Integrated Feed, which means that they use the data for trading on their own behalf. This figure confirms that a substantial portion of the NYSE National Integrated Feed's subscribers have analyzed whether it is in their business interest to use the feed for their own trading, and have concluded that it is.

The 56 current subscribers to the NYSE National Integrated Feed would be impacted by this proposed rule change. The scope of the fee impact for each data recipient would depend on that data recipient's use of the data.

Based on current usage, at least 33 firms would be subject to Category 1 Non-Display Use fees, at least 14 firms would be subject to Category 2 Non-Display Use fees, and at least 10 firms would be subject to Category 3 Non-Display Use fees. Because the product has not been previously been subject to fees, the Exchange does not know the full impact of the proposed fees on current data recipients because subscribers may choose to reduce or eliminate their use of data.

The Exchange determined the level of the fees to charge for the NYSE National Integrated Feed based on the value of the Exchange's transaction services. As noted above, over an 18-month period, NYSE National has grown from 0% to nearly 2% market share of consolidated trading volume. During that same period, the Exchange has had a steady increase in the number of subscribers to the NYSE National Integrated feed.

The proposed fee structure is not novel as it is based on the fee structure currently in place for the NYSE American Integrated Feed.<sup>18</sup> Both NYSE American and NYSE National trade all NMS Stocks. As noted above, in October 2019, NYSE National had 1.9% market share; for that same month, NYSE American had 0.29% market share.<sup>19</sup> Even though NYSE National's market share is several times higher than NYSE American's, the Exchange is proposing fees for the NYSE National Integrated Feed that are based on the existing fee structure and rates that data recipients already pay for the NYSE American Integrated Feed. Specifically, the fees for the NYSE American Integrated Feed—which like the NYSE National Integrated Feed, includes top of book, depth of book, trades, and security status messages—consist of an Access Fee of \$2,500 per month, a Professional User Fee (Per User) of \$10 per month, a Non-Professional User Fee (Per User) of \$2 per month, Non-Display Fees of \$5,000 per month for each of Categories 1, 2 and 3, and a Redistribution Fee of \$1,500 per month. NYSE American also charges a Non-Display Use Declaration Late Fee of \$1,000 per month and a

<sup>18</sup> See Securities Exchange Act Release Nos. 76525 (November 25, 2015), 80 FR 75148 (December 1, 2015) (SR-NYSEMKT-2015-95) (Notice of filing and immediate effectiveness of proposed rule change to establish fees for NYSE MKT Integrated Feed), and 76975 (January 26, 2016), 81 FR 5139 (February 1, 2016) (SR-NYSEMKT-2016-11) (Notice of filing and immediate effectiveness of proposed rule change amending the fees for NYSE MKT Integrated Feed to add a Multiple Data Feed Fee).

<sup>19</sup> See Cboe Global Markets, U.S. Equities Market Volume Summary, available at [http://markets.cboe.com/us/equities/market\\_share/](http://markets.cboe.com/us/equities/market_share/).

<sup>17</sup> Currently, pursuant to this proposed rule change, the NYSE National Integrated Feed is the only product to which fees would apply.



Multiple Data Feed Fee of \$200 per month.<sup>20</sup>

The Exchange anticipates that there may be current data recipients of the NYSE National Integrated Feed that have subscribed only because it is free and may choose to discontinue using the product once the fees are implemented. A data recipient that chooses to discontinue the NYSE National Integrated Feed may also choose to shift order flow away from the Exchange. In today's competitive environment, if data recipients were to both discontinue the product and shift order flow away from the Exchange, the Exchange would reevaluate the fees and potentially file a separate proposed rule change to amend its fees. However, in advance of implementing the proposed fees, the Exchange cannot estimate with precision the impact of the proposed fees on the Exchange's transaction services business or the number of NYSE National Integrated Feed subscribers.

Although the Exchange is proposing to make this proposed rule change operative on February 3, 2020, it is making this filing now because the Exchange believes it is appropriate to provide market participants with early notice of these proposed changes, so that they can begin determining whether the value of the NYSE National Integrated Feed to their businesses is such that they will choose to continue using the product once it is no longer provided for free. The Exchange believes that market participants should be able to begin such determinations before the Exchange begins charging fees (which is also consistent with the free trial period proposed in this filing).

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>21</sup> in general, and Sections 6(b)(4) and 6(b)(5) of the Act,<sup>22</sup> in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

## The Proposed Rule Change Is Reasonable

In adopting Regulation NMS, the Commission granted SROs and broker-dealers increased authority and

flexibility to offer new and unique market data to the public. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues, and also recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."<sup>23</sup>

With respect to market data, the decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition v. SEC* upheld the Commission's reliance on the existence of competitive market mechanisms to evaluate the reasonableness and fairness of fees for proprietary market data:

In fact, the legislative history indicates that the Congress intended that the market system "evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed" and that the SEC wield its regulatory power "in those situations where competition may not be sufficient," such as in the creation of a "consolidated transactional reporting system."<sup>24</sup>

The court agreed with the Commission's conclusion that "Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.'"<sup>25</sup>

In this competitive marketplace, the Exchange's executed trading volume has grown from 0% market share to nearly 2% market share in less than two years and the Exchange believes that it is reasonable to begin charging fees for the NYSE National Integrated Feed.

## 1. The Proposed Fees Are Constrained by Significant Competitive Forces

### a. Exchange Market Data Is Sold in a Competitive Market

In 2018, Charles M. Jones, the Robert W. Lear Professor of Finance and Economics of the Columbia University School of Business, conducted an analysis of the market for equity market data in the United States. He canvassed the demand for both consolidated and exchange proprietary market data products and the uses to which those

products were put by market participants, and reported his conclusions in a paper annexed hereto.<sup>26</sup> Among other things, Professor Jones concluded that:

- "The market [for exchange market data] is characterized by robust competition: exchanges compete with each other in selling proprietary market data products. They also compete with consolidated data feeds and with data provided by alternative trading systems ('ATSs'). Barriers to entry are very low, so existing exchanges must also take into account competition from new entrants, who generally try to build market share [as NYSE National has done with its Integrated Feed] by offering their proprietary market data products for free for some period of time."<sup>27</sup>

- "Although there are regulatory requirements for some market participants to use consolidated data products, there is no requirement for market participants to purchase any proprietary market data product for regulatory purposes."<sup>28</sup>

- "There are a variety of data products, and consumers of equity market data choose among them based on their needs. Like most producers, exchanges offer a variety of market data products at different price levels. Advanced proprietary market data products provide greater value to those who subscribe. As in any other market, each potential subscriber takes the features and prices of available products into account in choosing what market data products to buy based on its business model."<sup>29</sup>

- "Exchange equity market data fees are a small cost for the industry overall: the data demonstrates that total exchange market data revenues are orders of magnitude smaller than (i) broker-dealer commissions, (ii) investment bank earnings from equity trading, and (iii) revenues earned by third-party vendors."<sup>30</sup>

- "For proprietary exchange data feeds, the main question is whether there is a competitive market for proprietary market data. More than 40 active exchanges and alternative trading systems compete vigorously in both the market for order flow and in the market for market data. The two are closely linked: an exchange needs to consider the negative impact on its order flow if it raises the price of its market data.

<sup>20</sup> See NYSE American LLC Equities Proprietary Market Data Fees at [https://www.nyse.com/publicdocs/nyse/data/NYSE\\_American\\_Equities\\_Market\\_Data\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/data/NYSE_American_Equities_Market_Data_Fee_Schedule.pdf).

<sup>21</sup> 15 U.S.C. 78f(b).

<sup>22</sup> 15 U.S.C. 78f(b)(4), (5).

<sup>23</sup> See Regulation NMS Adopting Release, 70 FR 37495, at 37499.

<sup>24</sup> *NetCoalition v. SEC*, 615 F.3d 525, 535 (D.C. Cir. 2010) ("*NetCoalition I*") (quoting H.R. Rep. No. 94-229 at 92 (1975), as reprinted in 1975 U.S.C.A.N. 323).

<sup>25</sup> *Id.* at 535.

<sup>26</sup> See Exhibit 3A, Charles M. Jones, *Understanding the Market for U.S. Equity Market Data*, August 31, 2018 (hereinafter "Jones Paper").

<sup>27</sup> *Id.* at 2.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

Furthermore, new entrants have been frequent over the past 10 years or so, and these venues often give market data away for free, [again, as NYSE National has done with its Integrated Feed] serving as a check on pricing by more established exchanges. These are all the standard hallmarks of a competitive market.”<sup>31</sup>

Professor Jones’ conclusions are consistent with the demonstration of the competitive constraints on the pricing of market data demonstrated by analysis of exchanges as platforms for market data and trading services, as shown below.

#### b. Exchanges That Offer Market Data and Trading Services Function as Two-Sided Platforms

An exchange may demonstrate that its fees are constrained by competitive forces by showing that the platform theory of competition applies.

As the United States Supreme Court recognized in *Ohio v. American Express*, platforms are firms that act as intermediaries between two or more sets of agents, and typically the choices made on one side of the platform affect the results on the other side of the platform via externalities, or “indirect network effects.”<sup>32</sup> Externalities are linkages between the different sides of a platform such that one cannot understand pricing and competition for goods or services on one side of the platform in isolation; one must also account for the influence of the other sides. As the Supreme Court explained:

To ensure sufficient participation, two-sided platforms must be sensitive to the prices that they charge each side. . . . Raising the price on side A risks losing participation on that side, which decreases the value of the platform to side B. If the participants on side B leave due to this loss in value, then the platform has even less value to side A—risking a feedback loop of declining demand. . . . Two-sided platforms therefore must take these indirect network effects into account before making a change in price on either side.<sup>33</sup>

The Exchange and its affiliated exchanges have long maintained that they function as platforms between consumers of market data and consumers of trading services. Proving the existence of linkages between the two sides of this platform requires an in-depth economic analysis of both public data and confidential exchange data about particular customers’ trading activities and market data purchases. Exchanges, however, are prohibited from publicly sharing details about

these specific customer activities and purchases. For example, pursuant to Exchange Rule 7.41, transactions executed on the Exchange are processed anonymously.

The Exchange and its affiliated exchanges have retained a third-party expert, Marc Rysman, Professor of Economics at Boston University, to analyze how platform economics applies to stock exchanges’ sale of market data products and trading services, and to explain how this affects the assessment of competitive forces affecting the exchanges’ data fees.<sup>34</sup> Professor Rysman was able to analyze exchange data that is not otherwise publicly available in a manner that is consistent with the exchanges’ confidentiality obligations to its customers. As shown in his paper, Professor Rysman surveyed the existing economic literature analyzing stock exchanges as platforms between market data and trading activities, and explained the types of linkages between market data access and trading activities that must be present for an exchange to function as a platform. In addition, Professor Rysman undertook an empirical analysis of customers’ trading activities within the NYSE group of exchanges in reaction to NYSE’s introduction in 2015 of the NYSE Integrated Feed, a full order-by-order depth of book data product similar to the NYSE National Integrated Feed that is the subject of this fee filing.<sup>35</sup>

Professor Rysman’s analysis of this confidential firm-level data shows that firms that purchased the NYSE Integrated Feed market data product after its introduction were more likely to route orders to NYSE as opposed to one of the other NYSE-affiliated exchanges, such as NYSE Arca or NYSE American.<sup>36</sup> Moreover, Professor Rysman shows that the same is true for firms that did *not* subscribe to the NYSE Integrated Feed: The introduction of the NYSE Integrated Feed led to more trading on NYSE (as opposed to other NYSE-affiliated exchanges) by firms that did *not* subscribe to the NYSE Integrated Feed.<sup>37</sup> This is the sort of

externality that is a key characteristic of a platform market.<sup>38</sup>

From this empirical evidence, Professor Rysman concludes:

- “[D]ata is more valuable when it reflects more trading activity and more liquidity-providing orders. These linkages alone are enough to make platform economics necessary for understanding the pricing of market data.”<sup>39</sup>

- “[L]inkages running in the opposite direction, from data to trading, are also very likely to exist. This is because market data from an exchange reduces uncertainty about the likelihood, price, or timing of execution for an order on that exchange. This reduction in uncertainty makes trading on that exchange more attractive for traders that subscribe to that exchange’s market data. Increased trading by data subscribers, in turn, makes trading on the exchange in question more attractive for traders that do not subscribe to the exchange’s market data.”<sup>40</sup>

- The “mechanisms by which market data makes trading on an exchange more attractive for subscribers to market data . . . apply to a wide assortment of market data products, including BBO, order book, and full order-by-order depth of book data products at all exchanges.”<sup>41</sup>

- “[E]mpirical evidence confirms that stock exchanges are platforms for data and trading.”<sup>42</sup>

- “The platform nature of stock exchanges means that data fees cannot be analyzed in isolation, without accounting for the competitive dynamics in trading services.”<sup>43</sup>

- “Competition is properly understood as being between platforms (*i.e.*, stock exchanges) that balance the needs of consumers of data and traders.”<sup>44</sup>

- “Data fees, data use, trading fees, and order flow are all interrelated.”<sup>45</sup>

- “Competition for order flow can discipline the pricing of market data, and vice-versa.”<sup>46</sup>

- “As with platforms generally, overall competition between exchanges will limit their overall profitability, not margins on any particular side of the platform.”<sup>47</sup>

The Exchange has observed a similar correlation in connection with its

<sup>34</sup> See Exhibit 3B, Marc Rysman, *Stock Exchanges as Platforms for Data and Trading*, December 2, 2019 (hereinafter “Rysman Paper”), ¶ 6.

<sup>35</sup> See Securities Exchange Act Release Nos. 74128 (January 23, 2015), 80 FR 4951 (January 29, 2015) (SR–NYSE–2015–03) (Notice of filing and immediate effectiveness of proposed rule change to establish NYSE Integrated Feed) and 76485 (November 20, 2015), 80 FR 74158 (November 27, 2015) (SR–NYSE–2015–57) (Notice of filing and immediate effectiveness of proposed rule change to establish fees for the NYSE Integrated Feed).

<sup>36</sup> Rysman Paper ¶¶ 80–90.

<sup>37</sup> *Id.* ¶¶ 91–93.

<sup>38</sup> *Id.* ¶ 91.

<sup>39</sup> *Id.* ¶ 95.

<sup>40</sup> *Id.* ¶ 96.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* ¶ 97.

<sup>43</sup> *Id.* ¶ 98.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.* ¶ 100.

<sup>31</sup> *Id.* at 39–40.

<sup>32</sup> *Ohio v. American Express*, 138 S. Ct. 2274, 2280–81 (2018).

<sup>33</sup> *Id.* at 2281.

offering of the NYSE National Integrated Feed. Since May 2018, when the Exchange re-launched trading, the number of subscribers of the NYSE National Integrated Feed has grown from 12 to 56. Over this same period, the Exchange has increased market share from 0% to nearly 2%. The Exchange therefore believes that its proposed fees for the NYSE National Integrated Feed are subject to platform-based competitive constraints on pricing.

#### c. Exchange Market Data Fees Are Constrained by the Availability of Substitute Platforms

Professor Rysman's conclusions that exchanges function as platforms for market data and transaction services mean that exchanges do not set fees for market data products without considering, and being constrained by, the effect the fees will have on the order-flow side of the platform. As the D.C. Circuit recognized in *NetCoalition I*, "[n]o one disputes that competition for order flow is fierce."<sup>48</sup> The court further noted that "no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers," and that an exchange "must compete vigorously for order flow to maintain its share of trading volume."<sup>49</sup>

Similarly, the Commission itself has recognized that the market for trading services in NMS stocks has become "more fragmented and competitive."<sup>50</sup> The Commission's Division of Trading and Markets has also recognized that with so many "operating equities exchanges and dozens of ATSS, there is vigorous price competition among the U.S. equity markets and, as a result, [transaction] fees are tailored and frequently modified to attract particular types of order flow, some of which is highly fluid and price sensitive."<sup>51</sup> Indeed, today, equity trading is currently dispersed across 13 exchanges,<sup>52</sup> 31 alternative trading systems,<sup>53</sup> and numerous broker-dealer

internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange has more than 18% market share.<sup>54</sup>

Further, low barriers to entry mean that new exchanges may rapidly and inexpensively enter the market and offer additional substitute platforms to compete with the Exchange.<sup>55</sup> In addition to the 13 presently-existing exchanges, three new ones are expected to enter the market in 2020: Long Term Stock Exchange (LTSE), which has been approved as an equities exchange but is not yet operational;<sup>56</sup> Members Exchange (MEMX), which has recently filed its application to be approved as a registered equities exchange;<sup>57</sup> and Miami International Holdings (MIAX), which has announced its plan to introduce equities trading on an existing registered options exchange.<sup>58</sup>

Given Professor Rysman's conclusion that exchanges are platforms for market data and trading, this fierce competition for order flow on the trading side of the platform acts to constrain, or "discipline," the pricing of market data on the other side of the platform.<sup>59</sup> And due to the ready availability of substitutes and the low cost to move order flow to those substitute trading venues, an exchange setting market data fees that are not at competitive levels would expect to quickly lose business to alternative platforms with more attractive pricing.<sup>60</sup> Although the various exchanges may differ in their strategies for pricing their market data products and their transaction fees for trades—with some offering market data for free along with higher trading costs, and others charging more for market data and comparatively less for trading—the fact that exchanges are

platforms ensures that no exchange makes pricing decisions for one side of its platform without considering, and being constrained by, the effects that price will have on the other side of the platform.

In sum, the fierce competition for order flow thus constrains any exchange from pricing its market data at a supracompetitive price, and constrains the Exchange here in setting its fees for the NYSE National Integrated Feed.

The proposed fees are therefore reasonable because in setting them, the Exchange is constrained by the availability of numerous substitute platforms offering market data products and trading. Such substitutes need not be identical, but only substantially similar to the product at hand.

More specifically, in setting fees for the NYSE National Integrated Feed, the Exchange is constrained by the fact that, if its pricing across the platform is unattractive to customers, customers have their pick of an increasing number of alternative platforms to use instead of the Exchange. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish reasonable fees. The existence of numerous alternative platforms to the Exchange's platform ensures that the Exchange cannot set unreasonable market data fees without suffering the negative effects of that decision in the fiercely competitive market in which it operates as a platform.

#### d. NYSE National Integrated Feed Is an Optional Market Data Product

Subscribing to the NYSE National Integrated Feed is entirely optional. The Exchange is not required to make the NYSE National Integrated Feed available to any customers, nor is any customer required to purchase the NYSE National Integrated Feed. Unlike some other data products (e.g., the consolidated quotation and last-sale information feeds) that firms are required to purchase in order to fulfil regulatory obligations,<sup>61</sup> a customer's decision whether to purchase the NYSE National Integrated Feed is entirely discretionary. Most firms that choose to subscribe to the NYSE National

<sup>48</sup> *NetCoalition I*, 615 F.3d at 544 (internal quotation omitted).

<sup>49</sup> *Id.*

<sup>50</sup> See Securities Exchange Act Release No. 51808, 84 FR 5202, 5253 (February 20, 2019) (File No. S7-05-18).

<sup>51</sup> Commission Division of Trading and Markets, Memorandum to EMSAC, dated October 20, 2015, available here: <https://www.sec.gov/spotlight/emsac/memo-maker-taker-fees-on-equities-exchanges.pdf>.

<sup>52</sup> See Choe Global Markets, U.S. Equities Market Volume Summary, available at [http://markets.cboe.com/us/equities/market\\_share/](http://markets.cboe.com/us/equities/market_share/). See generally <https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html>.

<sup>53</sup> See FINRA ATS Transparency Data, available at <https://otctransparency.finra.org/>

[otctransparency/atsIssueData](https://otctransparency/atsIssueData). A list of alternative trading systems registered with the Commission is available at <https://www.sec.gov/foia/docs/atslist.htm>.

<sup>54</sup> See Choe Global Markets U.S. Equities Market Volume Summary, available at [http://markets.cboe.com/us/equities/market\\_share/](http://markets.cboe.com/us/equities/market_share/).

<sup>55</sup> See Jones Paper at 10–11.

<sup>56</sup> See Securities Exchange Act Release No. 85828 (May 10, 2019) (File No. 10-234) (Findings, Opinion, and Order of the Commission in the Matter of the Application of Long Term Stock Exchange, Inc. for Registration as a National Securities Exchange).

<sup>57</sup> See Securities Exchange Act Release No. 87436 (October 31, 2019) (File No. 10-237) (Notice of filing of application of MEMX LLC for registration as a national securities exchange under Section 6 of the Act).

<sup>58</sup> See Press Release of Miami International Holdings Inc., dated May 17, 2019, available here: [https://www.miaxoptions.com/sites/default/files/press\\_release-files/MIAX\\_Press\\_Release\\_05172019.pdf](https://www.miaxoptions.com/sites/default/files/press_release-files/MIAX_Press_Release_05172019.pdf).

<sup>59</sup> Rysman Paper ¶ 98.

<sup>60</sup> See Jones Paper at 11.

<sup>61</sup> The Exchange notes that broker-dealers are not required to purchase proprietary market data to comply with their best execution obligations. See *In the Matter of the Application of Securities Industry and Financial Markets Association for Review of Actions Taken by Self-Regulatory Organizations*, Release Nos. 34-72182; AP-3-15350; AP-3-15351 (May 16, 2014). Similarly, there is no requirement in Regulation NMS or any other rule that proprietary data be utilized for order routing decisions, and some broker-dealers and ATSS have chosen not to do so.

Integrated Feed do so for the primary goals of using it to increase their revenues, reduce their expenses, and in some instances to compete directly with the Exchange for order flow. Such firms are able to determine for themselves whether the NYSE National Integrated Feed is necessary for their business needs, and if so, whether or not it is attractively priced. If the NYSE National Integrated Feed does not provide sufficient value to firms based on the uses those firms may have for it, such firms may simply choose to conduct their business operations in ways that do not use the NYSE National Integrated Feed.<sup>62</sup> If they do not choose to use the NYSE National Integrated Feed, they could also choose not to direct order flow to the Exchange.

But even if such firms determine that the fees for NYSE National Integrated Feed are too high, customers can access much of the same data on the NYSE National Integrated Feed for free by subscribing to the NYSE National BBO feed (which includes best-bid-and-offer information for NYSE National on a real-time basis) and NYSE National Trades (which includes last-sale information on a real-time basis), both of which are offered at no cost. NYSE National top-of-book quotation information and last-sale information is also available on the consolidated SIP feeds. In this way, the NYSE National BBO, NYSE National Trades, and SIP data products are all substitutes for a significant portion of the data available on the NYSE National Integrated Feed. The availability of these substitute products constrains the Exchange's ability to charge supracompetitive prices for the NYSE National Integrated Feed.

The only content available on NYSE National Integrated Feed that is not available on these other products is the order-by-order look at the NYSE National book, which provides information about depth of book on the Exchange. The Exchange has been a vocal advocate for the creation of a "SIP Premium" product that would include depth-of-book information on the consolidated market data feeds.<sup>63</sup> Future products such as SIP Premium would include not only integrated depth-of-book information from NYSE National, but all other exchanges as well, and would further constrain the Exchange's ability to price NYSE

National Integrated Feed at a supracompetitive price.

Further, in the case of products that are also redistributed through market data vendors such as Bloomberg and Refinitiv, the vendors themselves provide additional price discipline for proprietary data products because they control the primary means of access to certain end users. These vendors impose price discipline based upon their business models. For example, vendors that assess a surcharge on data they sell are able to refuse to offer proprietary products that their end users do not or will not purchase in sufficient numbers. Currently, only one vendor redistributes the NYSE National Integrated Feed. Even in the absence of fees for the NYSE National Integrated Feed, vendors have not elected to make available the NYSE National Integrated Feed and likely will not unless their customers request it, and customers will not elect to pay the proposed fees unless the NYSE National Integrated Feed can provide value by sufficiently increasing revenues or reducing costs in the customer's business in a manner that will offset the fees. All of these factors operate as constraints on pricing proprietary data products.

In setting the proposed fees for the NYSE National Integrated Feed, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish reasonable fees. The existence of alternatives to the Exchange's platform and the continued availability of the Exchange's separate data feeds for free ensure that the Exchange cannot set unreasonable fees when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase.

## 2. The Proposed Fees Are Reasonable

The specific fees that the Exchange proposes for the NYSE National Integrated Feed are reasonable for the following additional reasons.

*Overall.* The Exchange believes that the proposed fees for the NYSE National Integrated Feed are reasonable because they represent not only the value of the data available from the NYSE National BBO and NYSE National Trades data feeds but also the value of receiving the data on an integrated basis. Receiving the data on an integrated basis provides greater efficiencies and reduced errors

for vendors and subscribers that currently choose to integrate the data themselves after receiving it from the Exchange. Some vendors and subscribers may not have the technology or resources to integrate separate data feeds in a timely and/or efficient manner, and thus the integration feature of the product may be valuable to them.

The Exchange believes the proposed fees for the NYSE National Integrated Feed are also reasonable when compared to fees for comparable products, such as the NYSE American Integrated Feed.<sup>64</sup> Even though NYSE National's market share is several times higher than NYSE American's, the Exchange is proposing fees for the NYSE National Integrated Feed that are based on the existing fee structure and rates that data recipients already pay for the NYSE American Integrated Feed. The Exchange believes that adopting the same fee structure as its affiliated exchanges would reduce administrative burdens on NYSE National data subscribers that also currently subscribe to market data feeds from NYSE, NYSE Arca, or NYSE American.

*Access Fee.* The Exchange believes that is reasonable to charge access fees because of the value of the data to data recipients in their profit-generating activities. The Exchange believes that the proposed monthly Access Fee of \$2,500 for the NYSE National Integrated Feed is reasonable because it is comparable to the monthly access fee for the NYSE American Integrated Feed, which is also \$2,500.<sup>65</sup>

*Redistribution Fees.* The Exchange believes that it is reasonable to charge redistribution fees because vendors receive value from redistributing the data in their business products for their customers. The Exchange believes that charging a Redistribution Fee is reasonable because the vendors that would be charged such a fee profit by re-transmitting the Exchange's market data to their customers. This fee would be charged only once per month to each vendor account that redistributes the NYSE National Integrated Feed, regardless of the number of customers to which that vendor redistributes the data. Currently, there is only one vendor that redistributes the NYSE National Integrated Feed. Accordingly, this proposed fee would have limited impact. The Exchange believes the proposed monthly Redistribution Fee of

<sup>64</sup> See NYSE American Integrated Feed, <https://www.nyse.com/market-data/real-time/integrated-feed>.

<sup>65</sup> See NYSE American LLC Equities Proprietary Market Data Fees at [https://www.nyse.com/publicdocs/nyse/data/NYSE\\_American\\_Equities\\_Market\\_Data\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/data/NYSE_American_Equities_Market_Data_Fee_Schedule.pdf).

<sup>62</sup> See generally Jones Paper at 8, 10–11.

<sup>63</sup> See NYSE, "Stock Quotes and Trade Data: One Size Doesn't Fit All" (August 22, 2019), posted at <https://www.nyse.com/equities-insights#20190822>.

\$1,500 for the NYSE National Integrated Feed is reasonable because it is comparable to the monthly Redistribution Fee for NYSE American Integrated Feed, which is also \$1,500, and the monthly External Distributor Fee for Nasdaq BX, Inc.'s ("Nasdaq BX") BX TotalView Product, which is also \$1,500.<sup>66</sup>

*User Fees.* The Exchange believes that having separate Professional and Non-Professional User fees for the NYSE National Integrated Feed is reasonable because it will make the product more affordable and result in greater availability to Professional and Non-Professional Users. Setting a modest Non-Professional User fee is reasonable because it provides an additional method for Non-Professional Users to access the NYSE National Integrated Feed by providing the same data that is available to Professional Users. The proposed monthly Professional User Fee (Per User) of \$10 and monthly Non-Professional User Fee (Per User) of \$1 are reasonable because they are comparable to per user fees for the NYSE American Integrated Feed. The monthly Professional User Fee (Per User) for the NYSE American Integrated Feed is \$10, and the monthly Non-Professional User Fee (Per User) for the NYSE American Integrated Feed is \$2.<sup>67</sup>

*Non-Display Use Fees.* The Exchange believes the proposed Non-Display Use fees are reasonable, because they reflect the value of the data to the data recipients in their profit-generating activities and do not impose the burden of counting non-display devices.

The Exchange believes that the proposed Non-Display Use fees reflect the significant value of the non-display data use to data recipients, which purchase such data on an entirely voluntary basis. Non-display data can be used by data recipients for a wide variety of profit-generating purposes, including proprietary and agency trading and smart order routing, as well as by data recipients that operate order matching and execution platforms that compete directly with the Exchange for order flow. The data also can be used for a variety of non-trading purposes that indirectly support trading, such as risk management and compliance. Although some of these non-trading uses do not directly generate revenues, they can nonetheless substantially reduce a recipient's costs by automating such functions so that they can be carried out

in a more efficient and accurate manner and reduce errors and labor costs, thereby benefiting recipients. The Exchange believes that charging for non-trading uses is reasonable because data recipients can derive substantial value from such uses, for example, by automating tasks so that can be performed more quickly and accurately and less expensively than if they were performed manually.

Previously, the non-display use data pricing policies of many exchanges required customers to count, and the exchanges to audit the count of, the number of non-display devices used by a customer. As non-display use grew more prevalent and varied, however, exchanges received an increasing number of complaints about the impracticality and administrative burden associated with that approach. In response, the Exchange and its affiliated exchanges developed a non-display use pricing structure that does not require non-display devices to be counted or those counts to be audited, and instead looks merely at the three following categories of potential use of non-display data: Use of the data on the customer's own behalf (Category 1), use on behalf of clients (Category 2), and use to internally match buy and sell orders within an organization (Category 3).

The Exchange believes that it is reasonable to segment the fee for non-display use into these three categories. As noted above, the uses to which customers can put the NYSE National Integrated Feed are numerous and varied, and the Exchange believes that charging separate fees for these separate categories of use is reasonable because it reflects the actual value the customer derives from the data, based upon how many categories of use the customer makes of the data. Segmenting the fees for non-display data in this way avoids the unreasonable result of customers that make only limited non-display use of the data paying the same fees as customers that use the data for numerous different revenue-generating and cost-saving purposes.

The Exchange believes that the proposed fees of \$5,000 per month for each of Categories 1, 2, and 3 is reasonable. These fees are comparable to the NYSE American Integrated Feed fees for non-display use for the different categories of use, which is also \$5,000 per category.<sup>68</sup> The Exchange believes that the proposed fees directly and appropriately reflect the significant value of using non-display data in a wide range of computer-automated functions relating to both trading and

non-trading activities and that the number and range of these functions continue to grow through innovation and technology developments.

The Exchange also believes that, regarding Category 3 fees, it is reasonable to charge \$5,000 per month for each trading platform on which the data recipient uses the Non-Display data, because such use of the data is directly in competition with the Exchange and the Exchange should be permitted to recoup some of its lost trading revenue by charging for the data that makes such competition possible. The Exchange believes that it is reasonable to cap such fees for Category 3 use at \$15,000 per month per data recipient, because a higher monthly fee may potentially dissuade competitors from buying the NYSE National Integrated Feed for use by their trading platforms.

The proposed Non-Display Use fees for the NYSE National Integrated Feed are also reasonable because they take into account the extra value of receiving the data for Non-Display Use on an integrated basis. The Exchange believes that the proposed fees directly and appropriately reflect the significant value of using the NYSE National Integrated Feed on a non-display basis in a wide range of computer-automated functions relating to both trading and non-trading activities and that the number and range of these functions continue to grow through innovation and technology developments.<sup>69</sup>

*Non-Display Use Declaration Late Fee.* The Exchange believes that it is reasonable to require annual submissions of the Non-Display Use Declaration so that the Exchange will have current and accurate information about the use of the NYSE National Integrated Feed and can correctly assess fees for the uses of the NYSE National Integrated Feed. Requiring annual submissions of such declarations is reasonable because it also allows users to re-assess their own usage each year.

The Exchange believes that it is reasonable to impose a late fee in connection with the submission of the Non-Display Use Declaration. In order to correctly assess fees for the non-

<sup>66</sup> See Section 119(a) of Nasdaq BX Equity 7 Pricing Schedule.

<sup>67</sup> See NYSE American LLC Equities Proprietary Market Data Fees at [https://www.nyse.com/publicdocs/nyse/data/NYSE\\_American\\_Equities\\_Market\\_Data\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/data/NYSE_American_Equities_Market_Data_Fee_Schedule.pdf).

<sup>68</sup> See *id.*

<sup>69</sup> See also Exchange Act Release No. 69157, March 18, 2013, 78 FR 17946, 17949 (March 25, 2013) (SR-CTA/CQ-2013-01) ("[D]ata feeds have become more valuable, as recipients now use them to perform a far larger array of non-display functions. Some firms even base their business models on the incorporation of data feeds into black boxes and application programming interfaces that apply trading algorithms to the data, but that do not require widespread data access by the firm's employees. As a result, these firms pay little for data usage beyond access fees, yet their data access and usage is critical to their businesses.").

display use of the NYSE National Integrated Feed, the Exchange needs to have current and accurate information about the use of the NYSE National Integrated Feed. The failure of data recipients to submit the Non-Display Use Declaration on time leads to potentially incorrect billing and administrative burdens, including tracking and obtaining late Non-Display Use Declarations and correcting and following up on payments owed in connection with late Non-Display Use Declarations. The purpose of the late fee is to incent data recipients to submit the Non-Display Use Declaration promptly to avoid the administrative burdens associated with the late submission of Non-Display Use Declarations.

**Multiple Data Feed Fee.** The Exchange believes that it is reasonable to require data recipients to pay a modest additional fee for taking a data feed for a market data product in more than two locations, because such data recipients can derive substantial value from being able to consume the product in as many locations as they want. In addition, there are administrative burdens associated with tracking each location at which a data recipient receives the product. The Multiple Data Feed Fee is designed to encourage data recipients to better manage their requests for additional data feeds and to monitor their usage of data feeds. The proposed fee is designed to apply to data feeds received in more than two locations so that each data recipient can have one primary and one backup data location before having to pay a multiple data feed fee.

**Fee Waiver for Federal Agencies.** The Exchange believes the proposal to not charge the access fees, display fees for professional users, and non-display fees associated with its proprietary market data products to customers that are Federal agencies is reasonable because it is designed to facilitate federal government regulation without giving an undue advantage to one set of commercial users over another. The Exchange believes that it is reasonable to assess no fees to Federal agencies that subscribe to the Exchange's proprietary market data products because Federal agencies do not use the Exchange's proprietary market data for commercial gain, but only for regulatory purposes.

**One-Month Free Trial.** The Exchange believes the proposal to provide the NYSE National Integrated Free to new customers free-of-charge for their first subscription month is reasonable because it would allow vendors and subscribers to become familiar with the feed and determine whether it suits their needs without incurring fees.

Making a new market data product available for free for a trial period is consistent with offerings of other exchanges. For example, Nasdaq BX offers new subscribers of BX TotalView a 30-day waiver of user fees.<sup>70</sup>

**No Charge Until February 3, 2020.** The Exchange believes it is reasonable to continue to make the NYSE National Integrated Feed available free of charge through February 3, 2020 because providing it at no charge would continue to provide an opportunity for vendors and subscribers to determine whether the NYSE National Integrated Feed suits their needs without incurring fees. As noted above, other exchanges provide or have provided market data products free for a certain period of time.

For all of the foregoing reasons, the Exchange believes that the proposed fees for the NYSE National Integrated Fee are reasonable.

#### The Proposed Fees Are Equitably Allocated

The Exchange believes the proposed fees for the NYSE National Integrated Feed are allocated fairly and equitable among the various categories of users of the feed, and any differences among categories of users are justified.

**Overall.** The Exchange believes that the proposed fees are equitably allocated because they will apply to all data recipients that choose to subscribe to the NYSE National Integrated Feed. Any subscriber or vendor that chooses to subscribe to the NYSE National Integrated Feed is subject to the same Fee Schedule, regardless of what type of business they operate or the use they plan to make of the data feed. Subscribers and vendors may choose to continue to receive some or all of the data on the NYSE National Integrated Feed through the existing separate feeds for free, or they can choose to pay for the NYSE National Integrated Feed in order to receive integrated data, or they can choose a combination of the two approaches, thereby allowing each vendor or subscriber to choose the best business solution for itself.

**Access Fee.** The Exchange believes the proposed monthly Access Fee of \$2,500 for the NYSE National Integrated Feed is equitably allocated because it would be charged on an equal basis to all data recipients that receive a data feed of the NYSE National Integrated Feed, regardless of what type of business they operate or the use they plan to make of the data feed.

**Redistribution Fees.** The Exchange believes the proposed monthly fee of \$1,500 for redistributing the NYSE National Integrated Feed is equitably allocated because it would be charged on an equal basis to those vendors that choose to redistribute the feed.

**User Fees.** The Exchange believes that the fee structure differentiating Professional User fees (\$10 per month per user) from Non-Professional User fees (\$1 per month per user) for display device access to the NYSE National Integrated Feed is equitable. This structure has long been used by the Exchange to reduce the price of data to Non-Professional Users and make it more broadly available.<sup>71</sup> Offering the NYSE National Integrated Feed to Non-Professional Users with the same data as is available to Professional Users results in greater equity among data recipients. These user fees would be charged uniformly to all display devices that have access to the NYSE National Integrated Feed.

**Non-Display Use Fees.** The Exchange believes the proposed Non-Display Use fees are equitably allocated because they would require subscribers to pay fees only for the uses they actually make of the data. As noted above, non-display data can be used by data recipients for a wide variety of profit-generating purposes (including trading, risk management, and compliance) as well as purposes that do not directly generate revenues but nonetheless substantially reduce the recipient's costs by automating certain functions. The Exchange believes that it is equitable to charge non-display data subscribers a \$5,000 fee for each category of use they make of such data—namely, using the data on their own behalf (Category 1), on behalf of their clients (Category 2), and to internally match buy and sell orders within an organization (Category 3)—because this fee structure results in subscribers with greater uses of the data paying higher fees, and subscribers with fewer uses of the data paying lower fees. This segmented fee structure is also equitable because no subscriber of non-display data would be charged a fee for a category of use in which it did not actually engage.

The Exchange also believes that, regarding Category 3 fees, it is equitable to charge \$5,000 per month for each

<sup>71</sup> See, e.g., Securities Exchange Act Release No. 59544 (March 9, 2009), 74 FR 11162 (March 16, 2009) (SR-NYSE-2008-131) (establishing the \$15 Non-Professional User Fee (Per User) for NYSE OpenBook); Securities Exchange Act Release No. 20002, File No. S7-433 (July 22, 1983), 48 FR 34552 (July 29, 1983) (establishing Non-Professional fees for CTA data); NASDAQ BX Equity 7 Pricing Schedule, Section 123.

<sup>70</sup> See Section 123(a)(4) of Nasdaq BX's Equity 7 Pricing Schedule.

trading platform on which the data recipient uses the Non-Display data, because such use of the data is directly in competition with the Exchange and the Exchange should be permitted to recoup some of its lost trading revenue by charging for the data that makes such competition possible. The Exchange believes that it is equitable to cap such fees for Category 3 use at \$15,000 per month per data recipient, because a higher monthly fee may potentially dissuade competitors from buying the NYSE National Integrated Feed for use by their trading platforms.

**Non-Display Use Declaration Late Fee.** The Exchange believes that the proposed fee of \$1,000 per month for a late Non-Display Use Declaration is equitably allocated because it applies to any data recipient that pays an Access Fee for the NYSE National Integrated Feed but has failed to complete and submit a Non-Display Use Declaration. In addition, the Exchange believes that it is equitable to charge a late fee to subscribers who fail to timely submit their Non-Display Use Declarations because their failure to do so leads to potentially incorrect billing and administrative burdens on the part of the Exchange. The Exchange believes it is equitable to defray these administrative costs by imposing a late fee only on subscribers' whose declarations were late, as opposed to all subscribers.

**Multiple Data Feed Fee.** The Exchange believes that the \$200 per month per location fee to data recipients taking the NYSE National Integrated Feed in more than two locations is equitable because it would apply to all such customers, regardless of what type of business they operate or the use they make of the data feed. In addition, the Exchange believes that it is equitable to charge a fee to subscribers for taking a data feed in more than two locations because there are administrative burdens on the part of the Exchange associated with tracking each location at which a data recipient receives the product. The Exchange believes that it is equitable for it to defray these administrative costs by imposing a modest fee only on subscribers who seek to take the feed in more than two locations, as opposed to all subscribers.

**Fee Waiver for Federal Agencies.** The Exchange believes that the proposal to not charge the access fees, display fees for professional users, and non-display fees associated with its proprietary market data products to customers that are Federal agencies is equitable because it is designed to facilitate federal government regulation without giving an undue advantage to one set of

commercial users over another. The Exchange believes that it is equitable to waive fees for Federal agencies that subscribe to the Exchange's proprietary market data products because Federal agencies do not use the Exchange's proprietary market data for commercial gain, but only for regulatory purposes.

**One-Month Free Trial.** The Exchange believes the proposal to provide the NYSE National Integrated Feed to new customers free-of-charge for their first subscription month is equitable because it applies to any first-time subscriber, regardless of the use they plan to make of the feed. As proposed, any first-time subscriber of the NYSE National Integrated Feed would not be charged the Access Fee, Non-Display Fee, any applicable Professional and Non-Professional User Fee, and Redistribution Fee for one calendar month. The Exchange believes it is equitable to restrict the availability of this one-month free trial to customers that have not previously subscribed to the NYSE National Integrated Feed, since customers who are current or previous subscribers of the feed are already familiar with it and whether it suits their needs.

**No Charge Until February 3, 2020.** The Exchange believes that the proposal to continue to make the NYSE National Integrated Feed available free of charge through February 3, 2020 is equitable because it applies equally to all customers.

For all of the foregoing reasons, the Exchange believes that the proposed fees for the NYSE National Integrated Fee are equitably allocated.

#### The Proposed Fees Are Not Unfairly Discriminatory

The Exchange believes the proposed fees for the NYSE National Integrated Feed are not unfairly discriminatory because any differences in the application of the fees are based on meaningful distinctions between customers, and those meaningful distinctions are not unfairly discriminatory between customers.

**Overall.** The Exchange believes that the proposed fees are not unfairly discriminatory because they would apply to all data recipients that choose to subscribe to the NYSE National Integrated Feed. Any vendor or subscriber that chooses to subscribe to the NYSE National Integrated Feed is subject to the same Fee Schedule, regardless of what type of business they operate or the use they plan to make of the data feed. Vendors and subscribers may choose to continue to receive some or all of the data on the NYSE National Integrated Feed through the existing

separate feeds for free, or they can choose to pay for the NYSE National Integrated Feed in order to receive integrated data, or they or they can choose a combination of the two approaches, thereby allowing each vendor or subscriber to choose the best business solution for itself.

**Access Fee.** The Exchange believes the proposed monthly Access Fee of \$2,500 for the NYSE National Integrated Feed is not unfairly discriminatory because it would be charged on an equal basis to all data recipients that receive a data feed of the NYSE National Integrated Feed, regardless of what type of business they operate or the use they plan to make of the data feed.

**Redistribution Fees.** The Exchange believes the proposed monthly fee of \$1,500 for redistributing the NYSE National Integrated Feed is not unfairly discriminatory because it would be charged on an equal basis to those vendors that choose to redistribute the feed.

**User Fees.** The Exchange believes that the fee structure differentiating Professional User fees (\$10 per month per user) from Non-Professional User fees (\$1 per month per user) for display device access to the NYSE National Integrated Feed is not unfairly discriminatory. This structure has long been used by the Exchange to reduce the price of data to Non-Professional Users and make it more broadly available.<sup>72</sup> Offering the NYSE National Integrated Feed to Non-Professional Users with the same data as is available to Professional Users results in greater equity among data recipients. These user fees would be charged uniformly to all display devices that have access to the NYSE National Integrated Feed.

**Non-Display Use Fees.** The Exchange believes the proposed Non-Display Use fees are not unfairly discriminatory because they would require subscribers for non-display use to pay fees only for the categories of use they actually make of the data. As noted above, non-display data can be used by data recipients for a wide variety of profit-generating purposes (including trading, risk management, and compliance) as well as purposes that do not directly generate revenues but nonetheless substantially reduce the recipient's costs by automating certain functions. The

<sup>72</sup> See e.g., Securities Exchange Act Release No. 59544 (March 9, 2009), 74 FR 11162 (March 16, 2009) (SR-NYSE-2008-131) (establishing the \$15 Non-Professional User Fee (Per User) for NYSE OpenBook). See e.g., Securities Exchange Act Release No. 20002, File No. S7-433 (July 22, 1983), 48 FR 34552 (July 29, 1983) (establishing nonprofessional fees for CTA data); NASDAQ BX Equity 7 Pricing Schedule, Section 123.



Exchange believes that it is not unfairly discriminatory to charge non-display data subscribers a \$5,000 fee for each category of use they make of such data—namely, using the data on their own behalf (Category 1), on behalf of their clients (Category 2), and to internally match buy and sell orders within an organization (Category 3)—because this fee structure results in subscribers with greater uses for the data paying higher fees, while subscribers with fewer uses of the data pay lower fees. This segmented fee structure is not unfairly discriminatory because no subscriber of non-display data would be charged a fee for a category of use in which it did not actually engage.

The Exchange also believes that, regarding Category 3 fees, it is not unreasonably discriminatory to charge \$5,000 per month for each trading platform on which the data recipient uses the Non-Display data, because such use of the data is directly in competition with the Exchange and the Exchange should be permitted to recoup some of its lost trading revenue by charging for the data that makes such competition possible. The Exchange believes that it is not unreasonably discriminatory to cap such fees for Category 3 use at \$15,000 per month per data recipient, because a higher monthly fee may potentially dissuade competitors from buying the NYSE National Integrated Feed for use by their trading platforms.

*Non-Display Use Declaration Late Fee.* The Exchange believes that the proposed fee of \$1,000 per month for a late Non-Display Use Declaration is not unfairly discriminatory because it applies to any data recipient that pays an Access Fee for the NYSE National Integrated Feed but has failed to complete and submit a Non-Display Use Declaration. In addition, the Exchange believes that it is not unfairly discriminatory to charge a late fee to subscribers who fail to timely submit their Non-Display Use Declarations because their failure to do so leads to potentially incorrect billing and administrative burdens on the part of the Exchange. Nor is it unfairly discriminatory for the Exchange to defray these administrative costs by imposing a late fee only on subscribers' whose declarations were late, as opposed to all subscribers.

*Multiple Data Feed Fee.* The Exchange believes that the \$200 per month per location fee to data recipients taking the NYSE National Integrated Feed in more than two locations is not unfairly discriminatory because it would apply to all such customers, regardless of what type of business they operate or the use they make of the data feed. In addition,

the Exchange believes that it is not unfairly discriminatory to charge a fee to subscribers for taking a data feed in more than two locations because there are administrative burdens on the part of the Exchange associated with tracking each location at which a data recipient receives the product. The Exchange believes that it is not unfairly discriminatory for it to defray these administrative costs by imposing a modest fee only on subscribers who seek to take the feed in more than two locations, as opposed to all subscribers.

*Fee Waiver for Federal Agencies.* The Exchange believes that the proposal to not charge the access fees, display fees for professional users, and non-display fees associated with its proprietary market data products to customers that are Federal agencies is not unreasonably discriminatory because it is designed to facilitate federal government regulation without giving an undue advantage to one set of commercial users over another. The Exchange believes that it is not unfairly discriminatory to waive fees for Federal agencies that subscribe to the Exchange's proprietary market data products because Federal agencies do not use the Exchange's proprietary market data for commercial gain, but only for regulatory purposes.

*One-Month Free Trial.* The Exchange believes the proposal to provide the NYSE National Integrated Feed to new customers free-of-charge for their first subscription month is not unfairly discriminatory because it applies to any first-time subscriber, regardless of the use they plan to make of the feed. As proposed, any first-time subscriber of the NYSE National Integrated Feed would not be charged the Access Fee, Non-Display Fee, any applicable Professional and Non-Professional User Fee, and Redistribution Fee for one calendar month. The Exchange believes it is not unfairly discriminatory to restrict the availability of this one-month free trial to customers that have not previously subscribed to the NYSE National Integrated Feed, since customers who are current or previous subscribers of the feed are already familiar with it and whether it suits their needs.

*No Charge Until February 3, 2020.* The Exchange believes that the proposal to continue to make the NYSE National Integrated Feed available free of charge through February 3, 2020 is not unfairly discriminatory because it applies equally to all customers.

For all of the foregoing reasons, the Exchange believes that the proposed fees for the NYSE National Integrated Fee are not unfairly discriminatory.

## *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed fees will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*Intramarket Competition.* The Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As noted above, the proposed fee schedule would apply to all subscribers of the NYSE National Integrated Feed, and customers may not only choose whether to subscribe to the feed at all, but may tailor their subscriptions by choosing particular uses of the feed but not others (e.g., Category 1 only versus all three categories; display device access only versus non-display use).

The Exchange also believes that the proposed fees neither favor nor penalize one or more categories of market participants in a manner that would impose an undue market on competition. As shown above, to the extent that particular proposed fees apply to only a subset of subscribers (e.g., Category 2 fees apply only to those making non-display use on behalf of clients; late fees apply only to customers who fail to timely submit their declarations), those distinctions are not unfairly discriminatory and do not unfairly burden one set of customers over another. To the contrary, by tailoring the proposed fees in this manner, the Exchange believes that it has eliminated the potential burden on competition that might result from unfairly asking subscribers to pay fees for services they did not use, or late fees they did not actually incur.

*Intermarket Competition.* The Exchange believes that the proposed fees do not impose a burden on competition or on other SROs that is not necessary or appropriate. As demonstrated above and in Professor Rysman's attached [sic] paper, exchanges are platforms for market data and trading. In setting the proposed fees, the Exchange was constrained by the availability of numerous substitute platforms also offering market data products and trading, and low barriers to entry mean new exchange platforms are frequently introduced. The fact that exchanges are platforms ensures that no exchange can make pricing decisions for one side of its platform without considering, and being constrained by, the effects that price will have on the other side of the platform. In setting fees for the NYSE National Integrated Feed, the Exchange is constrained by the fact

that, if its pricing across the platform is unattractive to customers, customers will have its pick of an increasing number of alternative platforms to use instead of the Exchange. Given this intense competition between platforms, no one exchange's market data fees can impose an unnecessary burden on competition, and the Exchange's proposed fees do not do so here.

In addition, the Exchange believes that the proposed fees do not impose a burden on competition or on other exchanges that is not necessary or appropriate because of the availability of numerous substitute market data products. Many other exchanges offer proprietary data feeds like the NYSE National Integrated Feed, supplying depth of book order data, last sale data, security status updates, stock summary messages, and the exchange's best bid and offer at any given time, on a real-time basis. Because market data users can find suitable substitute feeds, an exchange that overprices its market data products stands a high risk that users may substitute another platform, in which case the platform would stand to lose both market data and trading fees. These competitive pressures ensure that no one exchange's market data fees can impose an unnecessary burden on competition, and the Exchange's proposed fees do not do so here.

*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**

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) <sup>73</sup> of the Act and subparagraph (f)(2) of Rule 19b-4 <sup>74</sup> thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings

under Section 19(b)(2)(B) <sup>75</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSENAT-2019-31 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-NYSENAT-2019-31. 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-NYSENAT-2019-31, and

should be submitted on or before January 16, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>76</sup>

**J. Matthew DeLesDernier,**  
*Assistant Secretary.*

[FR Doc. 2019-27730 Filed 12-23-19; 8:45 am]

BILLING CODE 8011-01-P

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-87790; File No. SR-MIAX-2019-49]

**Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule**

December 18, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 5, 2019, Miami International Securities Exchange LLC ("MIAX Options" 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 is filing a proposal to amend the MIAX Options Fee Schedule (the "Fee Schedule").

The text of the proposed rule change is available on the Exchange's website at <http://www.miaxoptions.com/rule-filings>, at MIAX's principal office, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set

<sup>73</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>74</sup> 17 CFR 240.19b-4(f)(2).

<sup>75</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>76</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend the list of MIAX Select Symbols<sup>3</sup> contained in the Priority Customer Rebate Program (the "Program")<sup>4</sup> of the Exchange's Fee Schedule to delete the symbol "CBS" associated with CBS Corporation ("CBS").

The Exchange initially created the list of MIAX Select Symbols on March 1, 2014,<sup>5</sup> and has added and removed option classes from that list since that time.<sup>6</sup> Select Symbols are rebated slightly higher in certain Program tiers than non-Select Symbols. The Exchange notes that on December 4, 2019, CBS and Viacom Inc. announced the completion of a merger of the two companies, with CBS continuing as the surviving company. Further, effective December 5, 2019, CBS announced that it will change its name to ViacomCBS Inc. ("ViacomCBS") and change its trading symbol to "VIAC."<sup>7</sup> Options on CBS were authorized to be listed for trading on the Exchange pursuant to Rule 402, but are no longer listed for trading since CBS is no longer the registered stock symbol for the merged company, ViacomCBS, and as such, CBS

shares are no longer listed for trading on equity trading venues under the symbol "CBS." The Exchange has also determined not to add the merged company, ViacomCBS, to the MIAX Select Symbols list for business and competitive reasons.

Accordingly, the Exchange is amending its Fee Schedule to delete the symbol CBS from the list of MIAX Select Symbols contained in the Program. This amendment is intended to eliminate any potential confusion and to make it clear to market participants that CBS will not be a MIAX Select Symbol contained in the Program.

2. Statutory Basis

The Exchange believes that its proposal to amend the Fee Schedule is consistent with Section 6(b) of the Act<sup>8</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act,<sup>9</sup> in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using its facilities, and 6(b)(5) of the Act,<sup>10</sup> in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

In particular, the proposal to delete the symbol CBS from the list of MIAX Select Symbols contained in the Program is consistent with Section 6(b)(4) of the Act because the proposed changes will allow for continued benefit to investors by providing them an updated list of MIAX Select Symbols contained in the Program on the Fee Schedule.

The Exchange believes that the proposal to amend an option class that qualifies for the credit for transactions in MIAX Select Symbols is fair, equitable and not unreasonably discriminatory. The Exchange believes that the Program itself is reasonably designed because it incentivizes providers of Priority Customer<sup>11</sup> order flow to send that Priority Customer order flow to the Exchange in order to receive a credit in a manner that enables the Exchange to improve its overall

competitiveness and strengthen its market quality for all market participants. The Program, which provides increased incentives in certain tiers in high volume select symbols, is also reasonably designed to increase the competitiveness of the Exchange with other options exchanges that also offer increased incentives to higher volume symbols.

The Exchange also believes that its proposal is consistent with Section 6(b)(5) of the Act because it will apply equally to all Priority Customer orders in MIAX Select Symbols in the Program. All similarly situated Priority Customer orders in MIAX Select Symbols are subject to the same rebate schedule, and access to the Exchange is offered on terms that are not unfairly discriminatory.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not a competitive filing but rather is designed to update the list of MIAX Select Symbols contained in the Program in order to avoid potential confusion on the part of market participants.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>12</sup> and Rule 19b-4(f)(2)<sup>13</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

<sup>3</sup> The term "MIAX Select Symbols" means options overlying AAL, AAPL, AIG, AMAT, AMD, AMZN, BA, BABA, BB, BIDU, BP, C, CAT, CBS, CELG, CLF, CVX, DAL, EBAY, EEM, FB, FCX, GE, GILD, GLD, GM, GOOGL, GPRO, HAL, HTZ, INTC, IWM, JCP, JNJ, JPM, KMI, KO, MO, MRK, NFLX, NOK, ORCL, PBR, PFE, PG, QCOM, QQQ, RIG, S, SPY, T, TSLA, USO, VALE, WBA, WFC, WMB, WY, X, XHB, XLE, XLF, XLP, XOM and XOP.

<sup>4</sup> See section (1)(a)(iii) of the Fee Schedule for a complete description of the Program.

<sup>5</sup> See Securities Exchange Act Release No. 71700 (March 12, 2014), 79 FR 15188 (March 18, 2014) (SR-MIAX-2014-13).

<sup>6</sup> See Securities Exchange Act Release Nos. 85314 (March 14, 2019), 84 FR 10359 (March 20, 2019) (SR-MIAX-2019-07); 81998 (November 2, 2017), 82 FR 51897 (November 8, 2017) (SR-MIAX-2017-45); 81019 (June 26, 2017), 82 FR 29962 (June 30, 2017) (SR-MIAX-2017-29); 79301 (November 14, 2016), 81 FR 81854 (November 18, 2016) (SR-MIAX-2016-42); 74291 (February 18, 2015), 80 FR 9841 (February 24, 2015) (SR-MIAX-2015-09); 74288 (February 18, 2015), 80 FR 9837 (February 24, 2015) (SR-MIAX-2015-08); 73328 (October 9, 2014), 79 FR 62230 (October 16, 2014) (SR-MIAX-2014-50); 72567 (July 8, 2014), 79 FR 40818 (July 14, 2014) (SR-MIAX-2014-34); 72356 (June 10, 2014), 79 FR 34384 (June 16, 2014) (SR-MIAX-2014-26); 71700 (March 12, 2014), 79 FR 15188 (March 18, 2014) (SR-MIAX-2014-13).

<sup>7</sup> See press release ViacomCBS Announces Completion of the Merger of CBS and Viacom (December 4, 2019), <https://www.viacbs.com/press/viacomcbs-announces-completion-of-the-merger-of-cbs-and-viacom>.

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(4).

<sup>10</sup> 15 U.S.C. 78f(b)(1) and (b)(5).

<sup>11</sup> The term "Priority Customer" means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). See Exchange Rule 100.

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>13</sup> 17 CFR 240.19b-4(f)(2).

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-MIAX-2019-49 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-MIAX-2019-49. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MIAX-2019-49, and should be submitted on or before January 16, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2019-27729 Filed 12-23-19; 8:45 am]

BILLING CODE 8011-01-P

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87789; File No. SR-NYSEArca-2019-90]

#### **Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Options Fee Schedule Relating to the MM FAANG Credit**

December 18, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 9, 2019, NYSE Arca, Inc. ("NYSE Arca" 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 the NYSE Arca Options Fee Schedule ("Fee Schedule") relating to the MM FAANG Credit. The Exchange proposes to implement the fee change effective December 9, 2019. The proposed rule change is available on the Exchange's website at [www.nyse.com](http://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 purpose of this filing is to modify an incentive program (described below), which is designed to encourage Market Makers to provide more competitive prices and deeper liquidity in options on the NYSE FANG+ Index ("NYSE FANG+"), which trades under the symbol FAANG. FAANG is an acronym for the market's five most popular and best-performing tech stocks, namely Facebook, Apple, Amazon, Netflix and Alphabet's Google.

Currently, the Exchange offers a \$5,000 credit to Market Maker organizations—specifically, NYSE Arca Options Market Makers or Lead Market Makers—that execute at least 500 total monthly contract sides that open a position in FAANG on the Exchange (the "MM FAANG Credit" or "Credit"). The Credit, which is applied against all Exchange fees charged to a Market Maker, is currently capped at \$50,000, so if more than ten Market Maker organizations qualify for a MM FAANG Credit in a calendar month, the MM FAANG Credit for each qualifying firm will be a pro rata share of \$50,000.<sup>3</sup>

The Exchange proposes to continue to provide \$50,000 in Credits to encourage Market Maker organizations to provide liquidity in FAANG, but provide for two different qualifying levels with different monthly credits. As proposed, the Exchange proposes to add an alternative, higher monthly credit of \$10,000 for Market Maker Organizations that execute at least 2,000 total monthly contract sides that open a position in FAANG on the Exchange. This credit would be capped at \$25,000. Accordingly, if more than two firms qualify, they must share \$25,000 pro rata. The Exchange also proposes to reduce the total credits available for firms that qualify for the current Credit from \$50,000 to \$25,000, and similarly reduce the fewest number of qualifying firms that would be entitled to the full Credit from eleven to six. The Exchange believes that the proposed change would incent firms that have historically qualified for the Credit to

<sup>14</sup> 17 CFR 200.30-3(a)(12).

<sup>15</sup> U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Fee Schedule, NYSE Arca OPTIONS: TRADE-RELATED CHARGES FOR STANDARD OPTIONS, MM FAANG Credit, *available here*: [https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE\\_Arca\\_Options\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf).

trade greater volume to earn the higher (proposed) Credit. And, believes that the lower (existing) volume threshold should still attract firms (including those that have never achieved the Credit) to trade the requisite volume in FAANG to earn the Credit.

The Exchange proposes to implement the fee change effective December 9, 2019.

## Background

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>4</sup>

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.<sup>5</sup> Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in the first quarter of 2019, the Exchange had less than 10% market share of executed volume of multiply-listed equity & ETF options trades.<sup>6</sup>

With respect to FAANG, this index is listed and traded only on the Exchange and NYSE American LLC (“NYSE American”). However, this index product competes with market participants that choose to create their own synthetic index product by trading in the basket of securities that comprise the FAANG index. This proposed fee change is designed to increase liquidity for market participants that would like to trade FAANG by encouraging Market Maker organizations to open more positions in FAANG on the Exchange.

## Proposed Fee Change

The Exchange proposes to modify the existing Credit and add an alternative that offers a higher credit for firms that execute a higher number of total monthly contract sides that open a position in FAANG on the Exchange, as set forth in more detail below. With this proposed change, the total amount available under the Credit would not be changing. Rather, the Exchange would make available a higher per-firm credit for firms that provide more liquidity in FAANG. The Exchange believes the proposed modifications would further the Exchange’s goal of encouraging Market Makers to make a market in these (relatively) new products, which would in turn, benefit market participants that are interested in trading FAANG.

To effect this change, the Exchange proposes to modify the Credit to reduce the cap on the credits available for the existing qualification from \$50,000 to \$25,000. With this change, if more than five (as opposed to more than ten) firms execute at least 500 total monthly FAANG contract sides in a calendar month, the Credit for each qualifying firm would be a pro rata share of \$25,000 (down from \$50,000).<sup>7</sup> The Exchange also proposes to make clear that the limitation of five firms qualifying for the MM FAANG Credit applies to the \$5,000 credit.<sup>8</sup>

The Exchange also proposes to add an alternative Credit to the same Market Maker organizations described above. As proposed, any such firm that executes at least 2,000 total monthly contract sides that open a position in FAANG on the Exchange would qualify for a credit of \$10,000; provided, however, that if more than two firms qualify for the proposed (higher) FAANG Credit in a calendar month, the MM FAANG Credit for each qualifying firm would be a pro rata share of \$25,000.<sup>9</sup> As further proposed, a Market Maker firm that qualified for both Credits would be eligible for only one of

the two alternatives (*i.e.*, the higher). As proposed, the Exchange’s maximum exposure under the Credit would continue to be \$50,000, but this cap would be split between the two different qualifying rates.

The Exchange believes the proposed modified MM FAANG Credit would further the Exchange’s goal of encouraging trading in this (relatively) new index product, in particular by encouraging Market Makers to provide increased liquidity in tighter markets, which would in turn, benefit all market participants through more opportunities to trade.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>10</sup> in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,<sup>11</sup> in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

## The Proposed Rule Change Is Reasonable

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>12</sup>

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.<sup>13</sup> Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in the third quarter of 2019, the Exchange had less than 10% market

<sup>7</sup> See proposed Fee Schedule, NYSE Arca OPTIONS: TRADE-RELATED CHARGES FOR STANDARD OPTIONS, MM FAANG Credit.

<sup>8</sup> See *id.* In light of the proposed changes, to make the Fee Schedule easier to navigate, the Exchange also proposes to describe each alternative credit in bullet points, with typographical edits to the current rule text for clarity, and to remove reference to “\$5,000” where it appears in the current rule and to add the concept of a “specified minimum number” of “eligible contract sides.” See *id.*

<sup>9</sup> See *id.* As with the current Credit, only those FAANG transactions marked as “open” would be eligible to be counted towards the MM FAANG Credit. To add clarity and transparency to the Fee Schedule, the Exchange also proposes to add the word “FAANG” prior to the word contracts to make clear that this MM FAANG Credits applies only to such contracts. See *id.*

<sup>4</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7-10-04) (“Reg NMS Adopting Release”).

<sup>5</sup> The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: <https://www.theocc.com/market-data/volume/default.jsp>.

<sup>6</sup> Based on OCC data, see *id.*, the Exchange’s market share in equity-based options declined from 9.57% for the month of January to 9.23% for the month of September.

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>12</sup> See Reg NMS Adopting Release, *supra* note 4, at 37499.

<sup>13</sup> See *supra* note 5.

share of executed volume of multiply-listed equity & ETF options trades.<sup>14</sup>

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

While FAANG lists and trades only on the Exchange and NYSE American, this index product competes with market participants that choose to create their own synthetic index product by trading in the basket of securities that comprise the FAANG index. This proposed fee change is designed to increase liquidity for market participants that would like to trade FAANG by encouraging Market Maker organizations to open more positions in FAANG on the Exchange.

More specifically, the Exchange believes that the proposed modification to the MM FAANG Credit is designed to generate additional order flow to the Exchange by creating incentives to transact in FAANG, which increased liquidity would benefit all market participants, including non-Market Makers that are interested in trading FAANG. The Exchange believes that the proposed change would incent firms that have historically qualified for the Credit to trade greater volume to earn the higher (proposed) Credit. And, believes that the lower (existing) volume threshold should still attract firms (including those that have never achieved the Credit) to trade the requisite volume in FAANG to earn the Credit. To the extent that the proposed change attracts more FAANG transactions to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for order execution, which, in turn, promotes just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market and a national market system.

To the extent the proposed change continues to attract greater volume and liquidity (to the Floor or otherwise), the Exchange believes the proposed change would improve the Exchange's overall competitiveness and strengthen its

market quality for all market participants. In the backdrop of the competitive environment in which the Exchange operates, the proposed rule change is a reasonable attempt by the Exchange to increase the depth of its market and improve trading opportunities to better compete with other exchange offerings.

The Exchange cannot predict with certainty whether any firms would avail themselves of this proposed fee change, as historically, whether or when a firm qualifies for the MM FAANG Credit has varied month to month. Assuming historical behavior can be predictive of future behavior, the Exchange cannot predict the number of firms that may qualify for the alternative MM FAANG Credit, but believes that firms would be encouraged to take advantage of the modified Credit.

Finally, the Exchange believes that the technical changes to the rule text (*i.e.*, clarifying "FAANG contract sides" and including concept of a specified minimum number of "eligible contract sides") is reasonable as it would streamline the Fee Schedule, adding clarity and transparency, thereby making the Fee Schedule easier for market participants to navigate.<sup>15</sup>

#### The Proposed Rule Change Is an Equitable Allocation of Credits and Fees

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits. The proposal is based on the amount and type of business transacted on the Exchange and Market Makers can opt to avail themselves of the MM FAANG Credit or not. To the extent that the proposed change attracts more FAANG transactions to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for, among other things, order execution. Thus, the Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more order flow to the Exchange thereby improving market-wide quality and price discovery.

#### The Proposed Rule Change Is Not Unfairly Discriminatory

The Exchange believes it is not unfairly discriminatory to modify the MM FAANG Credit because the proposed modification would be available to all similarly-situated market participants on an equal and non-discriminatory basis.

The proposal is based on the amount and type of business transacted on the

Exchange and Market Maker organizations are not obligated to try to achieve the MM FAANG Credit. In addition, Market Maker organizations have increased obligations with respect to trading on the Exchange, and the Exchange believes that making this Credit available to Market Maker organizations would more likely result in increased liquidity in FAANG on the Exchange. To the extent that the proposed change attracts a variety of transactions to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for, among other things, order execution. Thus, the Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more order flow to the Exchange thereby improving market-wide quality and price discovery. The resulting increased volume and liquidity would provide more trading opportunities and tighter spreads to all market participants and thus would promote just and equitable principles of trade, 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.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

#### B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all market participants. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."<sup>16</sup>

*Intramarket Competition.* The proposed change is designed to attract additional order flow to the Exchange

<sup>14</sup> Based on OCC data, *see supra* note 6, in 2019, the Exchange's market share in equity-based options declined from 9.57% for the month of January to 9.23% for the month of September.

<sup>15</sup> *See supra* notes 8, 9.

<sup>16</sup> *See* Reg NMS Adopting Release, *supra* note 4, at 37499.

by improving quote quality. The Exchange also believes the proposed Credit, as modified, is procompetitive as it would further the Exchange's goal of introducing (relatively) new products to the marketplace and encouraging Market Makers to provide liquidity in these products, which would in turn, benefit all market participants. Market participants that do not wish to trade in FAANG are not obliged to do so. To the extent that there is an additional competitive burden on market participants that are not eligible for the modified MM FAANG Credit (*i.e.*, non-Market Maker organizations), the Exchange believes that this is appropriate because the proposal would incent Market Makers to transact in FAANG, which would enhance the quality of the Exchange's markets and increases the volume of contracts traded here. To the extent that this purpose is achieved, all of the Exchange's market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the anticipated increase in order flow directed to the Exchange will benefit all market participants and improve competition on the Exchange. Further, the proposed Credit would be applied to all similarly situated participants (*i.e.*, Market Maker organizations), and, as such, the proposed change would not impose a disparate burden on competition either among or between classes of market participants.

Finally, the Exchange believes that the technical changes to the rule text (*i.e.*, clarifying "FAANG contract sides" and including concept of a specified minimum number of "eligible contract sides") do not impose an undue burden on competition. Instead, the proposed changes would add clarity and transparency making the Fee Schedule easier for market participants to navigate.<sup>17</sup>

*Intermarket Competition.* While there is limited intermarket competition with respect to FAANG, as it lists and trades only on the Exchange and NYSE American, this index product competes with market participants that choose to create their own synthetic index product by trading in the basket of securities that comprise the FAANG index on other exchanges. This proposed fee change would therefore promote intermarket competition

because it is designed to increase liquidity for market participants that would like to trade FAANG by encouraging Market Maker organizations to open more positions in FAANG on the Exchange. The Exchange believes that the proposed change could promote competition between the Exchange and other execution venues, by encouraging additional orders to be sent to the Exchange for execution. The Exchange does not believe that the proposed change will impair the ability of any market participants or competing order execution venues to maintain their competitive standing in the financial markets.

*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**

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)<sup>18</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>19</sup> thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>20</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2019-90 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-2019-90. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2019-90, and should be submitted on or before January 16, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**J. Matthew DeLesDernier,**  
*Assistant Secretary.*

[FR Doc. 2019-27728 Filed 12-23-19; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>18</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>19</sup> 17 CFR 240.19b-4(f)(2).

<sup>20</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>21</sup> 17 CFR 200.30-3(a)(12).

<sup>17</sup> See *supra* notes 8, 9.



## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87795; File No. SR–NYSEArca–2019–88]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Partial Amendment No. 1, To Amend the Fees for NYSE Arca BBO and NYSE Arca Trades

December 18, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that, on December 4, 2019, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On December 17, 2019, the Exchange filed Partial Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Partial Amendment No. 1, from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to (1) amend the fees for NYSE Arca BBO and NYSE Arca Trades by modifying the application of the Access Fee; (2) amend the fees for NYSE Arca Trades by adopting a credit applicable to the Redistribution Fee; and (3) adopt a one-month free trial for all NYSE Arca market data products. The Exchange also proposes to remove certain obsolete text. The Exchange proposes to implement the proposed fee changes on February 3, 2020. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://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 decrease the fees for certain NYSE Arca market data products, as set forth on the NYSE Arca Equities Proprietary Market Data Fee Schedule (“Fee Schedule”). The purpose of these fee decreases, taken together with fee decreases filed by the Exchange’s affiliated exchanges, New York Stock Exchange LLC (“NYSE”) and NYSE American, Inc. (“NYSE American”),<sup>4</sup> will reduce the fees associated with the NYSE BQT proprietary data product, which competes directly with similar products offered by both the Nasdaq and Cboe families of U.S. equity exchanges. Collectively, the proposed fee decreases are intended to respond to the competition posed by similar products offered by the other exchange groups.

Specifically, the Exchange proposes to (1) reduce the Access Fees by more than 86% for subscribers of NYSE Arca BBO and NYSE Arca Trades that receive a data feed and use those market data products in a display-only format; (2) provide for a credit applicable to the Redistribution Fee for subscribers of NYSE Arca Trades that use that market data product for display purposes; and (3) adopt a one-month free trial for all NYSE Arca market data products. The Exchange also proposes non-substantive changes to remove certain obsolete text from the Fee Schedule. All of the proposed changes would decrease fees for market data on the Exchange.

The Exchange proposes to implement these proposed fee changes on February 3, 2020.

###### Background

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues, and also recognized that current regulation of the market system

“has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>5</sup>

As the Commission itself recognized, the market for trading services in NMS stocks has become “more fragmented and competitive.”<sup>6</sup> Indeed, equity trading is currently dispersed across 13 exchanges,<sup>7</sup> 31 alternative trading systems,<sup>8</sup> and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange currently has more than 18% market share (whether including or excluding auction volume).<sup>9</sup>

With the NYSE BQT market data product, NYSE Arca and its affiliates compete head to head with the Nasdaq Basic<sup>10</sup> and Cboe One Feed<sup>11</sup> market data products. Similar to those market data products, NYSE BQT, which was established in 2014,<sup>12</sup> consists of certain elements from NYSE Arca BBO and NYSE Arca Trades as well as from market data products from the Exchange’s affiliates, NYSE, NYSE American, NYSE National, Inc. (“NYSE

<sup>5</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7–10–04) (Final Rule) (“Regulation NMS Adopting Release”).

<sup>6</sup> See Securities Exchange Act Release No. 51808, 84 FR 5202, 5253 (February 20, 2019) (File No. S7–05–18) (Transaction Fee Pilot for NMS Stocks Final Rule) (“Transaction Fee Pilot”).

<sup>7</sup> See Cboe Global Markets, U.S. Equities Market Volume Summary, available at [https://markets.cboe.com/us/equities/market\\_share/](https://markets.cboe.com/us/equities/market_share/). See generally <https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html>.

<sup>8</sup> See FINRA ATS Transparency Data, available at <https://otctransparency.finra.org/otctransparency/AtsIssueData>. A list of alternative trading systems registered with the Commission is available at <https://www.sec.gov/foia/docs/atlist.htm>.

<sup>9</sup> See Cboe Global Markets U.S. Equities Market Volume Summary, available at [http://markets.cboe.com/us/equities/market\\_share/](http://markets.cboe.com/us/equities/market_share/).

<sup>10</sup> As described on the Nasdaq website, available here: <http://www.nasdaqtrader.com/Trader.aspx?id=NASDAQBasic>. Nasdaq Basic is a “low cost alternative” that provides “Best Bid and Offer and Last Sale information for all U.S. exchange-listed securities based on liquidity within the Nasdaq market center, as well as trades reported to the FINRA Trade Reporting Facility (“TRF”).”

<sup>11</sup> As described on the Cboe website, available here: [https://markets.cboe.com/us/equities/market\\_data\\_services/cboe\\_one/](https://markets.cboe.com/us/equities/market_data_services/cboe_one/), the Cboe One Feed is a “market data product that provides cost-effective, high-quality reference quotes and trade data for market participants looking for comprehensive, real-time market data” and provides a “unified view of the market from all four Cboe equity exchanges: BZX Exchange, BYX Exchange, EDGX Exchange, and EDGY [sic] Exchange.”

<sup>12</sup> See Securities Exchange Act Release Nos. 72750 (August 4, 2014), 79 FR 46494 (August 8, 2014) (notice—NYSE BQT); and 73553 (November 6, 2014), 79 FR 67491 (November 13, 2014) (approval order—NYSE BQT) (SR–NYSE–2014–40) (“NYSE BQT Filing”).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> In Partial Amendment No. 1, the Exchange provided an additional example in support of the proposed rule change.

<sup>4</sup> See SR–NYSE–2019–70 and SR–NYSEAmer–2019–55.

National”)<sup>13</sup> and NYSE Chicago (“NYSE Chicago”).<sup>14</sup> Similar to both Nasdaq Basic and the Cboe One Feed, NYSE BQT provides investors with a unified view of comprehensive last sale and BBO data in all Tape A, B, and C securities that trade on the Exchange, NYSE, NYSE American, NYSE National and NYSE Chicago. Also, similar to Nasdaq Basic and the Cboe One Feed, NYSE BQT is not intended to be used for purposes of making order-routing or trading decisions, but rather, provides indicative prices for Tape A, B, and C securities.<sup>15</sup>

Currently, to subscribe to NYSE BQT, subscribers are charged an access fee of \$250 per month.<sup>16</sup> Additionally, subscribers must also subscribe to, and pay applicable fees for NYSE Arca BBO, NYSE Arca Trades, NYSE BBO, NYSE Trades, NYSE American BBO, NYSE American Trades, NYSE National BBO, NYSE National Trades, NYSE Chicago BBO and NYSE Chicago Trades. Thus, the charges for NYSE BQT are the \$250 Access Fee for NYSE BQT, plus a \$1,500 access fee for each of NYSE BBO and NYSE Trades,<sup>17</sup> plus a \$750 access fee for each of NYSE Arca BBO and NYSE Arca Trades,<sup>18</sup> plus a \$750 access fee for each of NYSE American BBO and NYSE American Trades,<sup>17</sup> for a total of \$6,250 (\$250 + \$3,000 + \$1,500 + \$1,500).<sup>18</sup> In addition, an NYSE BQT subscriber would need to pay for the applicable Professional or Non-Professional User Fees for the underlying market data products, as applicable.<sup>19</sup>

Because NYSE BQT is priced based on the fees associated with the underlying ten market data feeds, the Exchange and its affiliates propose to compete with the Cboe One Feed and Nasdaq Basic by reducing fees for the underlying market data products that comprise NYSE BQT. Together with NYSE and NYSE American, the Exchange similarly proposes to compete for subscribers to NYSE BQT by designing its fee decreases to be attractive to subscribers of NYSE Arca BBO and NYSE Arca Trades that use such products for display-only purposes, which are more likely to be subscribers that service retail investors.

#### Access Fee—NYSE Arca BBO and NYSE Arca Trades

NYSE Arca BBO is a NYSE Arca-only market data product that allows a vendor to redistribute on a real-time basis the same best-bid-and-offer information that NYSE Arca reports under the Consolidated Quotation Plan (“CQ Plan”) for inclusion in the CQ Plan’s consolidated quotation information data stream (“NYSE Arca BBO Information”).<sup>19</sup> NYSE Arca BBO Information includes the best bids and offers for all securities that are traded on the Exchange and for which NYSE Arca reports quotes under the CQ Plan. NYSE Arca BBO is available over a single data feed, regardless of the markets on which the securities are listed. NYSE Arca BBO is made available to its subscribers no earlier than the information it contains is made available to the processor under the CQ Plan.

NYSE Arca Trades is a NYSE Arca-only market data product that allows a vendor to redistribute on a real-time basis the same last sale information that NYSE Arca reports to the Consolidated Tape Association (“CTA”) for inclusion in the CTA’s consolidated data stream and certain other related data elements

(“NYSE Arca Last Sale Information”).<sup>20</sup> NYSE Arca Last Sale Information includes last sale information for all securities that are traded on the Exchange. NYSE Arca Trades is made available to its subscribers at the same time as the information it contains is made available to the processor under the CTA Plan.

Currently, subscribers of each of the NYSE Arca BBO and NYSE Arca Trades products that receive a data feed pay an Access Fee of \$750 per month. The Exchange proposes to reduce the Access Fees for subscribers of NYSE Arca BBO and NYSE Arca Trades that receive a data feed and use those products in a display-only format, including for internal use for Professional Users and external distribution to both Professional and Non-Professional Users in a display-only format, from \$750 per month (per product) to \$100 per month (per product). The Exchange proposes to designate this access fee as a “Per User Access Fee.” A subscriber that receives a data feed and uses the market data product for any other purpose (such as non-display use), including if combined with Per User use, would continue to pay the \$750 per month Access Fee.<sup>21</sup> A subscriber will be charged only one access fee for each of the NYSE Arca BBO and NYSE Arca Trades products, depending on the use of that product.

The proposed rule change would result in lower fees for subscribers of each of NYSE Arca BBO and NYSE Arca Trades products that receive a data feed and use such products for display-only purposes. The proposed Per User Access Fee of \$100 per month, lowered from \$750 per month, would result in a reduction of more than 86% for subscribers that receive a data feed and use the product in a display-only format. Additionally, the proposed rule change, together with the proposed rule changes by NYSE and NYSE American to similarly reduce the access fees to their BBO and Trades products, would also significantly lower access fees for display-only subscribers of NYSE BQT, from \$6,250 per month to \$850 per month (\$250 + \$200 + \$200 + \$200), a reduction of more than 86%.

The proposed rule change is intended to encourage greater use of NYSE BQT by making it more affordable for data recipients that receive a data feed of

<sup>13</sup> In 2018, NYSE BQT was amended to include NYSE National BBO and NYSE National Trades. See Securities Exchange Act Release No. 83359 (June 1, 2018), 83 FR 26507 (June 7, 2018) (SR–NYSE–2018–22).

<sup>14</sup> In 2019, NYSE BQT was amended to include NYSE Chicago BBO and NYSE Chicago Trades. See Securities Exchange Act Release No. 87511 (November 12, 2019), 84 FR 63689 (November 18, 2019) (SR–NYSE–2019–60).

<sup>15</sup> See NYSE BQT Filing, *supra* note 12.

<sup>16</sup> See NYSE Proprietary Market Data Fees, available here: [https://www.nyse.com/publicdocs/nyse/data/NYSE\\_Market\\_Data\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Fee_Schedule.pdf).

<sup>17</sup> See *id.*

<sup>18</sup> See Fee Schedule, available here: [https://www.nyse.com/publicdocs/nyse/data/NYSE\\_Arca\\_Equities\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/data/NYSE_Arca_Equities_Fee_Schedule.pdf).

<sup>19</sup> See NYSE American Equities Proprietary Market Data Fees, available here: [https://www.nyse.com/publicdocs/nyse/data/NYSE\\_American\\_Equities\\_Market\\_Data\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/data/NYSE_American_Equities_Market_Data_Fee_Schedule.pdf).

<sup>18</sup> There are currently no fees charged for the NYSE National BBO, NYSE National Trades, NYSE Chicago BBO, or NYSE Chicago Trades market data products.

<sup>19</sup> The Exchange is not proposing any changes to the User Fees. Currently, the Professional User Fees for each of NYSE BBO and NYSE Trades is \$4 per month, and the Non-Professional User Fees for each of NYSE BBO and NYSE Trades is \$0.20 per month. See NYSE Proprietary Market Data Fees, available here: [https://www.nyse.com/publicdocs/nyse/data/NYSE\\_Market\\_Data\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Fee_Schedule.pdf). The

Professional User Fees for each of NYSE Arca BBO and NYSE Arca Trades is \$4 per month, and the Non-Professional User Fees for each of NYSE Arca BBO and NYSE Arca Trades is \$0.25 per month. See Fee Schedule, available here: [https://www.nyse.com/publicdocs/nyse/data/NYSE\\_Arca\\_Equities\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/data/NYSE_Arca_Equities_Fee_Schedule.pdf). The Professional User Fees for each of NYSE American BBO and NYSE American Trades is \$4 per month, and the Non-Professional User Fees for each of NYSE American BBO and NYSE American Trades is \$0.25 per month. See NYSE American Equities Proprietary Market Data Fees, available here: [https://www.nyse.com/publicdocs/nyse/data/NYSE\\_American\\_Equities\\_Market\\_Data\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/data/NYSE_American_Equities_Market_Data_Fee_Schedule.pdf).

<sup>19</sup> See Securities Exchange Act Release Nos. 61937 (April 16, 2010), 75 FR 21378 (April 23, 2010) (SR–NYSEArca–2010–23) (notice—NYSE Arca BBO); and 62188 (May 27, 2010), 75 FR 31484 (June 3, 2010) (SR–NYSEArca–2010–23) (approval order—NYSE Arca BBO).

<sup>20</sup> See Securities Exchange Act Release Nos. 59308 (January 28, 2009), 74 FR 5955 (February 3, 2009) (SR–NYSEArca–2009–05) (notice—NYSE Arca Trades); 59598 (March 18, 2009), 74 FR 12919 (March 25, 2009) (SR–NYSEArca–2009–05) (approval order—NYSE Arca Trades).

<sup>21</sup> With the proposed adoption of the Per User Access Fee, the Exchange proposes to rename the Access Fee as the General Access Fee.

NYSE Arca Trades and NYSE Arca BBO and use the products in a display-only format and thereby, allow the Exchange to compete more effectively with Cboe One Feed and Nasdaq Basic. The Exchange believes the proposed rule change would allow the Exchange to offer retail investors a competitively priced alternative to other top-of-book data products available in the marketplace.

#### Redistribution Fee—NYSE Arca Trades

The Exchange currently charges a Redistribution Fee of \$750 per month for NYSE Arca Trades. A Redistributor is a vendor or any other person that provides a NYSE Arca data product to a data recipient or to any system that a data recipient uses, irrespective of the means of transmission or access. A Redistributor is required to report to the Exchange each month the number of Professional and Non-Professional Users and data feed recipients that receive NYSE Arca Trades. As noted above, for display use of NYSE Arca Trades, the Exchange currently charges a Per User Fee of \$4 per month for each Professional User and a Per User Fee of \$0.25 per month for each Non-Professional User. These user fees apply to each display device that has access to NYSE Arca Trades.

The Exchange proposes to adopt a credit that would be applicable to Redistributors that provide external distribution of NYSE Arca Trades to Professional and Non-Professional Users in a display-only format. As proposed, such Redistributors would receive a credit equal to the amount of the monthly Professional User and Non-Professional User Fees for such external distribution, up to a maximum of the Redistribution Fee for NYSE Arca Trades. For example, a Redistributor that reports external Professional Users and Non-Professional Users in a month totaling \$750 or more would receive a maximum credit of \$750 for that month, which could effectively reduce its Redistribution Fee to zero. If that same Redistributor were to report external User quantities in a month totaling \$500 of monthly usage, that Redistributor would receive a credit of \$500. Redistributors would have an incentive to increase their redistribution of NYSE Arca Trades because the credit they would be eligible to receive would increase if they report additional external User quantities.

By targeting this proposed credit to Redistributors that provide external distribution of NYSE Arca Trades in a display-only product, the Exchange believes that this proposed fee decrease would provide an incentive for

Redistributors to make the NYSE BQT market data product available to its customers. Specifically, if a data recipient is interested in subscribing to NYSE BQT and relies on a Redistributor to obtain market data products from the Exchange, that data recipient would need its Redistributor to redistribute NYSE BQT. Currently, Redistributors that redistribute NYSE Arca market data products do not necessarily also make NYSE BQT available. Because data recipients that use NYSE BQT do so for display-only use, and therefore would use the NYSE Arca Trades market data product for display-only use, the Exchange believes that this proposed fee decrease for Redistributors of NYSE Arca Trades would provide an incentive for Redistributors to make NYSE BQT available to its customers, which will increase the availability of NYSE BQT to a larger potential population of data recipients.<sup>22</sup>

#### One-Month Free Trial—All NYSE Arca Market Data Products

The Exchange proposes a one-month free trial for any firm that subscribes to a particular NYSE Arca market data product for the first time. As proposed, a first-time subscriber would be any firm that has not previously subscribed to a particular NYSE Arca market data product listed on the Fee Schedule. As proposed, a first-time subscriber of a particular NYSE Arca market data product would not be charged the Access Fee, Non-Display Fee, any applicable Professional and Non-Professional User Fee, and Redistribution Fee for that product for one calendar month. For example, a firm that currently subscribes to NYSE Arca BBO would be eligible to receive a free one-month trial of NYSE Arca Trades, whether in a display-only format or for non-display use. On the other hand, a firm that currently pays an Access Fee and receives NYSE Arca BBO for non-display use would not be eligible to receive a free one-month trial of NYSE Arca BBO in a display-only format. The proposed free trial would be for the first full calendar month following the date a subscriber is approved to receive trial access to the particular NYSE Arca market data product. The Exchange would provide the one-month free trial for each particular product to each subscriber once.

The Exchange believes that providing a one-month free trial to NYSE Arca market data products listed on the Fee Schedule would enable potential

subscribers to determine whether a particular NYSE Arca market data product provides value to their business models before fully committing to expend development and implementation costs related to the receipt of that product, and is intended to encourage increased use of the Exchange's market data products by defraying some of the development and implementation costs subscribers would ordinarily have to expend before using a product.

#### Non-Substantive Changes

In December 2017, the Exchange amended the Fee Schedule to adopt footnote 6 regarding a Decommission Extension Fee for receipt of the NYSE Arca Integrated Feed market data product.<sup>23</sup> The Decommission Extension Fee was adopted to allow existing subscribers at the time to receive these market data products in their legacy format as the Exchange was transitioning to a newer distribution protocol. The Decommission Extension Fee for NYSE Arca Integrated Feed expired on January 30, 2018. The Exchange proposes to remove rule text regarding the Decommission Extension Fee for NYSE Integrated Feed from footnote 6 of the Fee Schedule, as that rule text is now obsolete because the period of time during which the Decommission Extension Fee for NYSE Integrated Feed was applicable has passed. The Exchange proposes to replace the text in footnote 6 with rule text regarding the proposed fee change related to the Redistribution Fee for NYSE Arca Trades described above.

The Exchange also proposes a non-substantive amendment to move the text describing the Enterprise Fee on the Fee Schedule to appear below the Non-Professional User Fee. The Exchange is not making any substantive changes to this fee. The Exchange believes that this proposed non-substantive change will make the Fee Schedule easier to navigate, as the Enterprise Fee is related to Per User fees.

The Exchange also proposes two non-substantive, clarifying amendments to footnote 4. First, the Exchange proposes to delete the term "clients" and replace it with the term "Professional Users and Non-Professional Users." This proposed change is consistent with the operation of the Enterprise Fee, which relates only to the Professional User and Non-Professional Per User fees. Second, the Exchange proposes to insert "Arca" in front of BBO and Trades to correctly

<sup>22</sup> NYSE Arca does not charge a Redistribution Fee for NYSE Arca BBO.

<sup>23</sup> See Securities Exchange Act Release No. 82344 (December 18, 2017), 82 FR 60784 (December 22, 2017) (SR-NYSEArca-2017-142).

note that the Enterprise Fee applies to the NYSE Arca BBO and NYSE Arca Trades market data products. The Exchange believes that these proposed changes would promote clarity and transparency of the Fee Schedule, without making any substantive changes.

#### Applicability of Proposed Rule Change

As noted above, the proposed rule change is designed to reduce the overall cost of NYSE BQT by reducing specified fees applicable to the underlying market data products that comprise NYSE BQT. There is currently only one subscriber to NYSE BQT (a vendor), and the Exchange believes that the proposed rule change would provide an incentive both for data subscribers to subscribe to NYSE BQT and for Redistributors to subscribe to the product for purposes of providing external distribution of NYSE BQT.

Because the proposed rule change is targeted to potential customers of NYSE BQT, which is designed to be a product for display-only data subscribers, the proposed changes to the NYSE Arca BBO and NYSE Arca Trades Access Fee are narrowly construed with that purpose in mind. Accordingly, these proposed fee changes are not designed for data subscribers that use NYSE Arca BBO or NYSE Arca Trades for non-display use, or for Redistributors that redistribute NYSE Arca Trades to data subscribers that use that market data product for non-display uses. This proposed rule change would not result in any changes to the market data fees for NYSE Arca BBO and NYSE Arca Trades for such data subscribers.

The Exchange believes that five current subscribers to the NYSE Arca BBO and NYSE Arca Trades would meet the qualifications to be eligible for these proposed fee changes. The Exchange further believes that this proposed rule change has the potential to attract new Redistributors for NYSE BQT, as well as new NYSE BQT subscribers that would be subscribing to NYSE Arca BBO and NYSE Arca Trades for the first time.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>24</sup> in general, and Sections 6(b)(4) and 6(b)(5) of the Act,<sup>25</sup> in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair

discrimination among customers, issuers, and brokers.

#### The Proposed Rule Change Is Reasonable

In adopting Regulation NMS, the Commission granted SROs and broker-dealers increased authority and flexibility to offer new and unique market data to the public. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues, and also recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>26</sup>

With respect to market data, the decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition v. SEC* upheld the Commission’s reliance on the existence of competitive market mechanisms to evaluate the reasonableness and fairness of fees for proprietary market data:

In fact, the legislative history indicates that the Congress intended that the market system “evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed” and that the SEC wield its regulatory power “in those situations where competition may not be sufficient,” such as in the creation of a “consolidated transactional reporting system.”<sup>27</sup>

The court agreed with the Commission’s conclusion that “Congress intended that ‘competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.’”<sup>28</sup>

#### 1. The Proposed Fees Are Constrained by Significant Competitive Forces

##### a. Exchange Market Data Is Sold in a Competitive Market

In 2018, Charles M. Jones, the Robert W. Lear of Professor of Finance and Economics of the Columbia University School of Business, conducted an analysis of the market for equity market data in the United States. He canvassed

the demand for both consolidated and exchange proprietary market data products and the uses to which those products were put by market participants, and reported his conclusions in a paper annexed hereto.<sup>29</sup> Among other things, Professor Jones concluded that:

- “The market [for exchange market data] is characterized by robust competition: Exchanges compete with each other in selling proprietary market data products. They also compete with consolidated data feeds and with data provided by alternative trading systems (‘ATSs’). Barriers to entry are very low, so existing exchanges must also take into account competition from new entrants, who generally try to build market share by offering their proprietary market data products for free for some period of time.”<sup>30</sup>

- “Although there are regulatory requirements for some market participants to use consolidated data products, there is no requirement for market participants to purchase any proprietary market data product for regulatory purposes.”<sup>31</sup>

- “There are a variety of data products, and consumers of equity market data choose among them based on their needs. Like most producers, exchanges offer a variety of market data products at different price levels. Advanced proprietary market data products provide greater value to those who subscribe. As in any other market, each potential subscriber takes the features and prices of available products into account in choosing what market data products to buy based on its business model.”<sup>32</sup>

- “Exchange equity market data fees are a small cost for the industry overall: The data demonstrates that total exchange market data revenues are orders of magnitude smaller than (i) broker-dealer commissions, (ii) investment bank earnings from equity trading, and (iii) revenues earned by third-party vendors.”<sup>33</sup>

- “For proprietary exchange data feeds, the main question is whether there is a competitive market for proprietary market data. More than 40 active exchanges and alternative trading systems compete vigorously in both the market for order flow and in the market for market data. The two are closely linked: An exchange needs to consider the negative impact on its order flow if

<sup>26</sup> See Regulation NMS Adopting Release, 70 FR 37495, at 37499.

<sup>27</sup> *NetCoalition v. SEC*, 615 F.3d 525, 535 (D.C. Cir. 2010) (“*NetCoalition I*”) (quoting H.R. Rep. No. 94–229 at 92 (1975), as reprinted in 1975 U.S.C.C.A.N. 323).

<sup>28</sup> *Id.* at 535.

<sup>29</sup> See Exhibit 3A, Charles M. Jones, *Understanding the Market for U.S. Equity Market Data*, August 31, 2018 (hereinafter “Jones Paper”).

<sup>30</sup> Jones Paper at 2.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>24</sup> 15 U.S.C. 78f(b).

<sup>25</sup> 15 U.S.C. 78f(b)(4), (5).

it raises the price of its market data. Furthermore, new entrants have been frequent over the past 10 years or so, and these venues often give market data away for free, serving as a check on pricing by more established exchanges. These are all the standard hallmarks of a competitive market.”<sup>34</sup>

Professor Jones’ conclusions are consistent with the demonstration of the competitive constraints on the pricing of market data demonstrated by analysis of exchanges as platforms for market data and trading services, as shown below.

#### b. Exchanges That Offer Market Data and Trading Services Function as Two-Sided Platforms

An exchange may demonstrate that its fees are constrained by competitive forces by showing that the platform theory of competition applies.

As the United States Supreme Court recognized in *Ohio v. American Express*, platforms are firms that act as intermediaries between two or more sets of agents, and typically the choices made on one side of the platform affect the results on the other side of the platform via externalities, or “indirect network effects.”<sup>35</sup> Externalities are linkages between the different “sides” of a platform such that one cannot understand pricing and competition for goods or services on one side of the platform in isolation; one must also account for the influence of the other side. As the Supreme Court explained:

To ensure sufficient participation, two-sided platforms must be sensitive to the prices that they charge each side. . . . Raising the price on side A risks losing participation on that side, which decreases the value of the platform to side B. If the participants on side B leave due to this loss in value, then the platform has even less value to side A—risking a feedback loop of declining demand. . . . Two-sided platforms therefore must take these indirect network effects into account before making a change in price on either side.<sup>36</sup>

The Exchange and its affiliated exchanges have long maintained that they function as platforms between consumers of market data and consumers of trading services. Proving the existence of linkages between the two sides of this platform requires an in-depth economic analysis of both public data and confidential Exchange data about particular customers’ trading activities and market data purchases. Exchanges, however, are prohibited from sharing details about these specific customer activities and purchases. For

example, pursuant to Exchange Rule 7.41, transactions executed on the Exchange are processed anonymously.

The Exchange and its affiliated exchanges have retained a third party expert, Marc Rysman, Professor of Economics Boston University, to analyze how platform economics applies to stock exchanges’ sale of market data products and trading services, and to explain how this affects the assessment of competitive forces affecting the exchanges’ data fees.<sup>37</sup> Professor Rysman was able to analyze exchange data that is not otherwise publicly available in a manner that is consistent with the exchanges’ confidentiality obligations to customers. As shown in his paper, Professor Rysman surveyed the existing economic literature analyzing stock exchanges as platforms between market data and trading activities, and explained the types of linkages between market data access and trading activities that must be present for an exchange to function as a platform. In addition, Professor Rysman undertook an empirical analysis of customers’ trading activities within the NYSE group of exchanges in reaction to NYSE’s introduction in 2015 of the NYSE Integrated Feed, a full order-by-order depth of book data product.<sup>38</sup>

Professor Rysman’s analysis of this confidential firm-level data shows that firms that purchased the NYSE Integrated Feed market data product after its introduction were more likely to route orders to NYSE as opposed to one of the other NYSE-affiliated exchanges, such as NYSE Arca or NYSE American.<sup>39</sup> Moreover, Professor Rysman shows that the same is true for firms that did *not* subscribe to the NYSE Integrated Feed: The introduction of the NYSE Integrated Feed led to more trading on NYSE (as opposed to other NYSE-affiliated exchanges) by firms that did *not* subscribe to the NYSE Integrated Feed.<sup>40</sup> This is the sort of externality that is a key characteristic of a platform market.<sup>41</sup>

From this empirical evidence, Professor Rysman concludes:

- “[D]ata is more valuable when it reflects more trading activity and more liquidity-providing orders. These linkages alone are enough to make platform economics necessary for understanding the pricing of market data.”<sup>42</sup>

- “[L]inkages running in the opposite direction, from data to trading, are also very likely to exist. This is because market data from an exchange reduces uncertainty about the likelihood, price, or timing of execution for an order on that exchange. This reduction in uncertainty makes trading on that exchange more attractive for traders that subscribe to that exchange’s market data. Increased trading by data subscribers, in turn, makes trading on the exchange in question more attractive for traders that do not subscribe to the exchange’s market data.”<sup>43</sup>

- The “mechanisms by which market data makes trading on an exchange more attractive for subscribers to market data . . . apply to a wide assortment of market data products, including BBO, order book, and full order-by-order depth of book data products at all exchanges.”<sup>44</sup>

- “[E]mpirical evidence confirms that stock exchanges are platforms for data and trading.”<sup>45</sup>

- “The platform nature of stock exchanges means that data fees cannot be analyzed in isolation, without accounting for the competitive dynamics in trading services.”<sup>46</sup>

- “Competition is properly understood as being between platforms (*i.e.*, stock exchanges) that balance the needs of consumers of data and traders.”<sup>47</sup>

- “Data fees, data use, trading fees, and order flow are all interrelated.”<sup>48</sup>

- “Competition for order flow can discipline the pricing of market data, and vice-versa.”<sup>49</sup>

- “As with platforms generally, overall competition between exchanges will limit their overall profitability, not margins on any particular side of the platform.”<sup>50</sup>

#### c. Exchange Market Data Fees Are Constrained by the Availability of Substitute Platforms

Professor Rysman’s conclusions that exchanges function as platforms for market data and transaction services mean that exchanges do not set fees for

<sup>37</sup> See Exhibit 3B, Marc Rysman, *Stock Exchanges as Platforms for Data and Trading*, December 2, 2019 (hereinafter “Rysman Paper”), ¶ 7.

<sup>38</sup> See Securities Exchange Act Release Nos. 74128 (January 23, 2015), 80 FR 4951 (January 29, 2015) (SR-NYSE-2015-03) (Notice of filing and immediate effectiveness of proposed rule change to establish NYSE Integrated Feed) and 76485 (November 20, 2015), 80 FR 74158 (November 27, 2015) (SR-NYSE-2015-57) (Notice of filing and immediate effectiveness of proposed rule change to establish fees for the NYSE Integrated Feed).

<sup>39</sup> Rysman Paper ¶¶ 79–89.

<sup>40</sup> *Id.* ¶¶ 90–91.

<sup>41</sup> *Id.* ¶ 90.

<sup>42</sup> *Id.* ¶ 95.

<sup>43</sup> *Id.* ¶ 96.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* ¶ 97.

<sup>46</sup> *Id.* ¶ 98.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.* ¶ 100.

<sup>34</sup> *Id.* at 39–40.

<sup>35</sup> *Ohio v. American Express*, 138 S. Ct. 2274, 2280–81 (2018).

<sup>36</sup> *Id.* at 2281.

market data products without considering, and being constrained by, the effect the fees will have on the order-flow side of the platform. And as the D.C. Circuit recognized in *NetCoalition I*, “[n]o one disputes that competition for order flow is fierce.”<sup>51</sup> The court further noted that “no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers,” and that an exchange “must compete vigorously for order flow to maintain its share of trading volume.”<sup>52</sup>

Similarly, the Commission itself has recognized that the market for trading services in NMS stocks has become “more fragmented and competitive.”<sup>53</sup> The Commission’s Division of Trading and Markets has also recognized that with so many “operating equities exchanges and dozens of ATSs, there is vigorous price competition among the U.S. equity markets and, as a result, [transaction] fees are tailored and frequently modified to attract particular types of order flow, some of which is highly fluid and price sensitive.”<sup>54</sup> Indeed, today, equity trading is currently dispersed across 13 exchanges,<sup>55</sup> 31 alternative trading systems,<sup>56</sup> and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange currently has more than 18% market share.<sup>57</sup>

Further, low barriers to entry mean that new exchanges may rapidly and inexpensively enter the market and offer additional substitute platforms to compete with the Exchange.<sup>58</sup> In addition to the 13 presently-existing exchanges, three new ones are expected to enter the market in 2020: Long Term Stock Exchange (LTSE), which has been

approved as an equities exchange but is not yet operational;<sup>59</sup> Members Exchange (MEMX), which has recently filed its application to be approved as a registered equities exchange;<sup>60</sup> and Miami International Holdings (MIAX), which has announced its plan to introduce equities trading on an existing registered options exchange.<sup>61</sup>

Given Professor Rysman’s conclusion that exchanges are platforms for market data and trading, this fierce competition for order flow on the trading side of the platform acts to constrain, or “discipline,” the pricing of market data on the other side of the platform.<sup>62</sup> And due to the ready availability of substitutes and the low cost to move order flow to those substitute trading venues, an exchange setting market data fees that are not at competitive levels would expect to quickly lose business to alternative platforms with more attractive pricing.<sup>63</sup> Although the various exchanges may differ in their strategies for pricing their market data products and their transaction fees for trades—with some offering market data for free along with higher trading costs, and others charging more for market data and comparatively less for trading—the fact that exchanges are platforms ensures that no exchange makes pricing decisions for one side of its platform without considering, and being constrained by, the effects that price will have on the other side of the platform.

In sum, the fierce competition for order flow thus constrains any exchange from pricing its market data at a supracompetitive price, and constrains the Exchange in setting its fees at issue here.

The proposed fees are therefore reasonable because in setting them, the Exchange is constrained by the availability of numerous substitute platforms offering market data products and trading. Such substitutes need not be identical, but only substantially similar to the product at hand.

<sup>59</sup> See Securities Exchange Act Release No. 85828 (May 10, 2019) (File No. 10–234) (Findings, Opinion, and Order of the Commission in the Matter of the Application of Long Term Stock Exchange, Inc. for Registration as a National Securities Exchange).

<sup>60</sup> See Securities Exchange Act Release No. 87436 (October 31, 2019) (File No. 10–237) (Notice of filing of application of MEMX LLC for registration as a national securities exchange under Section 6 of the Act).

<sup>61</sup> See Press Release of Miami International Holdings Inc., dated May 17, 2019, available here: [https://www.miaxoptions.com/sites/default/files/press\\_release-files/MIAX\\_Press\\_Release\\_05172019.pdf](https://www.miaxoptions.com/sites/default/files/press_release-files/MIAX_Press_Release_05172019.pdf).

<sup>62</sup> Rysman Paper ¶ 98.

<sup>63</sup> See Jones Paper at 11.

More specifically, in reducing specified fees for the NYSE Arca BBO and NYSE Arca Trades market data products, the Exchange is constrained by the fact that, if its pricing across the platform is unattractive to customers, customers have their pick of an increasing number of alternative platforms to use instead of the Exchange. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish reasonable fees. The existence of numerous alternative platforms to the Exchange’s platform ensures that the Exchange cannot set unreasonable market data fees without suffering the negative effects of that decision in the fiercely competitive market for trading order flow.

d. The Availability of Substitute Market Data Products Constrains Fees for NYSE Arca BBO, NYSE Arca Trades, and NYSE BQT

Even putting aside the facts that exchanges are platforms and that pricing decisions on the two sides of the platform are intertwined, the Exchange is constrained in setting the proposed market data fees by the availability of numerous substitute market data products.

The NYSE BQT market data product is subject to significant competitive forces that constrain its pricing. Specifically, as described above, NYSE BQT competes head-to-head with the Nasdaq Basic product and the Cboe One Feed. These products each serve as reasonable substitutes for one another as they are each designed to provide investors with a unified view of real-time quotes and last-sale prices in all Tape A, B, and C securities. Each product provides subscribers with consolidated top-of-book quotes and trades from multiple U.S. equities markets. In the case of NYSE BQT, this product provides top-of-book quotes and trades data from five NYSE-affiliated U.S. equities exchanges, which together account for approximately 24% of consolidated U.S. equities trading volume as of October 2019.<sup>64</sup> Cboe One Feed similarly provides top-of-book quotes and trades data from Cboe’s four U.S. equities exchanges. NYSE BQT, Nasdaq Basic, and Cboe One Feed are all intended to provide indicative pricing and are not intended to be used for order routing or trading decisions.

In addition to competing with proprietary data products from Nasdaq

<sup>64</sup> See Cboe Global Markets, U.S. Equities Market Volume Summary, available at [https://markets.cboe.com/us/equities/market\\_share/market/2019-10-31/](https://markets.cboe.com/us/equities/market_share/market/2019-10-31/).

<sup>51</sup> *NetCoalition I*, 615 F.3d at 544 (internal quotation omitted).

<sup>52</sup> *Id.*

<sup>53</sup> See Securities Exchange Act Release No. 51808, 84 FR 5202, 5253 (February 20, 2019) (File No. S7–05–18).

<sup>54</sup> Commission Division of Trading and Markets, Memorandum to EMSAC, dated October 20, 2015, available here: <https://www.sec.gov/spotlight/emsac/memo-maker-taker-fees-on-equities-exchanges.pdf>.

<sup>55</sup> See Cboe Global Markets, U.S. Equities Market Volume Summary, available at [http://markets.cboe.com/us/equities/market\\_share/](http://markets.cboe.com/us/equities/market_share/). See generally <https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html>.

<sup>56</sup> See FINRA ATS Transparency Data, available at <https://otctransparency.finra.org/otctransparency/AtsIssueData>. A list of alternative trading systems registered with the Commission is available at <https://www.sec.gov/foia/docs/atstlist.htm>.

<sup>57</sup> See Cboe Global Markets U.S. Equities Market Volume Summary, available at [http://markets.cboe.com/us/equities/market\\_share/](http://markets.cboe.com/us/equities/market_share/).

<sup>58</sup> See Jones Paper at 10–11.

and Cboe, NYSE BQT also competes with the consolidated data feed. However, the Exchange does not claim that NYSE BQT is a substitute for consolidated data with respect to requirements under the Vendor Display Rule, which is Regulation NMS Rule 603(c).

The fact that this filing is proposing reductions in certain fees, fee credits, and free trial periods is itself confirmation of the inherently competitive nature of the market for the sale of proprietary market data. For example, Cboe recently filed proposed rule changes to reduce certain of its Cboe One Feed fees and noted that it attracted two additional customers because of the reduced fees.<sup>65</sup>

The Exchange notes that NYSE Arca BBO, NYSE Arca Trades, and NYSE BQT are entirely optional. The Exchange and its affiliates are not required to make the proprietary data products that are the subject of this proposed rule change available or to offer any specific pricing alternatives to any customers, nor is any firm or investor required to purchase these data products. Unlike some other data products (e.g., the consolidated quotation and last-sale information feeds) that firms are required to purchase in order to fulfil regulatory obligations,<sup>66</sup> a customer's decision

whether to purchase any of the Exchange's proprietary market data feeds is entirely discretionary. Most firms that choose to subscribe to proprietary market data products from the Exchange and its affiliates do so for the primary goals of using them to increase their revenues, reduce their expenses, and in some instances compete directly with the Exchange's trading services. Such firms are able to determine for themselves whether or not the products in question or any other similar products are attractively priced. If market data products from the Exchange and its affiliates do not provide sufficient value to firms based on the uses those firms may have for it, such firms may simply choose to conduct their business operations in ways that do not use the products.<sup>67</sup> A clear illustration of this point is the fact that today, NYSE BQT has just one subscriber.

In addition, in the case of products that are also redistributed through market data vendors, such as Bloomberg and Refinitiv, the vendors themselves provide additional price discipline for proprietary data products because they control the primary means of access to certain end users. These vendors impose price discipline based upon their business models. For example, vendors that assess a surcharge on data they sell are able to refuse to offer proprietary products that their end users do not or will not purchase in sufficient numbers. Currently, only one vendor subscribes to NYSE BQT, and that vendor has limited redistribution of NYSE BQT. No other vendors currently subscribe to NYSE BQT and likely will not unless their customers request it, and customers will not elect to pay the proposed fees unless such product can provide value by sufficiently increasing revenues or reducing costs in the customer's business in a manner that will offset the fees. All of these factors operate as constraints on pricing proprietary data products.

Because of the availability of substitutes, an exchange that overprices its market data products stands a high risk that users may substitute another source of market data information for its own. Those competitive pressures imposed by available alternatives are

evident in the Exchange's proposed pricing.

In setting the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish reasonable fees. The existence of numerous alternatives to the Exchange's platform and, more specifically, alternatives to the market data products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase.

## 2. The Proposed Fees Are Reasonable

The specific fees that the Exchange proposes for NYSE Arca Trades and NYSE Arca BBO are reasonable, for the following additional reasons.

*Overall.* This proposed fee change is a result of the competitive environment, as the Exchange seeks to decrease certain of its fees to attract subscribers that do not currently use the NYSE BQT market data product. The Exchange is proposing the fee reductions at issue to make the Exchange's fees more competitive for a specific segment of market participants, thereby increasing the availability of the Exchange's data products, and expanding the options available to firms making data purchasing decisions based on their business needs. The Exchange believes that this is consistent with the principles contained in Regulation NMS to "promote the wide availability of market data and to allocate revenues to SROs that produce the most useful data for investors."<sup>68</sup>

*Access Fee.* By adopting a reduced access fee to access U.S. equity market data that is used in display-only format and that serves as the foundation of NYSE BQT, the Exchange believes that more data recipients may choose to subscribe to these products, thereby expanding the distribution of this market data for the benefit of investors that participate in the national market system and increasing competition generally. In addition, the proposed reduced access fee is reasonable when compared to similar fees for comparable products offered by other markets. For

<sup>65</sup> See Securities Exchange Act Release Nos. 86667 (August 14, 2019) (SR-CboeBZX-2019-069); 86670 (August 14, 2019) (SR-CboeBYX-2019-012); 86676 (August 14, 2019) (SR-CboeEDGA-2019-013); and 86678 (August 14, 2019) (SR-CboeEDGX-2019-048) (Notices of filing and immediate effectiveness of proposed rule change to reduce fees for the Cboe One Feed) (collectively "Cboe One Fee Filings"). The Cboe One Fee Filings were in effect from August 1, 2019 until September 30, 2019, when the Commission suspended them and instituted proceedings to determine whether to approve or disapprove those proposals. See, e.g., Securities Exchange Act Release No. 87164 (September 30, 2019), 84 FR 53208 (October 4, 2019) (SR-CboeBZX-2019-069). On October 1, 2019, the Cboe equities exchanges refiled the Cboe One Fee Filings on the basis that they had new customers subscribe as a result of the Cboe One Fee Filings, and therefore its fee proposal had increased competition for top-of-book market data. See Securities Exchange Act Release Nos. 87312 (October 15, 2019), 84 FR 56235 (October 21, 2019) (SR-CboeBZX-2019-086); 87305 (October 14, 2019), 84 FR 56210 (October 21, 2019) (SR-CboeBYX-2019-015); 87295 (October 11, 2019), 84 FR 55624 (October 17, 2019) (SR-CboeEDGX-2019-059); and 87294 (October 11, 2019), 84 FR 55638 (October 17, 2019) (SR-CboeEDGZ-2019-015) (Notices of filing and immediate effectiveness of proposed rule changes to re-file the Small Retail Broker Distribution Program) ("Cboe One Fee Re-Filings"). On November 26, 2019, the Commission suspended the Cboe One Fee Re-Filings and instituted proceedings to determine whether to approve or disapprove those proposals. See, e.g., Securities Exchange Act Release No. 87629 (November 26, 2019) (SR-CboeBZX-2019-086) (**Federal Register** publication pending).

<sup>66</sup> The Exchange notes that broker-dealers are not required to purchase proprietary market data to

comply with their best execution obligations. See *In the Matter of the Application of Securities Industry and Financial Markets Association for Review of Actions Taken by Self-Regulatory Organizations*, Release Nos. 34-72182; AP-3-15350; AP-3-15351 (May 16, 2014). Similarly, there is no requirement in Regulation NMS or any other rule that proprietary data be utilized for order routing decisions, and some broker-dealers and ATSs have chosen not to do so.

<sup>67</sup> See generally Jones Paper at 8, 10-11.

<sup>68</sup> See Regulation NMS Adopting Release, 70 FR 37495, at 37503.



example, NYSE Arca Trades provides investors with alternative market data and is similar to the Nasdaq Last Sale Data Feed; Nasdaq charges redistributors a monthly fee of \$1,500 per month, which is higher than the current access fee for NYSE Arca Trades, and higher than the proposed access fee for display-only users.<sup>69</sup> The Exchange also believes that offering a reduced access fee for display-only use expands the range of options for offering the Exchange's market data products and would allow data recipients greater choice in selecting the most appropriate level of data and fees for the Professional and Non-Professional Users they service.

The Exchange determined to charge the \$100 access fee for its proposed Per User Access Fee because it constitutes a substantial reduction of the current fee, with the intended purpose of increasing use of NYSE BQT. NYSE BQT has been in place since 2014 but has only one subscriber, which itself has limited distribution of the product. The Exchange believes that in order to compete with other indicative pricing products such as Nasdaq Basic and Cboe One Feed, it needs to provide a meaningful financial incentive for data recipients to subscribe to NYSE BQT. Accordingly, the proposed reduction to the Access Fees for NYSE Arca Trades and NYSE Arca BBO, together with the proposed reduction to the Access Fees for NYSE BBO, NYSE Trades, NYSE American BBO, and NYSE American Trades, is reasonable because the reductions will make NYSE BQT a more attractive offering for data recipients and make it more competitive with Nasdaq Basic and Cboe One Feed. For example, the External Distribution Fee for Cboe One Feed is currently \$5,000 (which is the sum of the External Distribution fees for the four exchange data products that are included in Cboe One Feed) plus a Data Consolidation Fee of \$1,000, for a total of \$6,000. Evidence of the competition among exchange groups for these products has previously been demonstrated via fee changes. For example, following the introduction of the Cboe One Feed, Nasdaq responded by reducing its fees for the Nasdaq Basic product.<sup>70</sup> With the

proposed changes by the Exchange, NYSE American, and NYSE, the Exchange is similarly seeking to compete by decreasing the total access fees for NYSE BQT from \$6,250 to \$850. This proposed rule change therefore demonstrates the existence of an effective, competitive market because this proposal resulted from a need to generate innovative approaches in response to competition from other exchanges that offer market data for a specific segment of market participants.

**Redistribution Fees.** Similarly, the proposed reduction to the NYSE Arca Trades Redistribution Fee is reasonable because it is designed to provide an incentive for Redistributors to make NYSE BQT available so that data recipients can subscribe to NYSE BQT. The Exchange further believes that the proposed reduction to the NYSE Arca Trades Redistribution Fee is reasonable because it is designed to compete with a similar credit offered by the Cboe family of equity exchanges.<sup>71</sup>

**One-Month Free Trial.** The Exchange believes that the proposed rule change to provide the NYSE Arca market data products to new customers free-of-charge for their first subscription month is reasonable because it would allow vendors and subscribers to become familiar with the feeds and determine whether they suit their needs without incurring fees. Making a new market data product available for free for a trial period is consistent with offerings of other exchanges. For example, Nasdaq offers new subscribers its market data products a 30-day waiver of user fees.<sup>72</sup>

**Deletion of Obsolete Text.** The Exchange believes that it is reasonable to delete references to obsolete rule text and dates from the Fee Schedule and to make non-substantive clarifying amendments. The Exchange believes that the proposed changes are reasonable because they would result in greater specificity and precision within the Fee Schedule, which would

data products in response to the Enterprise Fee for the Cboe One Feed adopted by Cboe family of exchanges.

<sup>71</sup> See, e.g., BZX Price List—U.S. Equities available at <http://www.nasdaqtrader.com/Trader.aspx?id=DPUSdata#db> [sic]. BZX charges \$500 per month for internal distribution, and \$2,500 per month for external distribution, of BZX Last Sale. BZX also charges \$500 per month for internal distribution, and \$2,500 per month for external distribution, of BZX Top. Each external distributor is eligible to receive a credit against its monthly Distributor Fee for BZX Las [sic] Sale equal to the amount of its monthly User Fees up to a maximum of the Distributor Fee for BZX Las [sic] Sale. See Cboe BZX U.S. Equities Exchange Fee Schedule at [http://markets.cboe.com/us/equities/membership/fee\\_schedule/bzx/](http://markets.cboe.com/us/equities/membership/fee_schedule/bzx/).

<sup>72</sup> See Section 112(b)(1) of Nasdaq's Equity 7 Pricing Schedule.

contribute to reasonably ensuring that the fees described there are clear and accurate. Specifically, the proposed changes are reasonable because they would remove obsolete rule text and dates from the Fee Schedule related to a Decommission Extension Fee that is no longer charged by the Exchange and provide greater specificity regarding the application of the Enterprise Fee.

For all of the foregoing reasons, the Exchange believes that the proposed fees are reasonable.

#### The Proposed Fees Are Equitably Allocated

The Exchange believes the proposed fees for NYSE Arca Trades and NYSE Arca BBO are allocated fairly and equitably among the various categories of users of the feed, and any differences among categories of users are justified.

**Overall.** As noted above, this proposed fee change is a result of the competitive environment for market data products that provide indicative pricing information across a family of exchanges. To respond to this competitive environment, the Exchange seeks to amend its fees to access NYSE Arca Trades and NYSE Arca BBO in a display-only format, which the Exchange hopes will attract additional subscribers for its NYSE BQT market data product. The Exchange is proposing the fee reductions to make the Exchange's fees more competitive for a specific segment of market participants, thereby increasing the availability of the Exchange's data products, expanding the options available to firms making data purchasing decisions based on their business needs, and generally increasing competition.

**Access Fee.** The Exchange believes that the proposed Per User Access Fee is equitable as it would apply equally to all data recipients that choose to subscribe to NYSE Arca Trades or NYSE Arca BBO in a display-only format. Because NYSE Arca Trades and NYSE Arca BBO are optional products, any data recipient could choose to subscribe to NYSE Arca Trades or NYSE Arca BBO for display-only use and be eligible for the proposed reduced fee. The Exchange does not believe that it is inequitable that this proposed fee reduction would be available only to data recipients that use NYSE Arca Trades or NYSE Arca BBO in a display-only format. Non-display data represents a different set of use cases than display-only usage; non-display data can be used by data recipients for a wide variety of profit-generating purposes, including proprietary and agency trading and smart order routing,

<sup>69</sup> See Section 139(d) of the Nasdaq Equity 7 Pricing Schedule.

<sup>70</sup> See e.g., Securities Exchange Act Release No. 83751 (July 31, 2018), 83 FR 38428 (August 6, 2018) (SR-NASDAQ-2018-058) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Lower Fees and Administrative Costs for Distributors of Nasdaq Basic, Nasdaq Last Sale, NLS Plus and the Nasdaq Depth-of-Book Products Through a Consolidated Enterprise License). Nasdaq filed the proposed fee change to lower the Enterprise Fee for Nasdaq Basic and other market

as well as by data recipients that operate order matching and execution platforms that compete directly with the Exchange for order flow. The data also can be used for a variety of non-trading purposes that indirectly support trading, such as risk management and compliance. Although some of these non-trading uses do not directly generate revenues, they can nonetheless substantially reduce the recipient's costs by automating such functions so that they can be carried out in a more efficient and accurate manner and reduce errors and labor costs, thereby benefiting end users. The Exchange believes that charging a different access fee for non-display use is equitable because data recipients can derive substantial value from such uses, for example, by automating tasks so that can be performed more quickly and accurately and less expensively than if they were performed manually.

**Redistribution Fees.** The Exchange believes the proposed change to provide a credit to a Redistributor that externally redistributes NYSE Arca Trades to Professional and Non-Professional Users in a display-only format in an amount equal to the monthly Professional User and Non-Professional User fees for such external distribution, up to a maximum of the Redistribution Fee, is equitably allocated. The proposed change would apply equally to all Redistributors that choose to externally redistribute the NYSE Arca Trades product, and would serve as an incentive for Redistributors to make NYSE Arca Trades more broadly available for use by both Professional and Non-Professional Users. This, in turn, could provide an incentive for Redistributors to make NYSE BQT available to their customers.

**One-Month Free Trial.** The Exchange believes the proposal to provide the NYSE Arca market data products to new customers free-of-charge for their first subscription month is equitable because it applies to any first-time subscriber, regardless of the use they plan to make of the feed. As proposed, any first-time subscriber would not be charged the Access Fee, Non-Display Fee, any applicable Professional and Non-Professional User Fee, or Redistribution Fee for any of the NYSE Arca market data products for one calendar month. The Exchange believes it is equitable to restrict the availability of this one-month free trial to customers that have not previously subscribed to any NYSE Arca market data product, since customers who are current or previous subscribers are already familiar with the products and whether they would suits their needs.

**Deletion of Obsolete Text.** The Exchange believes that deleting obsolete rule text and dates from the Fee Schedule and make non-substantive clarifying amendments is equitably allocated because these proposed changes do not change fees, but rather, result in greater specificity and precision within the Fee Schedule, which would contribute to reasonably ensuring that the fees described there are clear and accurate. The Exchange also believes that the proposed changes are equitable because all readers of the Fee Schedule would benefit from the increased specificity and clarity that this proposed rule change would provide.

For all of the foregoing reasons, the Exchange believes that the proposed fees for the NYSE Arca market data products are equitably allocated.

#### The Proposed Fees Are Not Unfairly Discriminatory

The Exchange believes the proposed fees are not unfairly discriminatory because any differences in the application of the fees are based on meaningful distinctions between customers, and those meaningful distinctions are not unfairly discriminatory between customers.

**Overall.** As noted above, this proposed fee change is a result of the competitive environment for market data products that provide indicative pricing information across a family of exchanges. To respond to this competitive environment, the Exchange seeks to amend its fees to access NYSE Arca Trades and NYSE Arca BBO in a display-only format, which the Exchange hopes will attract more subscribers for its NYSE BQT market data product. The Exchange is proposing the fee reductions to make the Exchange's fees more competitive for a specific segment of market participants, thereby increasing the availability of the Exchange's data products, expanding the options available to firms making data purchasing decisions based on their business needs, and generally increasing competition.

**Access Fee.** The Exchange believes that the proposed Per User Access Fee is not unfairly discriminatory as it would apply equally to all data recipients that choose to subscribe to NYSE Arca Trades or NYSE Arca BBO in a display-only format. Because NYSE Arca Trades and NYSE Arca BBO are optional products, any data recipient could choose to subscribe to NYSE Arca Trades or NYSE Arca BBO for display-only use and be eligible for the proposed reduced fee. The Exchange

does not believe that it is unfairly discriminatory that this proposed fee reduction would be available only to data recipients that use NYSE Arca Trades or NYSE Arca BBO in a display-only format. Non-display data can be used by data recipients for a wide variety of profit-generating purposes, including proprietary and agency trading and smart order routing, as well as by data recipients that operate order matching and execution platforms that compete directly with the Exchange for order flow. The data also can be used for a variety of non-trading purposes that indirectly support trading, such as risk management and compliance. While some of these non-trading uses do not directly generate revenues, they can nonetheless substantially reduce the recipient's costs by automating such functions so that they can be carried out in a more efficient and accurate manner and reduce errors and labor costs, thereby benefiting end users. The Exchange therefore believes that there is a meaningful distinction between display and non-display users of market data and that charging a different access fee for non-display use is not unfairly discriminatory because data recipients can derive substantial value from such non-display uses, for example, by automating tasks so that can be performed more quickly and accurately and less expensively than if they were performed manually.

**Redistribution Fees.** The Exchange believes the proposed change to provide a credit to a Redistributor that externally redistributes NYSE Arca Trades to Professional and Non-Professional Users in a display-only format in an amount equal to the monthly Professional User and Non-Professional User fees for such external distribution, up to a maximum of the Redistribution Fee, is not unfairly discriminatory. The proposed credit would apply equally to all Redistributors that choose to externally redistribute the NYSE Arca Trades product for display use, and would serve as an incentive for Redistributors to make NYSE Arca Trades more broadly available for use by both Professional and Non-Professional Users. This, in turn, could provide an incentive for Redistributors to make NYSE BQT available to their customers.

The Exchange believes that there is a meaningful distinction between vendors that distribute market data in a display-only format, as such vendors are more likely to service the non-professional community, and vendors that distribute market data for non-display use only, as users of non-display data are more likely to be professionals that derive substantial value from such non-display

uses. While this credit is not available to vendors that redistribute NYSE Arca Trades for non-display use only, such vendors would be eligible for this credit if they choose to expand their distribution of NYSE Arca Trades for display use. NYSE BQT is targeted for display use and the Exchange believes that the proposed credit would increase the number of Redistributors—whether current vendors that redistribute on a non-display only basis or new vendors—that would make NYSE BQT available to their customers.

*One-Month Free Trial.* The Exchange believes that the proposed rule change providing for a one-month free trial period to test is not unfairly discriminatory because the financial benefit of the fee waiver would be available to all firms subscribing to a NYSE Arca market data product for the first time on a free-trial basis. The Exchange believes there is a meaningful distinction between customers that are subscribing to a market data for the first time, who may benefit from a period within which to set up and test use of the product before it becomes fee liable, and users that are already receiving the Exchange's market data products and are deriving value from such use. The Exchange believes that the limited period of the free trial would not be unfairly discriminatory to other users of the Exchange's market data products because it is designed to provide a reasonable period of time to set up and test a new market data product. The Exchange further believes that providing a free trial for a calendar month would ease administrative burdens for data recipients to subscribe to a new data product and eliminate fees for a period before such users are able to derive any benefit from the data.

*Deletion of Obsolete Text.* The Exchange believes that deleting obsolete rule text and dates from the Fee Schedule and make non-substantive clarifying amendments is not unfairly discriminatory because these proposed changes do not change fees, but rather, result in greater specificity and precision within the Fee Schedule, which would contribute to reasonably ensuring that the fees described there are clear and accurate. The Exchange also believes that the proposed changes are not unfairly discriminatory because all readers of the Fee Schedule would benefit from the increased specificity and clarity that this proposed rule change would provide.

For all of the foregoing reasons, the Exchange believes that the proposed fees are not unfairly discriminatory.

### *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.

*Intramarket Competition.* The Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As noted above, the proposed fee schedule would apply to all subscribers of NYSE Arca market data products, and customers may not only choose whether to subscribe to the products at all, but also may tailor their subscriptions to include only the products and uses that they deem suitable for their business needs.

The Exchange also believes that the proposed fees neither favor nor penalize one or more categories of market participants in a manner that would impose an undue market on competition. As shown above, to the extent that particular proposed fees apply to only a subset of subscribers, those distinctions are not unfairly discriminatory and do not unfairly burden one set of customers over another. To the contrary, by tailoring the proposed fees in this manner, the Exchange believes that it has eliminated the potential burden on competition that might result, for instance, from unfairly asking vendors that distribute market data in a display-only format to pay the same fees as vendors that distribute market data for non-display use to professionals that derive substantial value from such non-display uses.

*Intermarket Competition.* The Exchange believes that the proposed fees do not impose a burden on competition or on other exchanges that is not necessary or appropriate; indeed, the Exchange believes the proposed fee changes would have the effect of increasing competition. As demonstrated above and in Professor Rysman's attached [sic] paper, exchanges are platforms for market data and trading. In setting the proposed fees, the Exchange is constrained by the availability of substitute platforms also offering market data products and trading, and low barriers to entry mean new exchange platforms are frequently introduced. The fact that exchanges are platforms ensures that no exchange can make pricing decisions for one side of its platform without considering, and being constrained by, the effects that price will have on the other side of the platform. In setting fees at issue here, the Exchange is constrained by the fact that, if its pricing across the platform is

unattractive to customers, customers will have its pick of an increasing number of alternative platforms to use instead of the Exchange. Given this intense competition between platforms, no one exchange's market data fees can impose an unnecessary burden on competition, and the Exchange's proposed fees do not do so here.

In addition, the Exchange believes that the proposed fees do not impose a burden on competition or on other exchanges that is not necessary or appropriate because of the availability of numerous substitute market data products. Specifically, as described above, NYSE BQT competes head-to-head with the Nasdaq Basic product and the Cboe One Feed. These products each serve as reasonable substitutes for one another as they are each designed to provide investors with a unified view of real-time quotes and last-sale prices in all Tape A, B, and C securities. Each product provides subscribers with consolidated top-of-book quotes and trades from multiple U.S. equities markets. NYSE BQT provides top-of-book quotes and trades data from five NYSE-affiliated U.S. equities exchanges, while Cboe One Feed similarly provides top-of-book quotes and trades data from Cboe's four U.S. equities exchanges. NYSE BQT, Nasdaq Basic, and Cboe One Feed are all intended to provide indicative pricing and therefore, are reasonable substitutes for one another. Additionally, market data vendors are also able to offer close substitutes to NYSE BQT. Because market data users can find suitable substitute feeds, an exchange that overprices its market data products stands a high risk that users may substitute another source of market data information for its own. These competitive pressures ensure that no one exchange's market data fees can impose an unnecessary burden on competition, and the Exchange's proposed fees do not do so here.

### *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**

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) <sup>73</sup> of the Act and subparagraph (f)(2) of Rule 19b-4 <sup>74</sup>

<sup>73</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>74</sup> 17 CFR 240.19b-4(f)(2).

thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) <sup>75</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2019-88 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-2019-88. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of

10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2019-88, and should be submitted on or before January 16, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>76</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2019-27726 Filed 12-23-19; 8:45 am]

**BILLING CODE 8011-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87792; File No. SR-NYSEAMER-2019-38]

##### **Self-Regulatory Organizations; NYSE American LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Allow Certain Flexible Exchange Equity Options To Be Cash Settled**

December 18, 2019.

On October 17, 2019, NYSE American LLC ("NYSE American" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") <sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend Rule 903G and 906G to allow certain flexible exchange ("FLEX") equity options to be cash settled. The proposed rule change was published for comment in the **Federal Register** on November 7, 2019.<sup>3</sup> The Commission has received no comments on the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents,

<sup>76</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 87444 (November 1, 2019), 84 FR 60120 (November 7, 2019).

<sup>4</sup> 15 U.S.C. 78s(b)(2).

the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is December 22, 2019. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates February 5, 2020, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-NYSEAMER-2019-38).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2019-27725 Filed 12-23-19; 8:45 am]

**BILLING CODE 8011-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87798; File No. SR-IEX-2019-14]

##### **Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend IEX Rule 11.190(e) To Expand the Exchange's Existing Anti-Internalization Functionality and Make Conforming and Clarifying Changes to IEX Rule 11.190(e) and Other IEX Rules**

December 18, 2019.

Pursuant to Section 19(b)(1) <sup>1</sup> of the Securities Exchange Act of 1934 (the "Act") <sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on (date), the Investors Exchange LLC ("IEX" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>5</sup> *Id.*

<sup>6</sup> 17 CFR 200.30-3(a)(31).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>75</sup> 15 U.S.C. 78s(b)(2)(B).

## I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Act,<sup>4</sup> and Rule 19b-4 thereunder,<sup>5</sup> IEX is filing with the Commission a proposed rule change to amend IEX Rule 11.190(e) to expand the Exchange's existing anti-internalization functionality and make conforming and clarifying changes to IEX Rule 11.190(e) and other IEX rules. The Exchange has designated this rule change as "non-controversial" under Section 19(b)(3)(A) of the Act<sup>6</sup> and provided the Commission with the notice required by Rule 19b-4(f)(6) thereunder.<sup>7</sup>

The text of the proposed rule change is available at the Exchange's website at [www.iextrading.com](http://www.iextrading.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The Exchange proposes to amend IEX Rule 11.190(e) to expand its existing anti-internalization functionality and make conforming and clarifying changes to IEX Rule 11.190(e) and other IEX rules.

IEX currently offers optional anti-internalization functionality to Users<sup>8</sup> that enables a User to prevent two of its orders from executing against each other. Users can set anti-internalization functionality to apply at the market participant identifier ("MPID") or User

level. In order to utilize anti-internalization functionality, a User adds a unique User-determined "Anti-Internalization Group ("AGID") modifier" on a new order message. When a User designates an active order<sup>9</sup> with an AGID modifier, the order is prevented from executing against a resting opposite order designated with the same AGID modifier and originating from the same MPID or Exchange User (referred to in IEX Rule 11.190(e) as a "group type"). Instead of executing, the System<sup>10</sup> cancels the older of the orders back to the User. Determination of "older" is based upon the time the order is received by the System, including by initial order entry, User revision (*i.e.*, cancel/replace), or returning to the System from routing.

As provided in the supplementary material to IEX Rule 11.190(e), IEX's anti-internalization functionality does not relieve or otherwise modify the duty of best execution owed to orders received from public customers. As such, market participants using the AGID modifier need to take appropriate steps to ensure public customer orders that do not execute because they were subject to anti-internalization ultimately receive the same execution price (or better) than they would have originally obtained if execution of the order was not inhibited by anti-internalization. Furthermore, Market Makers<sup>11</sup> and other Users must not use the AGID modifier to evade the firm quotation obligation, as specified in IEX Rule 11.151(b). And the AGID modifier must be used in a manner consistent with just and equitable principles of trade.<sup>12</sup>

#### Proposal

In order to provide additional flexibility to Users, the Exchange proposes to expand the anti-internalization functionality it offers by adding four additional anti-internalization modifiers, to be referred to as Anti-Internalization Qualifier ("AIQ") modifiers, each of which would implement anti-internalization in a different manner.<sup>13</sup> In order to provide additional clarity, the Exchange also proposes to restructure the terminology to identify orders subject to anti-internalization. As proposed, instead of using the term "AGID" or "AGID modifier" to identify orders that will not trade with each other, the Exchange will introduce the term "AIQ identifier" to

refer to the unique User-supplied identifier included on an order message designating the order as subject to anti-internalization. Orders that have the same AIQ identifier and originate from the same MPID or Exchange User, as specified by the User,<sup>14</sup> will be part of the same "AIQ group." As with the existing AGID modifier, orders within the same AIQ group will be prevented from executing against each other.

In addition, a User can also specify the type of anti-internalization functionality to be applied by including one of the following five AIQ modifiers on the order message, which specifies how two orders subject to anti-internalization would interact:

1. Cancel Oldest ("CO"). An active order marked with the CO AIQ modifier will not execute against opposite side resting interest marked with any AIQ modifier within the same AIQ group. The older order will be canceled back to the originating User. In accordance with User instructions, the newer order will be cancelled back to the originating User or remain on or post to the Order Book.<sup>15</sup> This option is the existing anti-internalization functionality currently offered by the Exchange, and the default AIQ modifier.

2. Cancel Newest ("CN"). An active order marked with the CN AIQ modifier will not execute against opposite side resting interest marked with any AIQ modifier within the same AIQ group. The newer order will be cancelled back to the originating User. The older order will remain on the Order Book.

3. Cancel Both ("CB"). An active order marked with the CB AIQ modifier will not execute against opposite side resting interest marked with any AIQ modifier within the same AIQ group. The entire size of both orders will be cancelled back to the originating User.

4. Cancel Smallest ("CS"). An active order marked with the CS AIQ modifier will not execute against opposite side resting interest marked with any AIQ modifier within the same AIQ group. If both orders are equivalent in size, both orders will be cancelled back to the originating User. If the orders are not equivalent in size, the smaller of the two orders will be cancelled back to the originating User and the larger order will remain on or post to the Order Book.

5. Decrement Larger—Original Order Quantity ("DLO"). An active order marked with the DLO AIQ modifier will

<sup>4</sup> 15 U.S.C. 78s(b)(1).

<sup>5</sup> 17 CFR 240.19b-4.

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4.

<sup>8</sup> Pursuant to IEX Rule 1.160(qq), a User means any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to IEX Rule 11.130. Member is defined in IEX Rule 1.160(s), and Sponsored Participant is defined in IEX Rule 1.160(ll).

<sup>9</sup> See IEX Rule 1.160(b).

<sup>10</sup> See IEX Rule 1.160(nn).

<sup>11</sup> See IEX Rule 11.150.

<sup>12</sup> See IEX Rule 11.190(e) Supplementary Material .01-.03.

<sup>13</sup> The functionality currently offered by the AGID modifier will become one of the five AIQ modifiers.

<sup>14</sup> A Member may elect to enable anti-internalization functionality on an IEX Port Request Form, designating whether such functionality should be applied on an MPID or User basis.

<sup>15</sup> See IEX Rule 1.160(p).

not execute against opposite side resting interest marked with any AIQ modifier within the same AIQ group. If both orders are equivalent in size, both orders will be cancelled back to the originating User. If the orders are not equivalent in size, the size of the larger order will be decremented by the size of the smaller order, and the smaller order will be cancelled back to the User. However, if the order with the newer timestamp is marked with the DLO AIQ modifier and the older order is not, and if the newer order is smaller than the older order, then both orders will be canceled back to the originating User. In addition, routable orders designated with the DLO AIQ modifier will be rejected.<sup>16</sup>

If a User includes an AIQ group identifier, but not an AIQ modifier on an order, the Exchange will apply the default Cancel Oldest AIQ modifier to the order. If the AIQ modifiers on two orders within the same AIQ group that would otherwise execute against each other are not the same (including application of the default Cancel Oldest AIQ modifier), the AIQ modifier on the order with the newer timestamp will control the interaction between the two orders. Determination of “newer” and “older” would be based upon each order’s timestamp, as specified in IEX Rule 11.220(a)(1)(C).<sup>17</sup>

The proposed rule change is designed to provide additional flexibility to Users in how they implement self-trade prevention provided by the Exchange, and thereby better manage their order flow and prevent undesirable executions or the potential for “wash sales” that may occur as a result of the speed of trading in today’s marketplace. Based on informal discussions with Members, the Exchange believes that the proposed additional types of anti-internalization functionality will be useful to Members in implementing their own compliance controls. And the additional AIQ functionality may assist Users in complying with certain rules and regulations of the Employee Retirement Income Security Act (“ERISA”) that preclude and/or limit managing broker-dealers of such accounts from trading as principal with orders generated for those accounts.

The Exchange notes that, as with the current anti-internalization functionality offered by IEX, use of the proposed new AIQ modifiers will not alleviate, or otherwise exempt, Users from their best execution obligations. As such, market participants using the AIQ modifiers will continue to be obligated to take appropriate steps to ensure that customer orders that do not execute because they were subject to anti-internalization ultimately receive the same price, or a better price, than they would have received had execution of the orders not been inhibited by anti-internalization.<sup>18</sup> Further, as with current rule provisions, Market Makers and other Users may not use AIQ functionality to evade the firm quote obligation, as specified in IEX Rule 11.151(b), and the AIQ functionality must be used in a manner consistent with just and equitable principles of trade.<sup>19</sup> For these reasons, the Exchange believes the proposed new AIQ modifiers offer Users enhanced order processing functionality that may prevent potentially undesirable executions without negatively impacting broker-dealer best execution obligations.

IEX also proposes to make several conforming and clarifying changes to IEX Rule 11.190(e) and other IEX rules, as described below:

- Change the rule title of IEX Rule 11.190(e) from “Anti-Internalization Group Identifier (“AGID”) Modifier” to “Anti-Internalization (“AIQ”) Functionality” to reflect the expanded new functionality.
- Add a new subparagraph (2) of IEX Rule 11.190(e) to set forth the five AIQ modifiers to be offered by IEX, as described above, and renumber existing subparagraphs (2)–(5) as (3)–(6).
- Replace references to the “group type” with the term AIQ group in IEX Rule 11.190(e).
- Revise the text of subparagraph (5) of IEX Rule 11.190(e) (previously subparagraph (4)) regarding compatibility of Book Recheck and treatment of an active order that has been invited to Recheck against the Order Book to reflect the new AIQ modifiers. Previously, the subparagraph stated that if the active order that has been invited to Recheck against the Order Book is older than a resting order subject to anti-internalization, the active order will be cancelled in accordance with the existing anti-internalization functionality that cancels the older

order. As proposed, the subparagraph clarifies that the active order will be treated as older or newer based upon its timestamp. As set forth in the new IEX Rule 11.190(e), the AIQ modifier on the newer of the two orders will control the interaction between the two orders subject to anti-internalization.

- Replace the references to the “AGID modifier” with references to the “AIQ functionality” in Supplementary Materials .01–.03 to IEX Rule 11.190(e).

- Replace all references to “AGID modifiers” with “AIQ modifiers” in IEX Rules 11.231(b)(1), 11.350(c)(2)(C), 11.350(d)(2)(C), 11.350(e)(2)(D), 11.350(f)(2)(F), and 11.350(f)(3)(B)(iii).

- Revise the rule text in Rule 11.151(b) (“Market Maker Obligations”) that refers to quotations that are “designated with an AGID modifier which is the same as that of an active opposite side order and originating from the same group type” to quotations that are “part of the same AIQ group” and replace “AGID modifiers” with “AIQ functionality” in the last sentence.

Replace the text in Rule 11.220(7) (“Priority of Orders—Anti-Internalization”) that refers to orders “entered under the same AGID modifier” with “that are part of the same AIQ group”. In addition, IEX proposes to add language referencing IEX Rule 11.190(e) to specify that orders subject to anti-internalization that are part of the same AIQ group will not execute against each other as set forth in IEX Rule 11.190(e).

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>20</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>21</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, the Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest because the addition of four new AIQ modifiers will provide Exchange Users with additional flexibility with respect to how they implement self-trade protections provided by IEX. Users that prefer the

<sup>16</sup> Due to technical complexities, the System is not currently able to apply the DLO AIQ modifier to routable orders.

<sup>17</sup> Existing rule text in IEX Rule 11.190(e) provides that “older” is based upon the time the order is received by the System, including by initial order entry, User revision (*i.e.*, cancel/replace), or returning to the System from routing. The Exchange proposes to describe the concept of “older” as well as “newer” with reference to an order’s timestamp in order to provide more clarity. No substantive change is proposed.

<sup>18</sup> See Supplementary Material .01 to IEX Rule 11.190(e).

<sup>19</sup> See Supplementary Material .02 and .03 to IEX Rule 11.190(e).

<sup>20</sup> 15 U.S.C. 78f(b).

<sup>21</sup> 15 U.S.C. 78f(b)(5).

current anti-internalization functionality offered by the Exchange can continue to use it without any modification (*i.e.*, if the User does not specify the AIQ modifier for two orders subject to anti-internalization, the Exchange will cancel the older of the two orders, as is currently done for orders using the AGID modifier). And Users that prefer to implement anti-internalization in a different manner would be provided with the proposed new functionality that may better support their trading strategies.

As noted in the Purpose section, IEX believes that providing Users with more flexibility and control over the interactions of their orders will better prevent undesirable executions or the potential for “wash sales” that may occur as a result of the speed of trading in today’s marketplace. And the additional AIQ functionality may better assist Users in complying with certain ERISA rules and regulations that preclude and/or limit managing broker-dealers of such accounts from trading as principal with orders generated for those accounts.

Further, the Exchange believes that providing enhanced AIQ functionality may streamline certain regulatory functions by reducing false positive results that may occur on wash trading surveillance reports when two orders in the same AIQ group are executed, notwithstanding that the transaction may not constitute a wash trade.<sup>22</sup>

The Exchange also believes that it is consistent with the Act to provide that the Cancel Oldest AIQ modifier is the default modifier if a User does not include an AIQ modifier on an order subject to anti-internalization because such functionality is less complex than the other AIQ modifiers since it simply cancels the older order. The Cancel Oldest AIQ modifier is also identical to the current functionality, and therefore the Exchange believes that a User that fails to include a specific modifier would most likely expect the cancel oldest functionality to apply.

Additionally, the Exchange believes that it is consistent with the Act for the AIQ modifier on the newer order to control the interaction between two orders subject to anti-internalization that would otherwise execute, since the newer order would likely represent the User’s more current trading objective.

Further, the Exchange believes that the proposed conforming and clarifying rule changes, as discussed in the

Purpose section, are consistent with the protection of investors and the public interest because they will simply conform terminology and provide clarity and consistency on how the Exchange’s anti-internalization functionality works.

Finally, the Exchange notes that the proposed additional anti-internalization functionality is substantially similar to the anti-internalization interactions offered by other national securities exchanges.<sup>23</sup> Consequently, the Exchange does not believe that the proposed rule change raises any new or novel issues not already considered by the Commission.

#### *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. To the contrary, IEX believes that offering additional anti-internalization functionality may enhance its ability to compete with other exchanges that offer such additional functionality. Further, the proposed rule change is designed to enhance the anti-internalization functionality offered to Users by providing additional flexibility over the manner in which their orders subject to anti-internalization controls interact, while assisting Users with compliance with the securities laws that prohibit wash trading as well as ERISA requirements. The Exchange also notes that the proposed new functionality, like the current anti-internalization functionality, is completely optional and Users can determine on an order-by-order, MPID, or User basis whether to apply anti-internalization protections to orders submitted to the Exchange.

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. As described above, competing exchanges have similar anti-internalization functionality. Moreover, there is no barrier to other national securities exchanges adopting similar anti-internalization protections.

The Exchange also does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. All Users will

continue to be eligible to use the Exchange’s anti-internalization functionality. While not every User engages in a business that might involve risks of self-matching against its own orders, for the Users that do face that risk, the proposed additional anti-internalization functionality will help the User with its own compliance with the securities laws and ERISA. Further, implementation of anti-internalization functionality impacts only a User’s orders, and not the orders of other Members.

Finally, the proposed conforming and clarifying rule changes, as discussed in the Purpose section, are not designed to address any competitive issue, but rather to conform terminology and provide clarity and consistency on the operation of the Exchange’s anti-internalization functionality.

#### *C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

An IEX employee exchanged informal email messages responding to a Member that had inquired as to whether IEX would be expanding the types of AIQ functionality available. The email messages discussed the additional AIQ functionality that is the subject of this proposed rule change. The Member provided feedback that was supportive of the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) <sup>24</sup> of the Act and Rule 19b-4(f)(6) <sup>25</sup> thereunder. Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

The Exchange believes that the proposed rule change meets the criteria of subparagraph (f)(6) of Rule 19b-4 <sup>26</sup> because, as discussed above, the additional functionality is based on similar rules of other exchange.<sup>27</sup> Thus, IEX does not believe that the proposed changes raise any new or novel material

<sup>22</sup> For example, the Exchange believes that transactions that originate from unrelated algorithms or from separate and distinct trading strategies within the same firm would generally be considered bona fide self-trades.

<sup>23</sup> See, e.g., Cboe BZX Exchange, Inc. (“Cboe BZX”) Equities Rule 11.9(f); Cboe BYX Exchange, Inc. (“Cboe BYX”) Equities Rule 11.9(f); CBOE EDGA, Inc. (“EDGA”) Rule 11.10(d); CBOE EDGX, Inc. (“EDGX”) Rule 21.1(g).

<sup>24</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>25</sup> 17 CFR 240.19b-4(f)(6).

<sup>26</sup> 17 CFR 240.19b-4(f)(6).

<sup>27</sup> See *supra* note 23.



issues that have not already been considered by the Commission in connection with existing anti-internalization functionality offered by IEX and other national securities exchanges. Accordingly, the Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act<sup>28</sup> and paragraph (f)(6) of Rule 19b-4 thereunder.<sup>29</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>30</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-IEX-2019-14 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to File Number SR-IEX-2019-14. 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-IEX-2019-14 and should be submitted on or before January 16, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>31</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2019-27731 Filed 12-23-19; 8:45 am]

**BILLING CODE 8011-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87791; File No. SR-NYSEArca-2019-77]

#### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of the AdvisorShares Pure US Cannabis ETF Under NYSE Arca Rule 8.600-E

December 18, 2019.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on December 13, 2019, NYSE Arca, Inc. ("NYSE Arca" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the AdvisorShares Pure US Cannabis ETF under NYSE Arca Rule 8.600-E. The proposed change is available on the Exchange's website at [www.nyse.com](http://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 AdvisorShares Pure US Cannabis ETF (the "Fund") under NYSE Arca Rule 8.600-E, which provides generic criteria applicable to the listing and trading of Managed Fund Shares on the Exchange.<sup>4</sup>

AdvisorShares Investments, LLC (the "Adviser") is the investment adviser for the Fund. AdvisorShares Trust (the "Trust") and the Adviser manage the Fund's investments, subject to the oversight and supervision by the Board of Trustees (the "Board") of the Trust.<sup>5</sup>

<sup>4</sup> 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) (the "1940 Act") organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by 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.

<sup>5</sup> The Trust is registered under the 1940 Act. On August 19, 2019, the Trust filed with the Commission Post-Effective Amendment No. 145 to the Trust's registration statement on Form N-1A under the Securities Act of 1933 (15 U.S.C. 77a) ("Securities Act"), and under the 1940 Act relating

Continued

<sup>28</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>29</sup> 17 CFR 240.19b-4.

<sup>30</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>31</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

Foreside Fund Services, LLC (“Distributor”), a registered broker-dealer, will act as the distributor for the Fund’s Shares. The Bank of New York Mellon (“BNY Mellon”) will serve as the administrator, custodian, and transfer agent (“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. In addition, 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 non-public information regarding the open-end fund’s portfolio. Commentary .06 to Rule 8.600–E is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Rule 5.2–E(j)(3); however, Commentary .06 in connection with the establishment and maintenance of a “fire wall” between the investment adviser and the broker-dealer reflects the applicable open-end fund’s portfolio, not an underlying benchmark index, as is the case with index-based funds.

The Adviser is not registered as a broker-dealer. The Adviser is not affiliated with any broker-dealers. In the event (a) the Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new 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 broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures, each designed to prevent the use and dissemination of material non-public information regarding such portfolio.

#### AdvisorShares Pure US Cannabis ETF Principal Investments

According to the Registration Statement, the investment objective of the Fund is to seek long-term capital

appreciation. The Fund will seek to achieve its investment objective by investing, under normal market conditions,<sup>6</sup> at least 80% of its net assets in securities of companies that derive at least 50% of their net revenue from the marijuana and hemp business in the United States and in derivatives that have economic characteristics similar to such securities.<sup>7</sup>

In addition to its investment in securities of companies that derive a significant portion of their revenue from the marijuana and hemp business, and in derivatives providing exposure to such securities, the Fund may invest in securities of companies that, in the opinion of the Advisor, may have current or future revenues from cannabis-related business or that are registered with the United States Drug Enforcement Agency (DEA) specifically for the purpose of handling marijuana for lawful research and development of cannabis or cannabinoid-related products.

According to the Registration Statement, the Fund will not invest directly in or hold ownership in any companies that engage in cannabis-related business unless permitted by national and local laws of the relevant jurisdiction, including U.S. federal and state laws. The Fund has represented that this restriction does not apply to the Fund’s investment in derivatives instruments. All of the Fund’s investments, including derivatives instruments, would be made in accordance with all applicable laws, including U.S. federal and state laws. The Fund will concentrate at least 25% of its investments in the pharmaceuticals, biotechnology and life sciences industry group within the health care sector.

The Fund primarily may invest in U.S. and foreign exchange-listed equity securities (described below), and in derivative instruments (described below) intended to provide exposure to such securities.

The Fund may invest in the following types of U.S. and foreign exchange-listed equity securities: Common stock; preferred stock; warrants; Real Estate Investment Trusts (REITs); and rights.

The Fund may invest in U.S. exchange-listed exchange-traded funds

(“ETFs”)<sup>8</sup> and in U.S. exchange-listed closed-end funds.

The Fund may hold cash and cash equivalents.<sup>9</sup>

The Fund may hold over-the-counter (“OTC”) total return swaps on U.S. and foreign exchange-listed equity securities.

#### Non-Principal Investments

The Fund may invest in U.S. exchange-listed equity options and equity index options.

The Fund may invest in Rule 144A securities.

The Fund will not invest in securities or other financial instruments that have not been described in this proposed rule change.

#### Use of Derivatives by the Fund

Investments in derivative instruments will be made in accordance with the 1940 Act and consistent 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 and in accordance with the 1940 Act or as permitted by applicable Commission guidance. These procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance. 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.

#### Other Restrictions

The Fund’s investments, including derivatives, will be consistent with the Fund’s investment objective and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage). That is, the Fund’s investments will not be used to seek performance that is the multiple or inverse multiple (e.g., 2X or

to the Fund (File Nos. 333–157876 and 811–22110) (“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 granting certain exemptive relief to the Trust under the 1940 Act. See Investment Company Act Release No. 29291 (May 28, 2010) (File No. 812–13677).

<sup>6</sup> The term “normal market conditions” is defined in NYSE Arca Rule 8.600–E(c)(5).

<sup>7</sup> The Fund’s investments in derivatives will include investments in both listed derivatives and over-the-counter (“OTC”) derivatives, as those terms are defined in Commentary .01(d) and (e) to NYSE Arca Rule 8.600–E.

<sup>8</sup> For purposes of this filing, the term “ETFs” includes 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). 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.

<sup>9</sup> For purposes of this filing, “cash equivalents” are the short-term instruments enumerated in Commentary .01(c) to NYSE Arca Rule 8.600–E.

– 3X) of the Fund's primary broad-based securities benchmark index (as defined in Form N-1A).<sup>10</sup>

#### 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.

#### Creation of Creation Units

The Trust issues and sells Shares of the Fund only in aggregations of 25,000 Shares (each aggregation is called a "Creation Unit") on a continuous basis through the Distributor at the NAV next determined after receipt of an order in proper form on any Business Day.<sup>11</sup> The size of a Creation Unit is subject to change.

The consideration for a purchase of Creation Units generally will consist of an in-kind deposit of a portfolio of securities and other investments (the "Deposit Securities") for each Creation Unit constituting a substantial replication, or a representation, of the securities included in the Fund's portfolio and an amount of cash computed as described below (the "Cash Component"). The Cash Component together with the Deposit Securities, as applicable, are referred to as the "Fund Deposit," which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund.

The Cash Component would be an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the "Deposit Amount," which is an amount equal to the aggregate market value of the Deposit Securities, and serves to compensate for any differences between the NAV per Creation Unit and the Deposit Amount.

The Administrator, through the National Securities Clearing Corporation ("NSCC"), makes available on each

Business Day, immediately prior to the opening of business on the Exchange (currently 9:30 a.m. E.T.), the list of the names and the required number of shares of each Deposit Security to be included in the current Fund Deposit (based on information at the end of the previous Business Day) for the Fund. Such Fund Deposit is applicable, subject to any adjustments as described below, in order to effect creations of Creation Units of the Fund until such time as the next-announced composition of the Deposit Securities is made available.

All orders to create Creation Units generally must be received by the Distributor no later than 3:00 p.m. E.T. on the date such order is placed in order for creation of Creation Units to be effected based on the NAV of the Fund as determined on such date.

In addition, the Trust reserves the right to permit or require the substitution of an amount of cash (*i.e.*, a "cash in lieu" amount) to be added to the Cash Component to replace any Deposit Security which may, among other reasons, not be available in sufficient quantity for delivery, or which may not be eligible for transfer through the Clearing Process (defined below), or which may not be eligible for trading by a Participating Party (defined below).

To be eligible to place orders with the Distributor to create Creation Units of the Fund, an entity must be (1) a "Participating Party," *i.e.*, a broker-dealer or other participant in the clearing process through the Continuous Net Settlement System of the NSCC (the "Clearing Process"); or (2) a Depository Trust Company ("DTC") Participant; which, in either case, must have executed an agreement with the Trust, the Distributor and the Transfer Agent ("Participant Agreement"). A Participating Party and DTC Participant are collectively referred to as an "Authorized Participant."

#### Redemption of Creation Units

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Distributor and only on a Business Day.

The Administrator, through NSCC, will make available immediately prior to the opening of business on the Exchange (9:30 a.m. E.T.) on each Business Day, the securities ("Fund Securities") that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day. The Fund Securities received on redemption may not be identical to Deposit

Securities that are applicable to creations of Creation Units. Unless cash redemptions are available or specified for the Fund, the redemption proceeds for a Creation Unit generally consist of Fund Securities as announced by the Administrator on the Business Day of the request for redemption, plus cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Fund Securities, less the redemption transaction fee. In the event that the Fund Securities have a value greater than the NAV of the Shares, a compensating cash payment equal to the differential is required to be made by or through an Authorized Participant by the redeeming shareholder.

In order to redeem Creation Units of the Fund, an Authorized Participant must submit an order to redeem for one or more Creation Units. An order to redeem Creation Units of a Fund using the Clearing Process generally must be received by the Administrator not later than 3:00 p.m. E.T. on the Business Day of the request for redemption in order for such order to be effected based on the NAV of the Fund as next determined. An order to redeem Creation Units of the Fund using the NSCC Clearing Process made in proper form but received by the Fund after 3:00 p.m. E.T. will be deemed received on the next Business Day immediately following the day on which such order request is transmitted.

#### 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. The Fund's portfolio will meet all such requirements except for those set forth in Commentary .01(e), as described below.

The Fund will not comply with the requirements set forth in Commentary .01(e) to NYSE Arca Rule 8.600-E with respect to the Fund's investments in OTC total return swaps on U.S. and foreign exchange-listed equity securities.<sup>12</sup> Specifically, the aggregate

<sup>10</sup> The Fund's broad-based securities benchmark index will be identified in a future amendment to the Registration Statement following the Fund's first full calendar year of performance.

<sup>11</sup> A "Business Day" with respect to the Fund is any day on which the Exchange is open for business.

<sup>12</sup> Commentary .01(e) to NYSE Arca Rule 8.600-E provides that a portfolio may hold OTC derivatives, including forwards, options and swaps on commodities, currencies and financial instruments (*e.g.*, stocks, fixed income, interest rates, and volatility) or a basket or index of any of the foregoing; however, on both an initial and continuing basis, no more than 20% of the assets

gross notional value of the Fund's investments in such OTC derivatives may exceed 20% of Fund assets, calculated as the aggregate gross notional value of such OTC derivatives.<sup>13</sup> The Exchange proposes that up to 60% of the Fund's assets (calculated as the aggregate gross notional value) may be invested in such OTC derivatives. The proposed exception would allow the Fund to gain increased exposure to certain equity securities that have economic characteristics similar to securities listed in the principal strategies, and allow the Fund to obtain exposure, through the use of total return swaps, to certain equity securities that the Fund may not be able to invest in or choose not to invest in directly, in furtherance of the Fund's investment objective. As stated above, the only OTC derivatives that the Fund may invest in are OTC total return swaps on U.S. and foreign exchange-listed equity securities.

The Adviser believes that it is important to provide the Fund with additional flexibility to manage its investments. OTC derivatives provide the Fund with flexibility as well as a precise means to effectively gain exposure to U.S. and foreign exchange-listed equities that the Fund otherwise would not be able to invest in or choose not to invest in directly. Generally, OTC derivatives can be customized to a greater degree and can provide equity exposure with Fund assets, as well as allow for control over the duration of the exposure which can also mitigate trading costs. Therefore, while the Fund is able to invest 20% of the assets in the Fund's portfolio in OTC derivatives pursuant to NYSE Arca Rule 8.600-E, Commentary .01(e), the Exchange believes it is appropriate to apply a limit of up to 60% of the Fund's assets to the Fund's investments in OTC total return swaps on U.S. and foreign exchange-listed equity securities (calculated as the aggregate gross notional value of such OTC derivatives), that are used for equity investment exposure purposes, as described above.<sup>14</sup>

in the portfolio may be invested in OTC derivatives. For purposes of calculating this limitation, a portfolio's investment in OTC derivatives will be calculated as the aggregate gross notional value of the OTC derivatives.

<sup>13</sup> The Adviser monitors counterparty credit risk exposure (including for OTC derivatives) and evaluates counterparty credit quality on a continuous basis.

<sup>14</sup> The Commission has previously approved an exception from requirements set forth in Commentary .01(e) relating to investments in OTC derivatives. See e.g., Securities Exchange Act Release Nos. 86636 (August 12, 2019), 84 FR 42030 (August 16, 2019) (SR-NYSEArca-2018-98) (Notice of Filing of Amendment No. 4 and Order Granting Accelerated Approval of a Proposed Rule Change,

The Adviser represents that deviations from the generic requirements are necessary for the Fund to achieve its investment objective in a manner that is cost-effective and that maximizes investors' returns because OTC derivatives generally provide the Fund with more flexibility to negotiate the exact exposure that the Fund requires, and minimize trading costs because OTC derivatives are not subject to costs of rolling that are associated with listed derivatives.

The Adviser represents that it intends to engage in strategies that utilize total return swaps (which are traded OTC), as described above, based on its investment strategies. Depending on market conditions, the exposure due to these strategies may exceed 20% of the Fund's assets. The Adviser represents further that the swaps market is OTC, and, as such, it is not possible to implement these strategies efficiently using listed derivatives. In addition, use of OTC swaps may be an important means to reduce risk in the Fund's equity investments, or, depending on market conditions, to enhance returns of such investments. If the Fund were limited to investing up to 20% of assets in OTC derivatives, the Fund would have to exclude or underweight these strategies and would be less diversified, concentrating risk in the other strategies it will utilize.

The Exchange notes that, other than Commentary .01(e), the Shares of the Fund will conform to the initial and continued listing criteria under NYSE Arca Rule 8.600-E and will meet all other requirements of NYSE Arca Rule 8.600-E and Commentary .01 thereto.

The Adviser represents that the proposed exception described above is consistent with the Fund's investment objective, and will further assist the Adviser to achieve such investment objective.

#### Availability of Information

The Fund's website ([www.advisorshares.com](http://www.advisorshares.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, closing price and closing NAV for the Fund; (ii) the reported midpoint

as Modified by Amendment No. 4, To List and Trade Shares of the iShares Commodity Multi-Strategy ETF Under NYSE Arca Rule 8.600-E; and 87190 (October 1, 2019), 84 FR 53522 (October 7, 2019) (SR-NYSEArca-2019-57) (Order Granting Approval of Proposed Rule Change To List and Trade Shares of the Franklin Liberty Systematic Style Premia ETF, a Series of the Franklin Templeton ETF Trust Under NYSE Arca Rule 8.600-E).

of the bid-ask spread at the time of NAV calculation (the "Bid-Ask Price");<sup>15</sup> (iii) a calculation of the premium or discount of the Bid-Ask Price against such NAV; and (iv) data in chart format displaying the frequency distribution of discounts and premiums of the 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.<sup>16</sup>

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 any security, and any other instrument 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 Forms N-SAR, 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-CSR, Form N-PX and Form N-SAR may be viewed on-screen or downloaded from the Commission's website at [www.sec.gov](http://www.sec.gov).

Intra-day and closing price information regarding U.S. exchange-listed equity options and equity index options will be available from the exchange on which such instruments are traded. Price information relating to

<sup>15</sup> The 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.

<sup>16</sup> Under 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.

OTC swaps will be available from major market data vendors. For U.S. and foreign exchange-listed equity securities, intraday price quotations will generally be available from broker-dealers and trading platforms (as applicable). Price information for 144A securities will be available from major market data vendors. Price information for cash equivalents will be available from major market data vendors. Price information regarding U.S. government securities generally may be obtained from brokers and dealers who make markets in such securities or through nationally recognized pricing services through subscription agreements. Additionally, the Trade Reporting and Compliance Engine ("TRACE") of the Financial Industry Regulatory Authority ("FINRA") will be a source of price information for certain cash equivalents to the extent transactions in such securities are reported to TRACE.<sup>17</sup>

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Quotation and last sale information for the Shares, ETFs, closed-end funds and other U.S. exchange-traded equity securities will be available via the Consolidated Tape Association ("CTA") high-speed line. Exchange-traded options quotation and last sale information for options cleared via the Options Clearing Corporation ("OCC") are available via the Options Price Reporting Authority ("OPRA"). 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 the Fund. 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. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. 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.

#### 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 (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(e) as described above under "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. The Exchange represents that for initial and continued listing, the Fund will be in compliance with Rule 10A-3 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 has obtained 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.

#### Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well

as cross-market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and 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.

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, certain exchange-traded equity securities (including ETFs) and certain exchange-traded options with other markets and other entities that are members of the Intermarket Surveillance Group ("ISG"), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, certain exchange-traded equity securities (including ETFs) and certain exchange-traded options from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, certain exchange-traded equity securities (including ETFs) and certain exchange-traded options from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement ("CSSA"). In addition, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain cash equivalents 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 description of the portfolio or reference asset, (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 on the Exchange.

The issuer has represented to the Exchange that it will advise the

<sup>17</sup> Broker-dealers that are FINRA member firms have an obligation to report transactions in specified debt securities to TRACE to the extent required under applicable FINRA rules. Generally, such debt securities will have at issuance a maturity that exceeds one calendar year. 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.

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 (“ETP”) Holders in an Information Bulletin (“Bulletin”) of the special characteristics and risks associated with trading the Shares of the Fund. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) NYSE Arca Rule 9.2–E(a), which imposes a duty of due diligence on its ETP 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 ETP 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 of the Fund 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) of the Act 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. 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 federal securities laws applicable to trading on the Exchange. The Adviser is not registered as a broker-dealer nor is the Adviser affiliated with a broker-dealer. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, certain exchange-traded equity securities (including ETFs) and certain exchange-traded options with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, certain exchange-traded equity securities (including ETFs) and certain exchange-traded options from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, certain exchange-traded equity securities (including ETFs) and certain exchange-traded options from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain cash equivalents held by the Fund reported to FINRA’s TRACE.

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 is publicly available regarding the Fund and the Shares, thereby promoting market transparency. The website for the Fund includes a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Rule 8.600–E(d)(2)(D), which sets forth

circumstances under which trading in the Shares of the Fund may be halted. 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.

The Exchange believes that while the Fund is able to invest 20% of the assets in the Fund’s portfolio in OTC derivatives pursuant to Commentary .01(e) to NYSE Arca Rule 8.600–E, it is appropriate to apply a limit of up to 60% of the Fund’s assets to the Fund’s investments in OTC total return swaps on U.S. and foreign exchange-listed equity securities (calculated as the aggregate gross notional value of such OTC derivatives) that are used for equity investment exposure purposes, as described above. While the Fund will not invest directly in or hold ownership in any companies that engage in cannabis-related business unless permitted by national and local laws of the relevant jurisdiction, including U.S. federal and state laws, the Adviser believes that it is in the best interests of the Fund’s shareholders for the Fund to gain increased exposure to certain equity securities that have economic characteristics similar to securities listed in the principal strategies. The proposed exception would allow the Fund to gain increased exposure, through the use of total return swaps, to certain equity securities that the Fund may not be able to invest in or choose not to invest in directly, in furtherance of the Fund’s investment objective. All Fund investments, including derivative instruments (*i.e.*, OTC total return swaps on U.S. and foreign exchange-listed equity securities), would be made in accordance with all applicable laws, including U.S. federal and state laws.

In addition, the Fund’s investments in OTC derivatives used to gain increased exposure in furtherance of the Fund’s investment objective, will be limited to 60% of the assets in the Fund’s portfolio, calculated as the aggregate gross notional value of such OTC derivatives. While certain derivatives can be traded on exchanges, total return swaps (which can be customized) are only available for trading on the OTC market. Accordingly, the Adviser believes that OTC derivatives may frequently be a more efficient investment vehicle than listed derivatives. Therefore, the Exchange believes that increasing the percentage limit in Commentary .01(e), as described above, applicable to the Fund’s investments in OTC total return swaps on U.S. and foreign exchange-listed equity securities would permit the Fund to satisfy its investment objective and

reduce investment risks in a more cost-effective manner and, therefore, would help protect investors and the public interest.

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 permit the listing and trading of an actively-managed exchange-traded product that, through permitted use of an increased level of OTC derivatives above that currently permitted by the generic listing requirements of Commentary .01 to NYSE Arca Rule 8.600–E, will enhance competition among market participants, to the benefit of investors and the marketplace.

The Exchange believes that it is appropriate and in the public interest to allow the Fund to exceed the 20% limit in Commentary .01(e) to Rule 8.600–E of portfolio assets that may be invested in OTC derivatives. Under Commentary .01(e), a series of Managed Fund Shares listed under the “generic” standards may invest up to 20% of its assets (calculated as the aggregate gross notional value) in OTC derivatives. Because the Fund, in furtherance of its investment objective, may invest a substantial percentage of its investments in OTC total return swaps on U.S. and foreign exchange-listed equity securities, the 20% limit in Commentary .01(e) to Rule 8.600–E could result in the Fund being unable to fully pursue its investment objective while attempting to sufficiently mitigate investment risks. The inability of the Fund to adequately increase its exposure would effectively limit the Fund’s ability to invest in certain instruments, or could expose the Fund to additional investment risk.

#### *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 permit the listing and trading of an issue of Managed Fund Shares that, through permitted use of an increased level of OTC derivatives above that currently permitted by the generic listing requirements of Commentary .01 to NYSE Arca Rule 8.600–E will enhance competition among market participants, to the benefit of investors and the marketplace.

#### *C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove 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](mailto:rule-comments@sec.gov). Please include File Number SR–NYSEArca–2019–77 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–2019–77. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the

provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2019–77 and should be submitted on or before January 16, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2019–27732 Filed 12–23–19; 8:45 am]

**BILLING CODE 8011–01–P**

#### **SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration #16222 and #16223; TENNESSEE Disaster Number TN–00116]**

#### **Administrative Declaration of a Disaster for the State of Tennessee**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an Administrative declaration of a disaster for the State of Tennessee Dated 12/17/2019.

*Incident:* Severe Storms associated with the remnants of Tropical Storm Olga.

*Incident Period:* 10/26/2019.

**DATES:** Issued on 12/17/2019.

*Physical Loan Application Deadline Date:* 02/18/2020.

*Economic Injury (EIDL) Loan Application Deadline Date:* 09/17/2020.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the

<sup>18</sup> 17 CFR 200.30–3(a)(12).



Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

**Primary Counties:** Decatur, Humphreys, McNairy, Montgomery.

**Contiguous Counties:**

Tennessee: Benton, Carroll, Cheatham, Chester, Dickson, Hardeman, Hardin, Henderson, Hickman, Houston, Perry, Robertson, Stewart, Wayne.

Kentucky: Christian, Todd.

Mississippi: Alcorn.

The Interest Rates are:

	Percent
<b>For Physical Damage:</b>	
Homeowners with Credit Available Elsewhere .....	3.000
Homeowners without Credit Available Elsewhere .....	1.500
Businesses with Credit Available Elsewhere .....	7.750
Businesses without Credit Available Elsewhere .....	3.875
Non-Profit Organizations with Credit Available Elsewhere ...	2.750
Non-Profit Organizations without Credit Available Elsewhere .....	2.750
<b>For Economic Injury:</b>	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere .....	3.875
Non-Profit Organizations without Credit Available Elsewhere .....	2.750

The number assigned to this disaster for physical damage is 16222 8 and for economic injury is 16223 0.

The States which received an EIDL Declaration # are Tennessee, Kentucky, Mississippi.

(Catalog of Federal Domestic Assistance Number 59008)

**Christopher Pilkerton,**

*Acting Administrator.*

[FR Doc. 2019-27820 Filed 12-23-19; 8:45 am]

**BILLING CODE 8026-03-P**

20515). The focus of the meeting will be the presentation of the *2019 Comprehensive Annual Report on Public Diplomacy and International Broadcasting*. The meeting will also feature a panel of experts on public diplomacy programs in the field.

This meeting is open to the public, including the media and members and staff of governmental and non-governmental organizations. Any requests for a reasonable accommodation should be sent by email to Kristy Zmary at [ZmaryKK@state.gov](mailto:ZmaryKK@state.gov) by 5:00 p.m. on Thursday, January 16, 2020. Attendees should plan to arrive for the meeting by 9:45 a.m. to allow for a prompt start.

The U.S. Advisory Commission on Public Diplomacy appraises U.S. government activities intended to understand, inform, and influence foreign publics. The Advisory Commission may conduct studies, inquiries, and meetings, as it deems necessary. It may assemble and disseminate information and issue reports and other publications, subject to the approval of the Chairperson, in consultation with the Executive Director. The Advisory Commission may undertake foreign travel in pursuit of its studies and coordinate, sponsor, or oversee projects, studies, events, or other activities that it deems desirable and necessary in fulfilling its functions.

For more information on the U.S. Advisory Commission on Public Diplomacy, please visit <https://www.state.gov/bureaus-offices/under-secretary-for-public-diplomacy-and-public-affairs/united-states-advisory-commission-on-public-diplomacy/>. For more information on the upcoming public meeting, contact the Commission's Executive Director, Vivian S. Walker, at [WalkerVS@state.gov](mailto:WalkerVS@state.gov) or Senior Advisor, Shawn Baxter, at [BaxterGS@state.gov](mailto:BaxterGS@state.gov).

**Vivian S. Walker,**

*Executive Director, U.S. Advisory Commission on Public Diplomacy, Department of State.*

[FR Doc. 2019-27758 Filed 12-23-19; 8:45 am]

**BILLING CODE 4710-45-P**

“special watch list” countries for religious freedom violations pursuant to Section 408(a) of the International Religious Freedom Act of 1998 (Pub. L. 105-292), as amended (the Act), notice is hereby given that, on December 18, 2019, the Secretary of State, under authority delegated by the President, has designated each of the following as a “country of particular concern” (CPC) under section 402(b) of the Act, for having engaged in or tolerated particularly severe violations of religious freedom: Burma, China, Eritrea, Iran, the Democratic People's Republic of Korea, Pakistan, Saudi Arabia, Tajikistan, and Turkmenistan. The Secretary simultaneously designated the following Presidential Actions for these CPCs:

For Burma, the existing ongoing restrictions referenced in 22 CFR 126.1, pursuant to section 402(c)(5) of the Act;

For China, the existing ongoing restriction on exports to China of crime control or detection instruments or equipment, under the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Pub. L. 101-246), pursuant to section 402(c)(5) of the Act;

For Eritrea, the existing ongoing restrictions referenced in 22 CFR 126.1, pursuant to section 402(c)(5) of the Act;

For Iran, the existing ongoing travel restrictions in section 221(c) of the Iran Threat Reduction and Syria Human Rights Act of 2012 (TRA) for individuals identified under section 221(a)(1)(C) of the TRA in connection with the commission of serious human rights abuses, pursuant to section 402(c)(5) of the Act;

For the Democratic People's Republic of Korea, the existing ongoing restrictions to which the Democratic People's Republic of Korea is subject, pursuant to sections 402 and 409 of the Trade Act of 1974 (the Jackson-Vanik Amendment), and pursuant to section 402(c)(5) of the Act;

For Pakistan, a waiver as required in the “important national interest of the United States,” pursuant to section 407 of the Act;

For Saudi Arabia, a waiver as required in the “important national interest of the United States,” pursuant to section 407 of the Act;

For Tajikistan, a waiver as required in the “important national interest of the United States,” pursuant to section 407 of the Act; and

For Turkmenistan, a waiver as required in the “important national interest of the United States,” pursuant to section 407 of the Act.

In addition, the Secretary of State has designated the following countries as “special watch list” countries for engaging in or tolerating severe violations of religious freedom: Comoros, Cuba, Nicaragua, Nigeria, Russia, Sudan, and Uzbekistan.

The Secretary of State's designation of “entities of particular concern” for religious freedom violations. Pursuant to Section 408(a) of the International Religious Freedom Act of 1998 (Pub. L.

## DEPARTMENT OF STATE

[Public Notice: 10978]

### U.S. Advisory Commission on Public Diplomacy; Notice of Meeting

The U.S. Advisory Commission on Public Diplomacy will hold a public meeting from 10:00 a.m. until 12:00 p.m., Thursday, January 23, 2020, at the U.S. Capital Visitor Center in Room SVC 203-02 (First St NE, Washington, DC

## DEPARTMENT OF STATE

[Public Notice 10987]

### Secretary of State's Determination Under the International Religious Freedom Act of 1998 and Frank R. Wolf International Religious Freedom Act of 2016

The Secretary of State's designation of “countries of particular concern” and

105–292), notice is hereby given that, on December 18, 2019, the Secretary of State, under authority delegated by the President, has designated each of the following as an “entity of particular concern” under section 301 of the Frank R. Wolf International Religious Freedom Act of 2016 (Pub. L. 114–281), for having engaged in particularly severe violations of religious freedom: al-Nusra Front, al-Qa’ida in the Arabian Peninsula, al-Qa’ida, al-Shabab, Boko Haram, the Houthis, ISIS, ISIS-Khorasan, and the Taliban.

**FOR FURTHER INFORMATION CONTACT:**

Howard Chyung, Office of International Religious Freedom, U.S. Department of State, (Phone: (202) 647–3865 or Email: [ChyungHH@state.gov](mailto:ChyungHH@state.gov)).

**Daniel L. Nadel,**

*Director, Office of International Religious Freedom, Department of State.*

[FR Doc. 2019–27787 Filed 12–23–19; 8:45 am]

**BILLING CODE 4710–18–P**

**SURFACE TRANSPORTATION BOARD**

[Docket No. FD 36370]

**CCET, LLC d/b/a Cincinnati Eastern Railroad—Lease and Operation Exemption—Norfolk Southern Railway Company**

CCET, LLC d/b/a Cincinnati Eastern Railroad (CCET), a Class III railroad, has filed a verified notice of exemption under 49 CFR 1150.41 to continue its lease of, and its provision of railroad common carrier service over, approximately 69.45 route miles of railroad owned by Norfolk Southern Railway Company (NSR), from milepost CT 9.0 at Clare, Ohio, at its west end, to milepost CT 78.45 at Mineral Springs, Ohio (the Line).

CCET states that it and NSR are parties to an agreement under which CCET has acquired a leasehold interest in, and operates, the Line, segments of which were leased to CCET in sequence beginning in 2014.<sup>1</sup> The verified notice indicates that recently, CCET and NSR agreed to amend the underlying lease agreement, including an extension of the term.

According to CCET, the amended lease agreement between CCET and NSR does not contain any provision that

prohibits, restricts, or otherwise limits, interchange of traffic with any third-party carrier.

CCET certifies that its projected annual revenues as a result of the proposed transaction will not exceed \$5 million and that the transaction will not result in the creation of a Class II or Class I rail carrier.

This transaction may be consummated on or after January 9, 2020, the effective date of the exemption (30 days after the verified notice was filed).

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 January 2, 2020 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36370, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on CCET’s representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606–3208.

According to CCET, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: December 18, 2019.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Jeffrey Herzig,**  
*Clearance Clerk.*

[FR Doc. 2019–27674 Filed 12–23–19; 8:45 am]

**BILLING CODE 4915–01–P**

**SURFACE TRANSPORTATION BOARD**

[Docket No. AB 434 (Sub-No. 4X)]

**Winchester & Western Railroad Company—Abandonment Exemption—in Cumberland County, N.J.**

Winchester & Western Railroad Co. (W&W) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon an approximately 0.5-mile line of railroad, from approximately milepost 16.2 to milepost 16.7, in the Township of Commercial, Cumberland

County, N.J. (the Line). The Line traverses U.S. Postal Service Zip Code 08349.

W&W has certified that: (1) No local common carrier freight traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years and, therefore, there is no need to reroute any traffic; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication), 49 CFR 1152.50(d)(1) (notice to governmental agencies), and 49 CFR 1105.7 and 1105.8 (environmental and historic report), have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received,<sup>1</sup> this exemption will be effective on January 25, 2020, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues must be filed by January 3, 2020.<sup>2</sup> Formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2) and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 6, 2020.<sup>3</sup> Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 15,

<sup>1</sup> Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (*i.e.*, subsidy or purchase) and demonstrating that they are preliminarily financially responsible. See 49 CFR 1152.27(c)(2)(i).

<sup>2</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board’s Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption’s effective date. See *Exemption of Out-of-Serv. Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption’s effective date.

<sup>3</sup> Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

<sup>1</sup> See *CCET, LLC—Lease & Operation Exemption—Rail Line of Norfolk S. Ry. in Adams Cty., Ohio*, FD 36079 (STB served Dec. 7, 2016); *CCET, LLC—Lease & Operation Exemption—Rail Line of Norfolk S. Ry. in Clermont, Brown, & Adams Cts., Ohio*, FD 35900 (STB served Feb. 6, 2015); *CCET, LLC—Lease & Operation Exemption—Rail Line of Norfolk S. Ry., FD 35810* (STB served Apr. 4, 2014).

2020, with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001.

A copy of any petition filed with Board should be sent to W&W's representative, Edward D. Greenberg, GKG Law, P.C., The Foundry Building, 1055 Thomas Jefferson Street NW, Suite 500, Washington, DC 20007.

If the verified notice contains false or misleading information, the exemption is void ab initio.

W&W has filed a combined environmental and historic report that addresses the potential effects of the abandonment on the environment and historic resources.<sup>4</sup> OEA will issue an environmental assessment (EA) by December 31, 2019. The EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), W&W shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by W&W's filing a notice of consummation by December 26, 2020, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: December 18, 2019.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Kenyatta Clay,**  
Clearance Clerk.

[FR Doc. 2019-27661 Filed 12-23-19; 8:45 am]

BILLING CODE 4915-01-P

## SURFACE TRANSPORTATION BOARD

[Docket No. AB 290 (Sub-No. 406X)]

### Norfolk Southern Railway Company— Abandonment Exemption—in the City of Fort Wayne, Ind.

On December 6, 2019, Norfolk Southern Railway Company (NSR) filed with the Surface Transportation Board a

petition under 49 U.S.C. 10502 for exemption from the prior approval requirements of 49 U.S.C. 10903 to abandon an approximately 2.29-mile rail line, previously known as the Fourth Street Industrial Track, extending from milepost GI 0.0 to milepost GI 2.29 in the City of Fort Wayne, Allen County, Ind. (the Line). The Line traverses U.S. Postal Service Zip Codes 46805 and 46808. NSR states that the Line previously included the station of Fourth Street.

NSR states that it is seeking to abandon the Line because it has been dormant for nearly two decades. (NSR Pet. 11.) On October 23, 2019, the Board rejected a verified notice of exemption filed by NSR to abandon the Line, finding that the class exemption procedure was inappropriate given the factual and legal questions raised by the verified notice of exemption, including questions regarding the Line's classification. *Norfolk S. Ry.—Aban. Exemption—in the City of Fort Wayne, Ind.*, AB 290 (Sub-No. 403X) (STB served Oct. 23, 2019). In its petition, NSR states that, on balance, the facts suggest that the Line is a line of railroad governed by 49 U.S.C. 10901 rather than excepted track governed by 49 U.S.C. 10906. (NSR Pet. 11.)

According to NSR, the Line does not contain any federally granted rights-of-way. Any documentation in NSR's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by March 25, 2020.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) for continued rail service will be due no later than 120 days after the filing of the petition for exemption, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner. Persons interested in submitting an OFA must first file a formal expression of intent to file an offer by January 6, 2019, indicating the type of financial assistance they wish to provide (*i.e.*, subsidy or purchase) and demonstrating that they are preliminarily financially responsible. See 49 CFR 1152.27(c)(1)(i).

Following authorization for abandonment, the Line may be suitable for other public use, including interim

trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than January 15, 2020.<sup>1</sup>

All pleadings, referring to Docket No. AB 290 (Sub-No. 406X), must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423-0001. In addition, a copy of each pleading must be served on NSR's representatives, William A. Mullins and Crystal M. Zorbaugh, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW, Suite 300, Washington, DC 20037. Replies to the petition are due on or before January 15, 2020.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment regulations at 49 CFR part 1152.

Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Relay Service at 1-800-877-8339.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any agencies or other persons who comment during its preparation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: December 17, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

**Jeffrey Herzig,**  
Clearance Clerk.

[FR Doc. 2019-27670 Filed 12-23-19; 8:45 am]

BILLING CODE 4915-01-P

## SURFACE TRANSPORTATION BOARD

[Docket No. EP 290 (Sub-No. 5) (2020-1)]

### Quarterly Rail Cost Adjustment Factor

**AGENCY:** Surface Transportation Board.

<sup>4</sup> On December 11, 2019, W&W supplemented its historic report with a letter from the New Jersey Historic Preservation Office.

<sup>1</sup> The filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

**ACTION:** Approval of rail cost adjustment factor.

**SUMMARY:** The Board has approved the first quarter 2020 Rail Cost Adjustment Factor (RCAF) and cost index filed by the Association of American Railroads. The first quarter 2020 RCAF (Unadjusted) is 1.043. The first quarter 2020 RCAF (Adjusted) is 0.440. The first quarter 2020 RCAF-5 is 0.414.

**DATES:** *Applicability Date:* January 1, 2020.

**FOR FURTHER INFORMATION CONTACT:** Pedro Ramirez, (202) 245-0333.

Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339.

**SUPPLEMENTARY INFORMATION:**

Additional information is contained in the Board's decision, which is available on our website, <http://www.stb.gov>. Copies of the decision may be purchased by contacting the Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238.

By the Board, Board Members Begeman, Fuchs, and Oberman.

Decided: December 18, 2019.

**Kenyatta Clay,**  
*Clearance Clerk.*

[FR Doc. 2019-27767 Filed 12-23-19; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice of Meeting of the National Parks Overflights Advisory Group

**ACTION:** Notice of meeting.

**SUMMARY:** The Federal Aviation Administration (FAA) and the National Park Service (NPS), in accordance with the National Parks Air Tour Management Act of 2000, announce the next meeting of the National Parks Overflights Advisory Group (NPOAG). This notification provides the date, location, and agenda for the meeting.

**DATES:** *Date and Location:* The NPOAG will meet on January 29-30, 2020. The meeting will take place in the Orangewood 2 Conference Room at the Clarion Hotel, 616 W Convention Way, Anaheim, CA 92802. The meeting will be held from 1:00 p.m. to 4:00 p.m. on January 29 and from 8:30 a.m. to 4:00 p.m. on January 30, 2020. This NPOAG meeting will be open to the public. Because seating is limited, members of the public wishing to attend will need to contact the person listed under **FOR FURTHER INFORMATION CONTACT** by

January 10, 2020 to ensure sufficient meeting space is available to accommodate all attendees.

**FOR FURTHER INFORMATION CONTACT:**

Keith Lusk, AWP-1SP, Special Programs Staff, Federal Aviation Administration, Western-Pacific Region Headquarters, 777 South Aviation Boulevard, Suite 150, El Segundo, CA 92045, telephone: (424) 405-7017, email: [Keith.Lusk@faa.gov](mailto:Keith.Lusk@faa.gov).

**SUPPLEMENTARY INFORMATION:**

#### Background

The National Parks Air Tour Management Act of 2000 (NPATMA), enacted on April 5, 2000, as Public Law 106-181, required the establishment of the NPOAG within one year after its enactment. The Act requires that the NPOAG be a balanced group of representatives of general aviation, commercial air tour operations, environmental concerns, and Native American tribes. The Administrator of the FAA and the Director of NPS (or their designees) serve as ex officio members of the group. Representatives of the Administrator and Director serve alternating 1-year terms as chairperson of the advisory group.

The duties of the NPOAG include providing advice, information, and recommendations to the FAA Administrator and the NPS Director on; implementation of Public Law 106-181; quiet aircraft technology; other measures that might accommodate interests to visitors of national parks; and at the request of the Administrator and the Director, on safety, environmental, and other issues related to commercial air tour operations over national parks or tribal lands.

#### Agenda for the January 29-30, 2020 NPOAG Meeting

The agenda for the meeting will include, but is not limited to, an update on ongoing park specific air tour planning projects and commercial air tour reporting.

#### Attendance at the Meeting and Submission of Written Comments

Although this is not a public meeting, interested persons may attend. Because seating is limited, if you plan to attend please contact the person listed under **FOR FURTHER INFORMATION CONTACT** so that meeting space may be made to accommodate all attendees. Written comments regarding the meeting will be accepted directly from attendees or may be sent to the person listed under **FOR FURTHER INFORMATION CONTACT**.

#### Record of the Meeting

If you cannot attend the NPOAG meeting, a summary record of the meeting will be made available under the NPOAG section of the FAA ATMP website at: [http://www.faa.gov/about/office\\_org/headquarters\\_offices/arc/programs/air\\_tour\\_management\\_plan/parks\\_overflights\\_group/minutes.cfm](http://www.faa.gov/about/office_org/headquarters_offices/arc/programs/air_tour_management_plan/parks_overflights_group/minutes.cfm) or through the Special Programs Staff, Western-Pacific Region, 777 South Aviation Boulevard, Suite 150, El Segundo, CA 90245, telephone: (424) 405-7017.

Issued in El Segundo, CA, on December 18, 2019.

**Keith Lusk,**

*Program Manager, Special Programs Staff, Western-Pacific Region.*

[FR Doc. 2019-27838 Filed 12-23-19; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Docket Number: FAA-2019-0946]

#### Pilot Records Improvement Act; Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Pilot Records Improvement Act of 1996/Pilot Record Database

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. This collection involves the pilot/applicant's name, home address which is provided by the applicant, and his/her FAA certificate number. In most cases, the certificate number is one that has been assigned by Airmen Certification. The information collected is imperative to be able to identify the airman in order to process the required background check for the potential hiring air carrier employer.

**DATES:** Written comments should be submitted by February 24, 2020.

**ADDRESSES:** Please send written comments:

*By Electronic Docket:*  
[www.regulations.gov](http://www.regulations.gov) (Enter docket number into search field).

*By mail:* FEDERAL AVIATION ADMINISTRATION, ATTN: Aviation Data Systems Branch, AFS-620 (PRD/

PRIA), PO Box 25082, Oklahoma City, OK 73125-0082.

By fax: 405-954-4655.

**FOR FURTHER INFORMATION CONTACT:**

Christopher Morris by email at: [christopher.morris@faa.gov](mailto:christopher.morris@faa.gov) or by calling 405-954-4646.

**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:* 2120-0607.

*Title:* Pilot Records Improvement Act of 1996/Pilot Record Database.

*Form Numbers:*

FAA 8060-10 FAA RECORDS REQUEST (PRIA)

FAA 8060-10 AIRMAN NOTICE AND RIGHT TO RECEIVE COPY—FAA RECORDS (PRIA)

FAA 8060-11 AIR CARRIER AND OTHER RECORDS REQUEST (PRIA)

FAA 8060-11A AIRMAN NOTICE AND RIGHT TO RECEIVE COPY—AIR CARRIER AND OTHER RECORDS (PRIA)

FAA 8060-12 AUTHORIZATION FOR RELEASE OF DOT DRUG AND ALCOHOL TESTING RECORDS UNDER PRIA AND MAINTAINED UNDER TITLE 49 CODE OF FEDERAL REGULATIONS (49 CFR) PART 40

FAA 8060-13 NATIONAL DRIVER REGISTER RECORDS REQUEST (PRIA)

FAA FORM 8060-XX PILOT CONSENT/REVOCATION FOR AIR CARRIER ACCESS TO PILOT RECORDS DATABASE

*Type of Review:* Renewal of an information collection.

*Background:* The Pilot Records Improvement Act of 1996 (PRIA) as amended, was enacted to ensure that part 121, 125 and 135 air carriers and air operators adequately investigate a pilot's background before allowing that pilot to conduct commercial air carrier flights for their company. Under PRIA, a hiring employer cannot place a pilot into service until they obtain, reviews and approve the pilot's background and other safety-related records for the past 5 year period as specified in PRIA. The FAA information disclosed under PRIA

are medical and airman certificate verifications and any closed enforcement and revocation data. The air carrier information disclosed under PRIA are those concerning pilot performance and training, disciplinary and removal from service, and drug and alcohol testing records. Records from the Department of Motor Vehicles of any particular State would include records of drug and alcohol convictions. Other records collections such as financial statements, fingerprints and failed check rides may be requested and received but they are outside the purview and scope of PRIA and would be requested using other vehicles than the PRIA forms. PRIA request forms can be received by fax or mail; however, the most common method is by email attachment, one pilot/applicant per one form. Each 8060-10 form will include all information needed to process the requested PRIA report. FAA Form 8060-xx is being added to this collection to allow pilots to release their FAA-records to a hiring aviation employer when they cannot release the records themselves via the PRD website. Use of FAA Form 8060-xx is not required if FAA Form 8060-10 is used or if the pilot releases the records themselves via the PRD website.

*Respondents:* The PRIA representative at each part 121, 125 and 135 air carrier is responsible for completing, forwarding, receiving and providing the air carrier with the completed PRIA report so the air carrier can make a more informed hiring decision concerning each pilot/applicant. One complete PRIA package is required for every pilot/applicant. The FAA processes approximately 24,120 PRIA packages per year from respondents.

*Frequency:* On occasion.

*Estimated Average Burden per Response:* 98 hours.

*Estimated Total Annual Burden:* 2,086,380 hours.

Issued in Oklahoma City, OK on December 18, 2019.

**Christopher Morris,**

*PRD/PRIA Program Manager, Regulatory Support Division, Flight Standards Service, Office of Aviation Safety AFS-620.*

[FR Doc. 2019-27707 Filed 12-23-19; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION**

**Maritime Administration**

[Docket No. MARAD-2019-0205]

**Request for Comments on the Approval of a Previously Approved Information Collection: Merchant Marine Medals and Awards**

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Maritime Administration (MARAD) invites public comments on our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information to be collected will be used by MARAD personnel to process and verify requests for service awards. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

**DATES:** Comments must be submitted on or before February 24, 2020.

**ADDRESSES:** You may submit comments [identified by Docket No. MARAD-2019-0205] through one of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Search using the above DOT docket number and follow the online instructions for submitting comments.

- *Fax:* 1-202-493-2251.

- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Comments are invited on:* (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department 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.

**FOR FURTHER INFORMATION CONTACT:**

Deveeda Midgette, 202-366-2354, Office of Sealift Support, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:**

*Title:* Merchant Marine Medals and Awards.

*OMB Control Number:* 2133-0506.

*Type of Request:* Renewal of a previously approved collection.

*Abstract:* This collection of information provides a method of awarding merchant marine medals and decorations to masters, officers, and crew members of U.S. ships in recognition of their service in areas of danger during the operations by the Armed Forces of the United States in World War II, Korea, Vietnam, and Operation Desert Storm.

*Respondents:* Master, officers and crew members of U.S. ships.

*Affected Public:* Individuals or Households.

*Estimated Number of Respondents:* 550.

*Estimated Number of Responses:* 550.

*Estimated Hours per Response:* 1.

*Annual Estimated Total Annual Burden Hours:* 550.

*Frequency of Response:* Annually,

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.)

By Order of the Maritime Administrator.

Dated: December 18, 2019.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2019-27680 Filed 12-23-19; 8:45 am]

**BILLING CODE 4910-81-P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD-2019-0206]

#### Request for Comments of a Previously Approved Information Collection

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on October 7, 2019.

**DATES:** Comments must be submitted on or before January 27, 2020.

**ADDRESSES:** Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** William McDonald, 202-366-0688,

Office of Sealift Support, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, Email: [William.g.mcdonald@dot.gov](mailto:William.g.mcdonald@dot.gov).

#### SUPPLEMENTARY INFORMATION:

*Title:* Voluntary Tanker Agreement.

*OMB Control Number:* 2133-0505.

*Type of Request:* Renewal of a Previously Approved Information Collection.

*Background:* This collection of information is used to gather information on tanker operators who agree to contribute tanker capacity as requested by the Maritime Administrator at such times and in such amounts to meet essential needs of the Department of Defense (DOD) for the transportation of petroleum and petroleum products in bulk by sea. The Voluntary Tanker Agreement is a voluntary emergency preparedness agreement in accordance with Section 708, Defense Production Act, 1950, as amended (50 U.S.C. 4558).

*Respondents:* U.S.-flag and U.S. citizen-owned vessels that are required to respond under current statute and regulation.

*Affected Public:* Business or other for profit.

*Total Estimated Number of Responses:* 15.

*Frequency of Collection:* Annually.

*Estimated Time per Respondent:* 1 Hr.

*Total Estimated Number of Annual Burden Hours:* 15.

*Public Comments Invited:* Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. (Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93)

Dated: December 18, 2019.

By Order of the Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2019-27681 Filed 12-23-19; 8:45 am]

**BILLING CODE 4910-81-P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD-2019-0202]

#### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel C-WEED (Motor Vessel); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before January 27, 2020.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD-2019-0202 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>: Search MARAD-2019-0202 and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD-2019-0202, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at [www.regulations.gov](http://www.regulations.gov), including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

#### FOR FURTHER INFORMATION CONTACT:

Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey

Avenue SE, Room W23-453,  
Washington, DC 20590. Telephone 202-  
366-9309, Email [Bianca.carr@dot.gov](mailto:Bianca.carr@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel C-WEED is:

—*Intended Commercial use of Vessel:*  
“Local day charters”

—*Geographic Region Including Base of Operations:* “Rhode Island, Connecticut, New York (excluding New York Harbor), New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida” (Base of Operations: Miami, FL)

—*Vessel length and type:* 70’ motor vessel

The complete application is available for review identified in the DOT docket as MARAD-2019-0202 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD’s regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter’s interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD’s regulations at 46 CFR part 388.

## Public Participation

### *How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

### *Where do I go to read public comments, and find supporting information?*

Go to the docket online at <http://www.regulations.gov>, keyword search MARAD-2019-0202 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

### *Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

### *May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR-225, W24-220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

## Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice, DOT/ALL-14 FDMS, accessible through [www.dot.gov/privacy](http://www.dot.gov/privacy). To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

\* \* \* \* \*

Dated: December 18, 2019.

By Order of the Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2019-27683 Filed 12-23-19; 8:45 am]

**BILLING CODE 4910-81-P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD-2019-0201]

### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ADAGIO (Sailboat); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before January 27, 2020.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD-2019-0201 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Search MARAD-2019-0201 and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD-2019-0201, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at [www.regulations.gov](http://www.regulations.gov), including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

### **FOR FURTHER INFORMATION CONTACT:**

Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-453, Washington, DC 20590. Telephone 202-366-9309, Email [Bianca.carr@dot.gov](mailto:Bianca.carr@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel ADAGIO is:

—*Intended Commercial Use of Vessel:*  
“Vessel will be used for local day charters. 2, 4, and 6 hour trips departing from marina in Biloxi, MS and arriving at the same location.”



—*Geographic Region Including Base of Operations*: “Mississippi” (Base of Operations: Marina Del Ray, CA)  
 —*Vessel Length and Type*: 30’ sailboat

The complete application is available for review identified in the DOT docket as MARAD–2019–0201 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD’s regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter’s interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD’s regulations at 46 CFR part 388.

### Public Participation

#### *How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

#### *Where do I go to read public comments, and find supporting information?*

Go to the docket online at <http://www.regulations.gov>, keyword search MARAD–2019–0201 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

#### *Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

#### *May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime

Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

### Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice, DOT/ALL–14 FDMS, accessible through [www.dot.gov/privacy](http://www.dot.gov/privacy). To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

Dated: December 18, 2019.

By Order of the Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2019–27682 Filed 12–23–19; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD–2019–0204]

#### **Requested Administrative Waiver of the Coastwise Trade Laws: Vessel GYPSY GIRL (Motor Vessel); Invitation for Public Comments**

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before January 27, 2020.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2019–0204 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Search MARAD–2019–0204 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2019–0204, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at [www.regulations.gov](http://www.regulations.gov), including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

#### **FOR FURTHER INFORMATION CONTACT:**

Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email [Bianca.carr@dot.gov](mailto:Bianca.carr@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel GYPSY GIRL is:

- Intended Commercial Use of Vessel:* “Personal use and possible Fishing charter service”
- Geographic Region Including Base of Operations:* “Florida” (Base of Operations: Key Largo, FL)
- Vessel Length and Type:* 31’ motor vessel

The complete application is available for review identified in the DOT docket as MARAD–2019–0204 <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD’s regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses

U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

### Public Participation

#### *How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled ADDRESSES. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

#### *Where do I go to read public comments, and find supporting information?*

Go to the docket online at <http://www.regulations.gov>, keyword search MARAD-2019-0204 or visit the Docket Management Facility (see ADDRESSES for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

#### *Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

#### *May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR-225, W24-220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

### Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice, DOT/ALL-14 FDMS, accessible through [www.dot.gov/privacy](http://www.dot.gov/privacy). To

facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

Dated: December 18, 2019.

By Order of the Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

Secretary, Maritime Administration.

[FR Doc. 2019-27684 Filed 12-23-19; 8:45 am]

**BILLING CODE 4910-81-P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD-2019-0200]

#### **Requested Administrative Waiver of the Coastwise Trade Laws: Vessel LOKAHI (Sail Catamaran); Invitation for Public Comments**

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before January 27, 2020.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD-2019-0200 by any one of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Search MARAD-2019-0200 and follow the instructions for submitting comments.
- **Mail or Hand Delivery:** Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD-2019-0200, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m.,

Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

**Instructions:** All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at [www.regulations.gov](http://www.regulations.gov), including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

#### **FOR FURTHER INFORMATION CONTACT:**

Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-453, Washington, DC 20590. Telephone 202-366-9309, Email [Bianca.carr@dot.gov](mailto:Bianca.carr@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel LOKAHI is:

#### *—Intended Commercial use of Vessel:*

“The vessel will be used for charter and carriage of passengers. Under the direction of a captain and crew, the vessel will navigate the inshore waters of Hawaii providing excursions and sailing experiences to paying customers as part of the local tourism trade.”

#### *—Geographic Region Including Base of Operations:* “Hawaii” (Base of Operations: Honolulu, HI)

#### *—Vessel Length and Type:* 44' sail catamaran

The complete application is available for review identified in the DOT docket as MARAD-2019-0200 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

## Public Participation

### *How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

### *Where do I go to read public comments, and find supporting information?*

Go to the docket online at <http://www.regulations.gov>, keyword search MARAD–2019–0200 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

### *Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

### *May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

## Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice, DOT/ALL–14 FDMS, accessible through [www.dot.gov/privacy](http://www.dot.gov/privacy). To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide

comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

\* \* \* \* \*

Dated: December 18, 2019.

By Order of the Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2019–27686 Filed 12–23–19; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD–2019–0197]

### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel PALADIN (Motor Vessel); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before January 27, 2020.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2019–0197 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Search MARAD–2019–0197 and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2019–0197, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you

if we have questions regarding your submission.

**Instructions:** All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at [www.regulations.gov](http://www.regulations.gov), including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

### FOR FURTHER INFORMATION CONTACT:

Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email [Bianca.carr@dot.gov](mailto:Bianca.carr@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel PALADIN is:

—*Intended Commercial Use of Vessel:* “Recreational Charters”

—*Geographic Region Including Base of Operations:* “Florida, Georgia, North Carolina, South Carolina” (Base of Operations: Miami, FL)

—*Vessel Length and Type:* 81’ motor vessel

The complete application is available for review identified in the DOT docket as MARAD–2019–0197 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD’s regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter’s interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD’s regulations at 46 CFR part 388.

## Public Participation

### *How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at <http://www.regulations.gov>, keyword search MARAD–2019–0197 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

#### Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice, DOT/ALL–14 FDMS, accessible through [www.dot.gov/privacy](http://www.dot.gov/privacy). To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

\* \* \* \* \*

Dated: December 18, 2019.

By Order of the Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

Secretary, Maritime Administration.

[FR Doc. 2019–27687 Filed 12–24–19; 8:45 am]

BILLING CODE 4910–81–P

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD–2019–0198]

#### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel PERSUADER TOO (Sailboat); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before January 27, 2020.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2019–0198 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Search MARAD–2019–0198 and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2019–0198, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at [www.regulations.gov](http://www.regulations.gov), including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

#### FOR FURTHER INFORMATION CONTACT:

Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey

Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email [Bianca.carr@dot.gov](mailto:Bianca.carr@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel PERSUADER TOO is:

—Intended Commercial Use of Vessel: “I intend to occasionally charter for two hour periods (twice a day) on weekends only from Jun–Sep. Maybe day trips if required or private charters if I have interested customers.”

—Geographic Region Including Base of Operations: “Virginia” (Base of Operations: Virginia Beach)

—Vessel Length and Type: 57’ sailboat

The complete application is available for review identified in the DOT docket as MARAD–2019–0198 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD’s regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter’s interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD’s regulations at 46 CFR part 388.

#### Public Participation

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at <http://www.regulations.gov>, keyword search MARAD–2019–0198 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR-225, W24-220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

#### Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice, DOT/ALL-14 FDMS, accessible through [www.dot.gov/privacy](http://www.dot.gov/privacy). To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

\* \* \* \* \*

Dated: December 18, 2019.

By Order of the Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

Secretary, Maritime Administration.

[FR Doc. 2019-27688 Filed 12-23-19; 8:45 am]

BILLING CODE 4910-81-P

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD-2019-0199]

#### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel LADY SUSAN (Sailing Catamaran); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before January 27, 2020.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD-2019-0199 by any one of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Search MARAD-2019-0199 and follow the instructions for submitting comments.
- **Mail or Hand Delivery:** Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD-2019-0199, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

**Instructions:** All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at [www.regulations.gov](http://www.regulations.gov), including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

#### FOR FURTHER INFORMATION CONTACT:

Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-453, Washington, DC 20590. Telephone 202-366-9309, Email [Bianca.carr@dot.gov](mailto:Bianca.carr@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel LADY SUSAN is:

—*Intended Commercial Use of Vessel:*  
“To run the vessel in [calypsosailing.com](http://calypsosailing.com) charter program. Available with a captain for up to 6 passengers. Day trip and overnight

trips available in Florida Keys, Miami, Fort Lauderdale and Naples.”

—*Geographic Region Including Base of Operations:* “Florida” (Base of Operations: Naples, FL)

—*Vessel Length and Type:* 58’ sailing catamaran

The complete application is available for review identified in the DOT docket as MARAD-2019-0199 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD’s regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter’s interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD’s regulations at 46 CFR part 388.

#### Public Participation

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at <http://www.regulations.gov>, keyword search MARAD-2019-0199 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the

information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR-225, W24-220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

#### Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice, DOT/ALL-14 FDMS, accessible through [www.dot.gov/privacy](http://www.dot.gov/privacy). To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

Dated: December 18, 2019.

By Order of the Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2019-27685 Filed 12-23-19; 8:45 am]

BILLING CODE 4910-81-P

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

[Docket No.: PHMSA-2019-0098]

#### Lithium Battery Safety Advisory Committee; Notice of Public Meeting

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), U.S. Department of Transportation (DOT).

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice announces a meeting of the Lithium Battery Safety Advisory Committee.

**DATES:** The meeting will be held on January 22-23, 2020, from 9:00 to 5:00 p.m. Eastern Standard Time. Requests to attend the meeting must be received by January 8, 2020. Requests for accommodations for a disability must be received by January 8, 2020. Persons

requesting to speak during the meeting must submit a written copy of their remarks to DOT by January 8, 2020. Requests to submit written materials to be reviewed during the meeting must be received no later than January 8, 2020.

**ADDRESSES:** The meeting will be held at DOT Headquarters, West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. The meeting will also be webcast. Information for accessing the webcast will be posted on Committee website. The Lithium Battery Safety Advisory Committee website is located at: <https://www.phmsa.dot.gov/hazmat/rulemakings/lithium-battery-safety-advisory-committee>. The E-Gov website is located at <https://www.regulations.gov>. Mailed written comments intended for the committee should be sent to Docket Management Facility; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590-0001. Hand delivered written comments should be delivered to the DOT dockets facility located in Room W12-140 on the ground level of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC.

#### FOR FURTHER INFORMATION CONTACT:

Aaron Wiener or Kevin Leary, PHMSA, U.S. Department of Transportation. Telephone: (202) 366-8553. Fax: (202) 366-3753. Email: [lithiumbatteryFACA@dot.gov](mailto:lithiumbatteryFACA@dot.gov). Any committee related request should be sent to the person listed in this section.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Lithium Battery Safety Advisory Committee was created under the Federal Advisory Committee Act (FACA, Pub. L. 92-463), in accordance with Section 333(d) of the FAA Reauthorization Act of 2018 (Pub. L. 115-254).

##### II. Agenda

At the meeting, the agenda will cover the following topics as specifically outlined in section 333(d) of Public Law 115-254:

(a) Facilitate communication amongst manufacturers of lithium batteries and products containing lithium batteries, air carriers, and the Federal government.

(b) Discuss the effectiveness, and the economic and social impacts of lithium battery transportation regulations.

(c) Provide the Secretary with information regarding new technologies and transportation safety practices.

(d) Provide a forum to discuss Departmental activities related to lithium battery transportation safety.

(e) Advise and recommend activities to improve the global enforcement of air transportation of lithium batteries, and the effectiveness of those regulations.

(f) Provide a forum for feedback on potential U.S. positions to be taken at international forums.

(g) Guide activities to increase awareness of relevant requirements.

(h) Review methods to decrease the risk posed by undeclared hazardous materials.

A final agenda will be posted on the Lithium Battery Safety Advisory Committee website at least one week in advance of the meeting.

#### III. Public Participation

The meeting will be open to the public on a first-come, first served basis, as space is limited. Members of the public who wish to attend in person must RSVP to the person listed in the **FOR FURTHER INFORMATION CONTACT** section with your name and affiliation. DOT is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, such as sign language, interpretation, or other ancillary aids, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section no later than January 8, 2020.

There will be five (5) minutes allotted for oral comments from members of the public joining the meeting. To accommodate as many speakers as possible, the time for each commenter may be limited. Individuals wishing to reserve speaking time during the meeting must submit a request at the time of registration, as well as the name, address, and organizational affiliation of the proposed speaker. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, PHMSA may conduct a lottery to determine the speakers. Speakers are requested to submit a written copy of their prepared remarks for inclusion in the meeting records and for circulation to Lithium Battery Safety Advisory Committee members. All prepared remarks submitted on time will be accepted and considered as part of the record. Any member of the public may present a written statement to the committee at any time.

Copies of the meeting minutes, and committee presentations will be available on the Lithium Battery Safety Advisory Committee website. Presentations will also be posted on the E-Gov website in docket number PHMSA [PHMSA-2019-0098], within 30 days following the meeting.

*Written comments:* Persons who wish to submit written comments on the meetings may submit them to docket [PHMSA–2019–0098] in the following ways:

1. *E-Gov Website:* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

2. *Fax*

3. *Mail*

4. *Hand Delivery:* Delivery accepted between 9:00 a.m. and 5:00 p.m., Monday through Friday, except on Federal holidays.

*Instructions:* Identify the docket number [PHMSA–2019–0098] at the beginning of your comments. Note that all comments received will be posted without change to the E-Gov website, including any personal information provided. Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Therefore, consider reviewing DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, (65 FR 19477), or view the Privacy Notice on the E-Gov website before submitting comments.

*Docket:* For docket access or to read background documents or comments, go to the E-Gov website at any time or visit the DOT dockets facility listed in the **ADDRESSES** category, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: "Comments on [PHMSA–2019–0098]". The docket clerk will date stamp the postcard prior to returning it to you via the U.S. mail.

#### *Privacy Act Statement*

DOT may solicit comments from the public regarding certain general notices. DOT posts these comments, without edit, including any personal information the commenter provides, to the E-Gov website, as described in the system of records notice (DOT/ALL–14 FDMS).

Signed in Washington, DC, on December 19, 2019.

**William S. Schoonover,**

*Associate Administrator for Hazardous Materials Safety.*

[FR Doc. 2019–27779 Filed 12–23–19; 8:45 am]

**BILLING CODE 4910–9X–P**

## **DEPARTMENT OF THE TREASURY**

### **Community Development Financial Institutions Fund**

#### **Announcement Type: Notice and Request for Public Comment**

**SUMMARY:** The U.S. 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 Community Development Financial Institutions Fund (CDFI Fund), U.S. Department of the Treasury, is soliciting comments concerning the New Markets Tax Credit Program (NMTC Program) Community Development Entity (CDE) Certification Application.

**DATES:** Written comments must be received on or before February 24, 2020 to be assured of consideration.

**ADDRESSES:** Submit your comments via email to Tanya McInnis, Certification, Compliance Monitoring and Evaluation (CCME) Program Manager, CDFI Fund, at [ccme@cdfi.treas.gov](mailto:ccme@cdfi.treas.gov).

#### **FOR FURTHER INFORMATION CONTACT:**

Tanya McInnis, CCME Program Manager, CDFI Fund, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220 or by facsimile to (202) 653–0375 (not a toll free number). Other information regarding the CDFI Fund and its programs may be obtained through the CDFI Fund's website at <http://www.cdfifund.gov>.

#### **SUPPLEMENTARY INFORMATION:**

*Title:* New Markets Tax Credit Program Community Development Entity (CDE) Certification Application.

*OMB Number:* 1559–0014.

*Abstract:* Title I, subtitle C, section 121 of the Community Renewal Tax Relief Act of 2000 (the Act), as enacted in the Consolidated Appropriations Act, 2001 (Pub. L. 106–554, December 21, 2000), amended the Internal Revenue Code (IRC) by adding IRC 45D and created the NMTC Program. The Department of the Treasury, through the CDFI Fund, administers the NMTC Program, which provides an incentive to investors in the form of tax credits over seven years, expected to stimulate the provision of private investment capital that, in turn, will facilitate economic and community development in low-income communities. In order to qualify for an allocation of tax credits through

the NMTC Program, an entity must be certified as a qualified Community Development Entity (CDE) and submit an allocation application to the CDFI Fund. Nonprofit entities and for-profit entities may be certified as CDEs by the CDFI Fund. In order to be certified as a CDE, an entity must be a domestic corporation or partnership, that: (1) Has a primary mission of serving or providing investment capital for low-income communities or low-income persons; and (2) maintains accountability to residents of low-income communities through their representation on any governing or advisory board of the entity.

*Current Actions:* Renewal of Existing Information Collection.

*Type of Review:* Regular Review.

*Affected Public:* CDEs and entities seeking CDE certification, including business or other for-profit institutions, nonprofit entities, and State, local and Tribal entities.

*Estimated Number of Respondents:* 300.

*Estimated Annual Time per Respondent:* 4 hours.

*Estimated Total Annual Burden Hours:* 1,200 hours.

*Requests 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 and may be published on the CDFI Fund website at <http://www.cdfifund.gov>. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the CDFI Fund, including whether the information shall have practical utility; (b) the accuracy of the CDFI Fund's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

**Authority:** 26 U.S.C. 45D; 31 U.S.C. 321; 26 CFR 1.45D–1.

**Jodie L. Harris,**

*Director, Community Development Financial Institutions Fund.*

[FR Doc. 2019–27788 Filed 12–23–19; 8:45 am]

**BILLING CODE 4810–70–P**



**DEPARTMENT OF THE TREASURY****Community Development Financial Institutions Fund**

**ANNOUNCEMENT TYPE:** Notice and Request for Public Comment.

**SUMMARY:** The U.S. 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Community Development Financial Institutions Fund (CDFI Fund), U.S. Department of the Treasury, is soliciting comments concerning the New Markets Tax Credit (NMTC) Program Allocation and Qualified Equity Investment Tracking System (AQEI).

**DATES:** Written comments must be received on or before February 24, 2020 to be assured of consideration.

**ADDRESSES:** Submit your comments via email to Tanya McInnis, Certification, Compliance Monitoring and Evaluation (CCME) Program Manager, CDFI Fund, at [ccme@cdfi.treas.gov](mailto:ccme@cdfi.treas.gov).

**FOR FURTHER INFORMATION CONTACT:** Tanya McInnis, CCME Program Manager, CDFI Fund, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220 or by facsimile to (202) 653–0375 (not a toll free number). Other information regarding the CDFI Fund and its programs may be obtained through the CDFI Fund's website at <http://www.cdfifund.gov>.

**SUPPLEMENTARY INFORMATION:**

**Title:** Allocation and Qualified Equity Investment Tracking System.

**OMB Number:** 1559–0024.

**Abstract:** Title I, subtitle C, section 121 of the Community Renewal Tax Relief Act of 2000 (the Act), as enacted by section 1(a)(7) of the Consolidated Appropriations Act, 2001 (Pub. L. 106–554, December 21, 2000), amended the Internal Revenue Code (IRC) by adding IRC § 45D, New Markets Tax Credit. Pursuant to IRC § 45D, the Department of the Treasury, through the CDFI Fund, administers the NMTC Program, which provides an incentive to investors in the form of tax credits over seven years and stimulates the provision of private investment capital that, in turn, facilitates economic and community development in low-income communities. In order to qualify for an allocation of NMTC authority, an entity must be certified as a qualified

Community Development Entity and submit an allocation application to the CDFI Fund. Upon receipt of such applications, the CDFI Fund conducts a competitive review process to evaluate applications for the receipt of NMTC allocations. Entities selected to receive an NMTC allocation must enter into an Allocation Agreement with the CDFI Fund. The Allocation Agreement contains the terms and conditions, including all reporting requirements, associated with the receipt of a NMTC allocation. The CDFI Fund requires each Allocatee to use an electronic data collection and submission system, known as the Allocation and Qualified Equity Investment Tracking System (AQEI), to report on the information related to its receipt of a Qualified Equity Investment. The previous name for this data collection system was the Allocation Tracking System or ATS. The CDFI Fund developed the AQEI to, among other things: (1) Enhance the Allocatee's ability to report to the CDFI Fund timely information regarding the issuance of its Qualified Equity Investments; (2) enhance the CDFI Fund's ability to monitor the issuance of Qualified Equity Investments to ensure that no Allocatee exceeds its allocation authority and to ensure that Qualified Equity Investments are issued within the timeframes required by the Allocation Agreement and IRC § 45D; and (3) provide the CDFI Fund with basic investor data that can be aggregated and analyzed in connection with NMTC Program evaluation efforts.

**Current Actions:** Renewal of Existing Information Collection.

**Type of Review:** Regular Review.

**Affected Public:** NMTC Program Allocatees.

**Estimated Number of Respondents:** 156.

**Estimated Annual Time per Respondent:** 18 hours.

**Estimated Total Annual Burden Hours:** 2,808 hours.

**Requests 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 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; (d) ways to minimize the burden of the collection of information on respondents, including through the use

of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

**Authority:** 12 U.S.C. 4701 *et seq.*; 26 U.S.C. 45D.

**Jodie L. Harris,**

*Director, Community Development Financial Institutions Fund.*

[FR Doc. 2019–27786 Filed 12–23–19; 8:45 am]

**BILLING CODE 4810–70–P**

**DEPARTMENT OF THE TREASURY****Office of Foreign Assets Control****Notice of OFAC Sanctions Actions**

**AGENCY:** Office of Foreign Assets Control, Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of persons whose property and interests in property have been unblocked and who have been removed from the list of Specially Designated Nationals and Blocked Persons. Additionally, OFAC is publishing an update to the identifying information of a person currently included in the list of Specially Designated Nationals and Blocked Persons.

**DATES:** See **SUPPLEMENTARY INFORMATION** section for effective date(s).

**FOR FURTHER INFORMATION CONTACT:**

OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

**SUPPLEMENTARY INFORMATION:****Electronic Availability**

The Specially Designated Nationals and Blocked Persons List (SDN List) and additional information concerning OFAC sanctions programs are available on OFAC's website (<https://www.treasury.gov/ofac>).

**Notice of OFAC Actions**

On December 19, 2019, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are unblocked, and they have been removed from the SDN List under the relevant sanctions authorities listed below.

**Individuals**

1. HERNANDEZ ORTEGA, Cesar Alejandro, c/o LIZZY MUNDO

INTERIOR, Guadalajara, Mexico; c/o CUMBRES SOLUCIONES INMOBILIARIAS S.A. DE C.V., Zapopan, Jalisco, Mexico; DOB 28 Oct 1975; POB Guadalajara, Jalisco, Mexico; Passport 140022479 (Mexico); C.U.R.P. HEOC751028HJCRRS09 (Mexico) (individual) [SDNT].

2. ZARATE MORENO, Rutdy Alirio (a.k.a. "RUNCHO"), c/o IMPORTACIONES Y EXPORTACIONES ZAFIRO S.L., Madrid, Spain; Calle 68 No. 60-10, Bogota, Colombia; DOB 19 Mar 1968; Cedula No. 80368114 (Colombia); Matricula Mercantil No 513926 (Colombia) (individual) [SDNTK].

3. ESPITIA ORTIZ, Mauricio Arturo (a.k.a. SPITIA, Mauricio), c/o ESVA S.C.S., Cali, Colombia; c/o M S CONSTRUCTORES LTDA., Cali, Colombia; c/o SPITIA VALENCIA LTDA., Cali, Colombia; c/o ARQUITECTOS UNIDOS LTDA., Cali, Colombia; Carrera 25 F No. 7-15 Oeste, Cali, Colombia; Carrera 42 No. 8-36, Cali, Colombia; Spain; c/o GRUPO INVERSOR PRINCIPE DE VERGARA S.L., Madrid, Spain; Calle Ayala 64 3 Iz., Madrid 28001, Spain; DOB 29 Dec 1959; POB Barranquilla, Colombia; Cedula No. 16634827 (Colombia); Passport A]424421 (Colombia) (individual) [SDNT].

4. GRAJALES POSSO, Maria Nancy, c/o CASA GRAJALES S.A., La Union, Valle, Colombia; c/o FREXCO S.A., La Union, Valle, Colombia; c/o GRAJALES S.A., La Union, Valle, Colombia; c/o INVERSIONES LOS POSSO LTDA. S.C.S., La Union, Valle, Colombia; c/o PLAZA REAL LTDA., Cali, Colombia; Cedula No. 29613013 (Colombia) (individual) [SDNT].

5. GALLEGU VALENCIA, John Jairo (a.k.a. "DON JOTA"; a.k.a. "FREDERICO"), c/o LAVADERO EL CASTILLO, Medellin, Colombia; c/o COMERCIALIZADORA DE CAPITALS LIMITADA, Medellin, Colombia; c/o TECNICAL DIAGNOSTICCENTRO S.A., Envigado, Colombia; DOB 30 Jul 1950; POB Medellin, Colombia; Cedula No. 70126377 (Colombia); Passport AC312064 (Colombia) (individual) [SDNT].

6. ROSALES DIAZ, Hector Emilio, c/o CONCRETOS CALI S.A., Cali, Colombia; c/o INVERSIONES GEMINIS S.A., Cali, Colombia; c/o ADMINISTRACION INMOBILIARIA BOLIVAR S.A., Cali, Colombia; c/o INVERSIONES VILLA PAZ S.A., Cali, Colombia; c/o INVERSIONES EL PENON S.A., Cali, Colombia; c/o INDUSTRIA AVICOLA PALMASECA S.A., Cali, Colombia; c/o CONSTRUCTORA DIMISA LTDA., Cali, Colombia; c/o MERCAVICOLA LTDA.,

Cali, Colombia; c/o COMPANIA ADMINISTRADORA DE VIVIENDA S.A., Cali, Colombia; DOB 01 Apr 1955; Cedula No. 16588924 (Colombia) (individual) [SDNT].

7. MOSQUERA PEREZ, Victor Alfonso (a.k.a. "NEGRO MOSQUERA"), Colombia; DOB 14 Sep 1984; POB Turbo, Antioquia, Colombia; citizen Colombia; Cedula No. 8358401 (individual) [SDNTK] (Linked To: LOS URABENOS).

8. PLATA MCNULTY, Jorge Alberto; DOB 01 Jun 1968; POB Panama; citizen Panama; Cedula No. 8-294-311 (Panama); Passport 1412335 (Panama) (individual) [SDNTK] (Linked To: EUROCAMBIO INVESTMENT S.A.; Linked To: THEA HOLDING & CO., INC.; Linked To: EURO FINANCING, CORP.; Linked To: GCH & SONS CO., INC.; Linked To: BEAUTY STATION, S.A.; Linked To: INVERSIONES TROL PANAMA S.A.; Linked To: INVERSIONES OMEGA INTERNACIONAL S.A.; Linked To: INMOBILIARIA DAVITOV S.A.; Linked To: BERLIN INDUSTRIES, CORP.).

9. PEREZ FABREGA, Margarita Ines; DOB 14 Aug 1976; POB Panama; citizen Panama; Cedula No. 9-700-1662 (Panama); Passport 1412336 (Panama) (individual) [SDNTK] (Linked To: EUROCAMBIO INVESTMENT S.A.; Linked To: GCH & SONS CO., INC.; Linked To: THEA HOLDING & CO., INC.; Linked To: BEAUTY STATION, S.A.; Linked To: BERLIN INDUSTRIES, CORP.; Linked To: INVERSIONES TROL PANAMA S.A.; Linked To: INVERSIONES OMEGA INTERNACIONAL S.A.).

10. CHEAITELLI SAHELI, Guiseppe Ali; DOB 10 Feb 1966; POB Maicao, La Guajira, Colombia; Cedula No. 84046545 (Colombia) (individual) [SDNTK] (Linked To: THEA HOLDING & CO., INC.; Linked To: C M F INTERNACIONAL, INC.; Linked To: GCH & SONS CO., INC.; Linked To: POLYTUN (ASIA) LIMITED).

11. LIBIEN TELLA, Naim, Paseo San Carlos 319, Fracc. San Carlos, Metepec, Mexico 52140, Mexico; Vicente Guerrero 304, Toluca, Mexico 50110, Mexico; Paseo Tollocan 613 Oriente, Colonia Valle Verde, Toluca, Mexico, Mexico; DOB 30 May 1970; POB Toluca, Mexico, Mexico; R.F.C. LITN-700530-6N0 (Mexico); C.U.R.P. LITN700530HMCBLM01 (Mexico); I.F.E. LBTLNM70053015000 (Mexico) (individual) [SDNTK] (Linked To: AEROLINEAS AMANECER, S.A. DE C.V.; Linked To: DIARIO AMANECER; Linked To: UNOMASUNO; Linked To: VALGO GRUPO DE INVERSION S.A. DE C.V.).

12. BERMUDEZ DURAN, Felipe, Camino a San Mateo 41 Edif. Mackenzie-1003, Lomas Verdes, Naucalpan, Estado de Mexico C.P. 53020, Mexico; Puerto de Palo No. 128, Col. Residencial Colon, Toluca, Estado de Mexico C.P. 50120, Mexico; DOB 03 Jul 1988; R.F.C. BEDF880703 (Mexico); C.U.R.P. BEDF880703HDFRRL09 (Mexico) (individual) [SDNT].

13. GALLON HENAO, Pedro David; DOB 12 Aug 1970; POB Medellin, Colombia; Cedula No. 98551360 (Colombia) (individual) [SDNTK].

#### Entities

1. NAVIERA MARITIMA DE AROSA, S.A., Paseo de Pereda 36, Apartado 141, Santander 39004, Spain [CUBA].

2. IMPORTACIONES Y EXPORTACIONES ZAFIRO S.L., Calle Gran Via, 31, Madrid 28013, Spain; C.I.F. B83065458 (Spain) [SDNTK].

3. ARQUITECTOS UNIDOS LTDA., Calle 22N No. 5A-75, Cali, Colombia; NIT # 805022512-4 (Colombia) [SDNT].

4. ESVA S.C.S. (a.k.a. FLEXX GYM), Carrera 42 No. 8-36, Cali, Colombia; NIT # 805019977-4 (Colombia) [SDNT].

5. GRUPO INVERSOR PRINCIPE DE VERGARA S.L., Calle Jarilla, 5-Pis 4 B, Madrid 28043, Spain; C.I.F. B84758374 (Spain) [SDNT].

6. M S CONSTRUCTORES LTDA., Calle 22N No. 5AN-75, Cali, Colombia; NIT # 800206430-1 (Colombia) [SDNT].

7. SPITIA VALENCIA LTDA., Calle 9 No. 44-59, Cali, Colombia; NIT # 805006598-1 (Colombia) [SDNT].

8. PLAZA REAL LTDA., Avenida 4 Oeste No. 6-103, Cali, Colombia; NIT # 890331686-1 (Colombia) [SDNT].

9. COMERCIALIZADORA DE CAPITALS LIMITADA, Carrera 48C No. 15 Sur-68, Medellin, Colombia; Carrera 43C No. 70-73, Piso 2, Medellin, Colombia; NIT # 811032525-4 (Colombia) [SDNT].

10. TECNICAL DIAGNOSTICCENTRO S.A. (f.k.a. TECNICAL DIAGNOSTICCENTRO E.U.), Carrera 48 No. 25AA Sur-13 Barrio Las Vegas, Envigado, Colombia; NIT # 811046795-7 (Colombia) [SDNT].

11. DE EXPOMINERIA S.A.S. (a.k.a. DE EXPOMINERIA S.A.), Calle 40, 81 a 15, Medellin, Colombia; NIT # 900328871-2 (Colombia) [SDNTK].

12. JOYERIA MVK, Calle 100 # 10-29, Turbo, Antioquia, Colombia; NIT # 8358401-7 (Colombia) [SDNTK].

13. C M F INTERNACIONAL, INC., Panama; RUC # 669832-1-462619 (Panama) [SDNTK].

14. GCH & SONS CO., INC. (a.k.a. GCH AND SONS CO. INC.), Panama City, Panama; RUC # 1164157-1-574556 (Panama) [SDNTK].

15. POLYTUN (ASIA) LIMITED, 20-F China Overseas Building, 139 Hennessy

Road, Wan Chai, Hong Kong; Business Registration Document # 38365991 (Hong Kong) [SDNTK].

16. THEA HOLDING & CO., INC. (a.k.a. THEA HOLDING AND CO., INC.), Panama; RUC # 1166577-1-575203 (Panama) [SDNTK].

17. AEROLINEAS AMANECER, S.A. DE C.V. (a.k.a. AEROAMANECER), Hangar 6 Zona C., Aviacion Gral. S/N, Toluca, Mexico 50200, Mexico; Paseo Tollocan 802 Poniente, Toluca de Lerdo, Estado de Mexico 50000, Mexico; Folio Mercantil No. 3613-17 (Mexico) [SDNTK].

18. DIARIO AMANECER, Paseo Tollocan 613 Ote., Col. Valle Verde, Toluca, Estado de Mexico C.P. 50130, Mexico; Gabino Barreda No. 86, Col. San Rafael, Del. Cuauhtemoc, Mexico, Distrito Federal C.P. 06470, Mexico; website [www.diarioamanecer.com.mx](http://www.diarioamanecer.com.mx) [SDNTK].

19. UNOMASUNO (a.k.a. UNO MAS UNO), Gabino Barreda No. 86, Col. San Rafael, Del. Cuauhtemoc, Mexico, Distrito Federal C.P. 06470, Mexico; website [www.unomasuno.com.mx](http://www.unomasuno.com.mx) [SDNTK].

20. GRUPO MPV, Km 14.1 Carretera El Salvador, Centro Comercial Paseo San Sebastian Local 92, Guatemala City, Guatemala; Registration ID 55544 (Guatemala) [SDNTK].

Additionally, on December 19, 2019, OFAC updated the SDN List for the following person, whose property and interests in property continue to be blocked under the relevant sanctions authority listed below.

#### *Individual*

From

MARTINEZ LASSO, Vielka Judith; DOB 09 Nov 1967; POB El Higo, San Carlos, Panama; Cedula No. 8-283-646 (Panama) (individual) [SDNTK] (Linked To: THEA HOLDING & CO., INC.; Linked To: INVERSIONES OMEGA INTERNACIONAL S.A.; Linked To: GCH & SONS CO., INC.; Linked To: EURO FINANCING, CORP.; Linked To: EUROCAMBIO INVESTMENT S.A.; Linked To: INVERSIONES TROL PANAMA S.A.; Linked To: EUROCAMBIO, S.A.; Linked To: BEAUTY STATION, S.A.).

To

MARTINEZ LASSO, Vielka Judith; DOB 09 Nov 1967; POB El Higo, San Carlos, Panama; Cedula No. 8-283-646 (Panama) (individual) [SDNTK] (Linked To: INVERSIONES OMEGA INTERNACIONAL S.A.; Linked To: EURO FINANCING, CORP.; Linked To: EUROCAMBIO INVESTMENT S.A.; Linked To: INVERSIONES TROL

PANAMA S.A.; Linked To: EUROCAMBIO, S.A.; Linked To: BEAUTY STATION, S.A.).

Dated: December 19, 2019.

**Gregory T. Gatjanis**, Associate Director, Office of Global Targeting, Office of Foreign Assets Control.

[FR Doc. 2019-27821 Filed 12-23-19; 8:45 am]

**BILLING CODE 4810-AL-P**

## **DEPARTMENT OF THE TREASURY**

### **Office of Foreign Assets Control**

#### **Notice of OFAC Sanctions Actions**

**AGENCY:** Office of Foreign Assets Control, Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

**DATES:** See **SUPPLEMENTARY INFORMATION** section for effective date(s).

**FOR FURTHER INFORMATION CONTACT:** OFAC: Associate Director for Global Targeting, tel.: 202-622-2420; Assistant Director for Licensing, tel.: 202-622-2480; Assistant Director for Regulatory Affairs, tel.: 202-622-4855; or Assistant Director for Sanctions Compliance & Evaluation, tel.: 202-622-2490.

#### **SUPPLEMENTARY INFORMATION:**

##### **Electronic Availability**

The Specially Designated Nationals and Blocked Persons List (SDN List) and additional information concerning OFAC sanctions programs are available on OFAC's website (<https://www.treasury.gov/ofac>).

##### **Notice of OFAC Actions**

On December 19, 2019, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

#### *Individuals*

1. CRUZ OVALLE, Juan Carlos (a.k.a. "EL HIELERO"), 5 Calle, 1-35, Zona 1, Tecun Uman, Ayutla, San Marcos, Guatemala; DOB 11 Sep 1975; alt. DOB 06 Nov 1975; POB Puerto Barrios, Izabal, Guatemala; nationality

Guatemala; Gender Male; Cedula No. L-1225277 (Guatemala); NIT #844191K (Guatemala); C.U.I. 1678215981801 (Guatemala) (individual) [SDNTK] (Linked To: JC CAR AUDIO; Linked To: STAR MARKET MELANYE). Designated pursuant to section 805(b)(2) of the Foreign Narcotics Kingpin Designation Act ("Kingpin Act"), 21 U.S.C. 1904(b)(2), for materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of Erik Salvador SUNIGA RODRIGUEZ, a foreign person identified as a significant foreign narcotics trafficker pursuant to the Kingpin Act.

2. JUI ESCOBAR, Wildin Tulio (Latin: JUI ESCOBAR, Wildin Tulio), 6 Calle 5-181, Tecun Uman Zona 2, Ayutla, San Marcos, Guatemala; Kilometro 252 y medio, Tecun Uman, San Marcos, Guatemala; DOB 03 Nov 1968; POB Coatepeque, Quetzaltenango, Guatemala; nationality Guatemala; Gender Male; Cedula No. L-1220608 (Guatemala); Passport 00020608K (Guatemala); NIT #7690495 (Guatemala); Driver's License No. 1112170002060K (Guatemala); C.U.I. 2891761150920 (Guatemala) (individual) [SDNTK] (Linked To: MULTISERVICIOS Y FINCA EL ENCANTO). Designated pursuant to section 805(b)(2) of the Foreign Narcotics Kingpin Designation Act ("Kingpin Act"), 21 U.S.C. 1904(b)(2), for materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of Erik Salvador SUNIGA RODRIGUEZ, a foreign person identified as a significant foreign narcotics trafficker pursuant to the Kingpin Act.

3. PARADA RODRIGUEZ, Alex Oswaldo (Latin: PARADA RODRIGUEZ, Alex Oswaldo) (a.k.a. "LA PANTERA"), 1 Calle 2 Ave. 1-15, Zona 1, Tecun Uman, Ayutla, San Marcos, Guatemala; DOB 15 Aug 1969; POB Tiquisate, Escuintla, Guatemala; nationality Guatemala; Gender Male; Cedula No. L-1220627 (Guatemala); NIT #66865883 (Guatemala); C.U.I. 1916038210506 (Guatemala) (individual) [SDNTK] (Linked To: SUNIGA RODRIGUEZ DRUG TRAFFICKING ORGANIZATION; Linked To: CEVICHERIA LA CONCHA). Designated pursuant to section 805(b)(2) of the Foreign Narcotics Kingpin Designation Act ("Kingpin Act"), 21 U.S.C. 1904(b)(2), for materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking

activities of the SUNIGA RODRIGUEZ DRUG TRAFFICKING ORGANIZATION, a foreign person identified as a significant foreign narcotics trafficker pursuant to the Kingpin Act.

4. SUNIGA RODRIGUEZ, Erik Salvador (Latin: SUÑIGA RODRÍGUEZ, Erik Salvador) (a.k.a. ZUNIGA RODRIGUEZ, Erick Salvador (Latin: ZÚÑIGA RODRÍGUEZ, Erick Salvador); a.k.a. "EL POCHO"), Caserio Las Delicias, Ayutla, San Marcos, Guatemala; DOB 19 Nov 1975; POB La Nueva Concepcion, Escuintla, Guatemala; nationality Guatemala; Gender Male; Cedula No. L1225520 (Guatemala); Passport 199573956 (Guatemala); NIT #7174713 (Guatemala); Driver's License No. 1995739560513 (Guatemala); C.U.I. 1995739560513 (Guatemala) (individual) [SDNTK]. Identified as a significant foreign narcotics trafficker pursuant to section 805(b)(1) of the Kingpin Act, 21 U.S.C. 1904(b)(1).

5. SUNIGA RODRIGUEZ, Jose Juan (Latin: SUÑIGA RODRÍGUEZ, Jose Juan), 1 Avenida 1-51, zona 1, Ayutla, San Marcos, Guatemala; DOB 17 Dec 1972; POB Guatemala City, Guatemala, Guatemala; nationality Guatemala; Gender Male; Cedula No. L-1227200 (Guatemala); Passport 164629459 (Guatemala); NIT #1198063K (Guatemala); C.U.I. 1646294590101 (Guatemala) (individual) [SDNTK] (Linked To: RANCHO LA DORADA). Designation Act ("Kingpin Act"), 21 U.S.C. 1904(b)(2), for materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of Erik Salvador SUNIGA RODRIGUEZ, a foreign person identified as a significant foreign narcotics trafficker pursuant to the Kingpin Act.

#### Entities

1. CEVICHIERIA LA CONCHA, Aldea Sanjon San Lorenzo, Tecun Uman, Ayutla, San Marcos, Guatemala; NIT #6686588-3 (Guatemala) [SDNTK]. Designated pursuant to section 805(b)(3) of the Kingpin Act, 21 U.S.C. 1904(b)(3), for being owned, controlled, or directed by, or acting for or on behalf of, Alex Oswaldo PARADA RODRIGUEZ, a foreign person designated pursuant to the Kingpin Act.

2. JC CAR AUDIO, 05 Calle, Zona 1, Tecun Uman, San Marcos, Guatemala; NIT #844191-K (Guatemala) [SDNTK]. Designated pursuant to section 805(b)(3) of the Kingpin Act, 21 U.S.C. 1904(b)(3), for being owned, controlled, or directed by, or acting for or on behalf of, Juan Carlos CRUZ OVALLE, a foreign person designated pursuant to the Kingpin Act.

3. MULTISERVICIOS Y FINCA EL ENCANTO, Kilometro 252 y medio, Tecun Uman, San Marcos, Guatemala; NIT #769049-5 (Guatemala); Trade License No. 333575-429-295 (Guatemala) [SDNTK]. Designated pursuant to section 805(b)(3) of the Kingpin Act, 21 U.S.C. 1904(b)(3), for being owned, controlled, or directed by, or acting for or on behalf of, Wildin Tulio JUI ESCOBAR, a foreign person designated pursuant to the Kingpin Act.

4. RANCHO LA DORADA, 2o Callejon, Caserio las Delicias, Ayutla, San Marcos, Guatemala; NIT #1198063-K (Guatemala) [SDNTK]. Designated pursuant to section 805(b)(3) of the Kingpin Act, 21 U.S.C. 1904(b)(3), for being owned, controlled, or directed by, or acting for or on behalf of, a Jose Juan SUNIGA RODRIGUEZ, foreign person designated pursuant to the Kingpin Act.

5. STAR MARKET MELANYE, 3A. Avenida 2-10 Zona 1, Tecun Uman, Ayutla, San Marcos, Guatemala; NIT #844191-K (Guatemala) [SDNTK]. Designated pursuant to section 805(b)(3) of the Kingpin Act, 21 U.S.C. 1904(b)(3), for being owned, controlled, or directed by, or acting for or on behalf of, a Juan Carlos CRUZ OVALLE, foreign person designated pursuant to the Kingpin Act.

6. SUNIGA RODRIGUEZ DRUG TRAFFICKING ORGANIZATION (Latin: SUÑIGA RODRIGUEZ DRUG TRAFFICKING ORGANIZATION) (a.k.a. "LOS POCHOS DTO"), Ayutla, San Marcos, Guatemala [SDNTK]. Identified as a significant foreign narcotics trafficker pursuant to section 805(b)(1) of the Kingpin Act, 21 U.S.C. 1904(b)(1).

Dated: December 19, 2019.

**Andrea M. Gacki,**

*Director, Office of Foreign Assets Control.*

[FR Doc. 2019-27817 Filed 12-23-19; 8:45 am]

**BILLING CODE 4810-AL-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request Relating to Relief for Certain Spouses of Military Personnel

**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 requirements relating to the relief and procedures for spouses of U.S. servicemembers who are working in or claiming residence or domicile in a U.S. territory.

**DATES:** Written comments should be received on or before February 24, 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](mailto:Rjoseph.Durbala@irs.gov).

#### SUPPLEMENTARY INFORMATION:

*Title:* Relief for Certain Spouses of Military Personnel.

*OMB Number:* 1545-2169.

*Document Number(s):* Notices: 2010-30, 2011-16, and 2012-41.

*Abstract:* The Military Spouses Residency Relief Act ("MSRRA") was signed into law on November 11, 2009 (Pub. L. 111-97). MSRRA applies to the 2009 and subsequent tax years. This collection provides guidance to taxpayers who claim the benefits of the tax provisions under MSRRA for the 2009 and subsequent tax years. These documents provide civilian spouses working in a U.S. territory but claiming a tax residence in one of the 50 States or the District of Columbia ("U.S. mainland") under MSRRA with an extension of time for paying the tax due the Internal Revenue Service ("IRS") (Internal Revenue Code § 6161). Additionally, these documents provide civilian spouses working on the U.S. mainland but claiming a tax residence in a U.S. territory under MSRRA with guidance on filing claims for refund of federal income taxes that their employers withheld and remitted to the IRS or estimated tax payments the taxpayers paid to the IRS.

*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:* Individuals or households.

*Estimated Number of Respondents:* 6,200.

*Estimated Time per Respondent:* 1 hr.

*Estimated Total Annual Burden Hours:* 6,200.

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: December 10, 2019.

**R. Joseph Durbala,**  
*IRS Tax Analyst.*

[FR Doc. 2019-27751 Filed 12-23-19; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF VETERANS AFFAIRS

### Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board, AMENDED Notice of Meetings

The Department of Veterans Affairs (VA) gives notice under Federal Advisory Committee Act that the subcommittees of the Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board (JBL/CS SMRB) will be held on the dates below from 8:00 a.m. to 5:00 p.m. (unless otherwise listed) at the 20 F Conference Center, 20 F Street NW, Washington, DC 20001, the Phoenix Park Hotel, 520 North Capital Street NW, Washington, DC 20001, and at the Office of Research and Development, 1100 First Street NE, Washington, DC 20002:

Meeting	Date(s)
BL/CS R&D Surgery Subcommittee .....	November 12, 2019.
BL/CS R&D Pulmonary Medicine Subcommittee .....	November 13, 2019.
BL/CS R&D Infectious Diseases-B Subcommittee .....	November 14, 2019.
BL/CS R&D Oncology-A/D Subcommittee .....	November 14, 2019.
BL/CS R&D Hematology Subcommittee .....	November 15, 2019.
BL/CS R&D Oncology-C Subcommittee .....	November 15, 2019.
BL/CS R&D Cellular & Molecular Medicine Subcommittee .....	November 18, 2019.
BL/CS R&D Oncology-B/E Subcommittee .....	November 18, 2019.
BL/CS R&D Mental Health & Behavioral Sciences-P .....	November 19, 2019.
BL/CS R&D Immunology & Dermatology-A Subcommittee .....	November 20, 2019.
BL/CS R&D Mental Health & Behavioral Sciences-C Subcommittee .....	November 20, 2019.
BL/CS R&D Cardiovascular Studies-A Subcommittee .....	November 21, 2019.
BL/CS R&D Endocrinology-A Subcommittee .....	November 21, 2019.
BL/CS R&D Neurobiology-C Subcommittee .....	November 21, 2019.
BL/CS R&D Neurobiology-E Subcommittee .....	November 22, 2019.
BL/CS R&D Endocrinology-B Subcommittee .....	November 25, 2019.
BL/CS R&D Mental Health & Behavioral Sciences-A Subcommittee .....	December 3, 2019.
BL/CS R&D Nephrology Subcommittee .....	December 3, 2019.
BL/CS R&D Neurobiology-B Subcommittee .....	December 3, 2019.
BL/CS R&D Infectious Diseases-A Subcommittee .....	December 4, 2019.
BL/CS R&D Neurobiology-F Subcommittee .....	December 4, 2019.
BL/CS R&D Cardiovascular Studies-B Subcommittee .....	December 5, 2019.
BL/CS R&D Gastroenterology Subcommittee .....	December 5, 2019.
BL/CS R&D Neurobiology-P Subcommittee .....	December 5, 2019.
BL/CS R&D Neurobiology-R Subcommittee .....	December 5, 2019.
BL/CS R&D Neurobiology-A Subcommittee .....	December 6, 2019.
BL/CS R&D Neurobiology-D Subcommittee .....	December 6, 2019.
BL/CS R&D Gulf War Research Subcommittee .....	December 6, 2019.
BL/CS R&D VA Psychiatrist Development Award Subcommittee .....	January 8, 2019.
Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board.	January 8, 2019.
BL/CS R&D Eligibility Subcommittee .....	January 17, 2020.

The purpose of the subcommittees is to provide advice on the scientific quality, budget, safety and mission relevance of investigator-initiated research proposals submitted for VA merit review evaluation. Proposals

submitted for review include various medical specialties within the general areas of biomedical, behavioral and clinical science research.

The subcommittee meetings will be closed to the public for the review,

discussion, and evaluation of initial and renewal research proposals. However, the JBL/CS SMRB teleconference meeting will be open to the public. Members of the public who wish to attend the open JBL/CS SMRB

teleconference may dial 1–800–767–1750, participant code 50064#. Members of the public who wish to make a statement at the JBL/CS SMRB meeting must notify Dr. Holly Krull via email at [holly.krull@va.gov](mailto:holly.krull@va.gov) by January 6, 2019.

These subcommittee meetings will be closed to the public for the review, discussion, and evaluation of initial and renewal research proposals, which involve reference to staff and consultant critiques of research proposals. Discussions will deal with scientific merit of each proposal and qualifications of personnel conducting

the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Additionally, premature disclosure of research information could significantly obstruct implementation of proposed agency action regarding the research proposals. As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing the subcommittee meetings is in accordance with Title 5 U.S.C. 552b(c)(6) and (9)(B).

Those who would like to obtain a copy of the minutes from the closed subcommittee meetings and rosters of

the subcommittee members should contact Holly Krull, Ph.D., Manager, Merit Review Program (10X2B), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, at (202) 632–8522 or email at [holly.krull@va.gov](mailto:holly.krull@va.gov).

Dated: December 18, 2019.

**LaTonya L. Small,**

*Federal Advisory Committee Management Officer.*

[FR Doc. 2019–27711 Filed 12–23–19; 8:45 am]

**BILLING CODE 8320–01–P**



# FEDERAL REGISTER

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Vol. 84

Thursday,

No. 247

December 26, 2019

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Part II

## Regulatory Information Service Center

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Introduction to the Fall 2019 Regulatory Plan



REGULATORY INFORMATION  
SERVICE CENTER

Introduction to the Fall 2019  
Regulatory Plan

This Fall 2019 Regulatory Plan continues to reflect a fundamental shift of the Regulatory state. Starting with confidence in private markets and individual choices, this Administration is reassessing existing regulatory burdens. This year marks year three in the Administration’s efforts under Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs” (January 30, 2017) to continue to lower the burden of regulation on the American people. This Administration also approaches the imposition of new regulatory requirements with care to ensure that regulations are consistent with law, understandable to the public and not hidden in indecipherable text or implementing guidance, correct a substantial market failure, and are net beneficial to the public. Furthermore, the Plan, along with the Unified Agenda of Regulatory and Deregulatory Actions (“Agenda”), identifies the Administration’s priorities in a manner that continues to be transparent and accessible to the public.

Federal Regulatory and Deregulatory  
Policy

The 2019 Plan both sets a new direction in regulatory policy and preserves many longstanding regulatory best practices. Stressing that, where statutorily permitted, “it is essential to manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations,” in E.O. 13771 President Trump directed all Federal agencies to issue two deregulatory actions for each new regulation implemented and to reduce net new regulatory costs to zero. He also created regulatory reform officers and regulatory reform taskforces in each agency in E.O. 13777 “Enforcing the Regulatory Reform

Agenda,” (February 24, 2017). Within the Office of Management and Budget, the Office of Information and Regulatory Affairs (OIRA) implements Federal regulatory policy and has led efforts to implement these presidential directives, working with agencies to identify deregulatory actions and eliminate regulatory burdens.

Regulatory Transparency

This Administration continues to work to make sure that the public is adequately informed about upcoming regulatory activity. Through the past few agenda cycles, OIRA has emphasized to the agencies that the Agenda and Plan should only contain items the Agencies truly believe are going to be pursued in the near future. For too long, the Agenda has contained old actions that agencies are not actively pursuing.

This Administration has also taken steps to make sure that agencies uphold the law governing the quality of the data and evidence they use to justify their policy and program choices. In a recent Memorandum, OMB reminded agencies that they must ensure that information that is likely to have a clear and substantial impact on important public policies or important private sector decisions is communicated transparently, clearly articulates the underlying assumptions and uncertainties, and prioritizes increased access to the data and models underlying such information.<sup>1</sup> In addition, OMB’s guidance on implementing The Foundations for Evidence-Based Policymaking Act of 2018 emphasizes the importance of increasing transparency and trust about the data brought to bear in decision-making and the need to align evidence building with Administration priorities, including regulatory and deregulatory activities.<sup>2</sup>

In addition, this Administration has taken several significant steps to make sure that regulation is not created

through other means, and that both the public and Congress have adequate notice of agency intentions. Recently, the President signed Executive Order 13891 titled “Promoting the Rule of Law through Improved Agency Guidance.” This E.O. emphasizes that Americans deserve an open and fair regulatory process that imposes new obligations on the public only when consistent with applicable law and after an agency follows appropriate procedures. The E.O. makes it the policy of the executive branch to require that agencies treat guidance documents as non-binding both in law and in practice, take public input into account when appropriate in formulating guidance documents, and make guidance documents readily available to the public. On April 11, 2019, OMB also issued Memorandum M–19–14, “Guidance on Compliance with the Congressional Review Act.” Memorandum M–19–14 updates existing OMB guidance to agencies with regard to both OIRA and agency responsibilities under the Congressional Review Act (CRA) by (1) clarifying that guidance documents fall within the definition of “rule” under the CRA and (2) making the process by which OIRA makes “major determinations” more consistent and thorough, including through the receipt of adequate agency analysis on whether a rule is major.

Conclusion

The agency plans herein discussed push against the inertia of steadily expanding regulatory burdens and represent this Administration’s commitment to reducing regulations that no longer benefit our society. The plans also send a clear message that the public can invest and plan for the future without the looming threat of being surprised by burdensome and unnecessary new regulations. OIRA looks forward to working with the agencies and all interested stakeholders to deliver meaningful regulatory reform to the American people.

DEPARTMENT OF AGRICULTURE

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
1 .....	Establishment of a Domestic Hemp Production Program .....	0581–AD82	Final Rule Stage.
2 .....	Importation, Interstate Movement, and Release Into the Environment of Certain Genetically Engineered Organisms.	0579–AE47	Final Rule Stage.
3 .....	Revision of Categorical Eligibility in the Supplemental Nutrition Assistance Program (SNAP).	0584–AE62	Proposed Rule Stage.

<sup>1</sup> OMB M–19–15. Memorandum for the Heads of Executive Departments and Agencies: “Improving Implementation of the Information Quality Act.” April 24, 2019 <https://www.whitehouse.gov/wp-content/uploads/2019/04/M-19-15.pdf>.

<sup>2</sup> OMB M 19–23. Memorandum for the heads of Executive Departments and Agencies. *Phase 1 Implementation of the Foundations for Evidence-Based Policymaking Act of 2018: Leaning Agendas, Personnel, and Planning Guidance.* <https://www.whitehouse.gov/wp-content/uploads/2019/07/M-19-23.pdf>. Federal Data Strategy <https://strategy.data.gov/action-plan/>; <https://strategy.data.gov/practices/>.

## DEPARTMENT OF AGRICULTURE—Continued

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
4 .....	Supplemental Nutrition Assistance Program (SNAP): Standardization of State Heating and Cooling Standard Utility Allowances.	0584–AE69	Proposed Rule Stage.
5 .....	Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults Without Dependents.	0584–AE57	Final Rule Stage.
6 .....	Prior Label Approval System: Expansion of Generic Label Approval .....	0583–AD78	Proposed Rule Stage.
7 .....	Alaska Roadless Rule .....	0596–AD37	Proposed Rule Stage.
8 .....	National Environmental Policy Act Procedures .....	0596–AD31	Final Rule Stage.
9 .....	Servicing Regulation for the Rural Utilities Service (RUS) Telecommunications Programs.	0572–AC41	Final Rule Stage.
10 .....	OneRD Guaranteed Loan Regulation .....	0572–AC43	Final Rule Stage.
11 .....	Rural Broadband Grant, Loan, and Loan Guarantee Program .....	0572–AC46	Final Rule Stage.

## DEPARTMENT OF COMMERCE

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
12 .....	Fishery Disaster Determinations and Assistance Under the Magnuson Stevens Act and Interjurisdictional Fisheries Act.	0648–BI97	Proposed Rule Stage.
13 .....	NOAA Mitigation Policy .....	0648–BJ32	Proposed Rule Stage.
14 .....	Taking and Importing Marine Mammals: Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico.	0648–BB38	Final Rule Stage.
15 .....	Magnuson-Stevens Fisheries Conservation and Management Act; Traceability Information Program for Seafood.	0648–BH87	Final Rule Stage.
16 .....	Trademark Fee Adjustment .....	0651–AD42	Proposed Rule Stage.
17 .....	Setting and Adjusting Patent Fees During Fiscal Year 2020 .....	0651–AD31	Final Rule Stage.

## DEPARTMENT OF DEFENSE

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
18 .....	Family Advocacy Program .....	0790–AI49	Proposed Rule Stage.
19 .....	Limitations on Terms of Consumer Credit Extended to Service Members and Dependents, Amendment.	0790–AK79	Proposed Rule Stage.
20 .....	Department of Defense (DoD)-Defense Industrial Base (DIB) Cybersecurity (CS) Activities.	0790–AK86	Final Rule Stage.
21 .....	Contractor Purchasing System Review Threshold (DFARS Case 2017–D038) .....	0750–AJ48	Final Rule Stage.
22 .....	Covered Telecommunications Equipment or Services (DFARS Case 2018–D022)	0750–AJ84	Final Rule Stage.
23 .....	Prompt Payments of Small Business Subcontractors (DFARS Case 2018–D068)	0750–AK25	Final Rule Stage.
24 .....	Performance-Based Payments (DFARS Case 2019–D002) .....	0750–AK37	Final Rule Stage.
25 .....	Nonmanufacturer Rule for 8(a) Participants (DFARS Case 2019–D004) .....	0750–AK39	Final Rule Stage.
26 .....	Revised Eligibility Criteria at Arlington National Cemetery .....	0702–AB08	Proposed Rule Stage.
27 .....	Natural Disaster Procedures: Preparedness, Response, and Recovery Activities of the Corps of Engineers.	0710–AA78	Proposed Rule Stage.
28 .....	Compensatory Mitigation for Losses of Aquatic Resources—Review and Approval of Mitigation Banks and In-Lieu Fee Programs.	0710–AA83	Proposed Rule Stage.
29 .....	Reissuance and Modification of Nationwide Permits .....	0710–AA84	Proposed Rule Stage.
30 .....	Policy for Domestic, Municipal, and Industrial Water Supply Uses of Reservoir Projects Operated by the Department of the Army, U.S. Army Corps of Engineers.	0710–AA72	Final Rule Stage.
31 .....	Revised Definition of “Waters of the United States” .....	0710–AA80	Final Rule Stage.

## DEPARTMENT OF EDUCATION

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
32 .....	Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.	1870–AA14	Final Rule Stage.
33 .....	EDGAR Revisions .....	1875–AA14	Proposed Rule Stage.
34 .....	Ensuring Student Access to High Quality and Innovative Postsecondary Educational Programs.	1840–AD38	Proposed Rule Stage.
35 .....	Eligibility of Faith-Based Entities and Activities—Title IV Programs .....	1840–AD40	Proposed Rule Stage.
36 .....	TEACH Grants .....	1840–AD44	Proposed Rule Stage.

## DEPARTMENT OF ENERGY

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
37 .....	Energy Conservation Standards for Manufactured Housing .....	1904-AC11	Proposed Rule Stage.
38 .....	Procedures, Interpretations, and Policies for Consideration of New or Revised Energy Conservation Standards for Consumer Products.	1904-AD38	Final Rule Stage.
39 .....	Notice of Proposed Rulemaking to Consider Establishing a New Product Class for Residential Dishwashers.	1904-AE35	Final Rule Stage.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
40 .....	Equal Participation of Faith-Based Organizations in HHS's Programs and Activities: Implementation of Executive Order 13931.	0991-AC13	Proposed Rule Stage.
41 .....	Establishment of Safeguards and Program Integrity Requirements for HHS-Funded Extramural Research Involving Human Fetal Tissue.	0991-AC15	Proposed Rule Stage.
42 .....	Revisions to the Safe Harbors Under the Anti-Kickback Statute and Beneficiary Inducements Civil Monetary Penalties Rules Regarding Beneficiary Inducement.	0936-AA10	Proposed Rule Stage.
43 .....	HIPAA Privacy: Changes To Support, and Remove Barriers to, Coordinated Care and Individual Engagement.	0945-AA00	Proposed Rule Stage.
44 .....	Nondiscrimination in Health and Health Education Programs or Activities .....	0945-AA11	Final Rule Stage.
45 .....	21st Century Cures Act: Interoperability, Information Blocking, and the ONC Health IT Certification Program.	0955-AA01	Final Rule Stage.
46 .....	Coordinating Care and Information Sharing in the Treatment of Substance Use Disorders.	0930-AA32	Final Rule Stage.
47 .....	Requirements for Tobacco Product Manufacturing Practice .....	0910-AH91	Proposed Rule Stage.
48 .....	Nutrient Content Claims, Definition of Term: Healthy .....	0910-AI13	Proposed Rule Stage.
49 .....	Modified Risk Tobacco Product Applications .....	0910-AI38	Proposed Rule Stage.
50 .....	Importation of Prescription Drugs .....	0910-AI45	Proposed Rule Stage.
51 .....	Removing Financial Disincentives to Living Organ Donation .....	0906-AB23	Proposed Rule Stage.
52 .....	Medicaid Fiscal Accountability (CMS-2393-P) .....	0938-AT50	Proposed Rule Stage.
53 .....	Modernizing and Clarifying the Physician Self-Referral Regulations (CMS-1720-P).	0938-AT64	Proposed Rule Stage.
54 .....	Medicare Coverage of Innovative Technologies (CMS-3372-P) .....	0938-AT88	Proposed Rule Stage.
55 .....	International Pricing Index Model For Medicare Part B Drugs (CMS-5528-P) .....	0938-AT91	Proposed Rule Stage.
56 .....	Proposed Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Program for Contract Year 2021 (CMS-4190-P).	0938-AT97	Proposed Rule Stage.
57 .....	HHS Notice of Benefit and Payment Parameters for 2021 (CMS-9916-P) .....	0938-AT98	Proposed Rule Stage.
58 .....	Organ Procurement Organizations (OPOs) (CMS-3380-P) .....	0938-AU02	Proposed Rule Stage.
59 .....	Transparency in Coverage (CMS-9915-P) .....	0938-AU04	Proposed Rule Stage.
60 .....	Medicaid and CHIP Managed Care (CMS-2408-F) .....	0938-AT40	Final Rule Stage.
61 .....	Exchange Program Integrity (CMS-9922-F) .....	0938-AT53	Final Rule Stage.
62 .....	Strengthening Work in TANF .....	0970-AC79	Proposed Rule Stage.
63 .....	Adoption and Foster Care Analysis and Reporting System .....	0970-AC72	Final Rule Stage.
64 .....	Head Start Service Duration Requirements .....	0970-AC73	Final Rule Stage.

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Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
65 .....	Strengthening the H-1B Nonimmigrant Visa Classification Program .....	1615-AC13	Proposed Rule Stage.
66 .....	Collection and Use of Biometrics by U.S. Citizenship and Immigration Services ...	1615-AC14	Proposed Rule Stage.
67 .....	Removing H-4 Dependent Spouses From the Classes of Aliens Eligible for Employment Authorization.	1615-AC15	Proposed Rule Stage.
68 .....	U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements.	1615-AC18	Proposed Rule Stage.
69 .....	Removal of 30-Day Processing Provision for Asylum Applicant-Related Form I-765 Employment Authorization Applications.	1615-AC19	Proposed Rule Stage.
70 .....	Electronic Processing of Immigration Benefit Requests .....	1615-AC20	Proposed Rule Stage.
71 .....	Improvements to the Medical Certification for Disability Exceptions Processing ...	1615-AC23	Proposed Rule Stage.
72 .....	Procedures for Asylum Applications and Reasonable Fear Determinations .....	1615-AC24	Proposed Rule Stage.
73 .....	Asylum Application, Interview, and Employment Authorization for Applicants .....	1615-AC27	Proposed Rule Stage.
74 .....	Enhancing the Integrity of the Affidavit of Support .....	1615-AC39	Proposed Rule Stage.
75 .....	Removal of International Entrepreneur Parole Program .....	1615-AC04	Final Rule Stage.
76 .....	Removal of Certain International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as Amended (STCW) Training Requirements.	1625-AC48	Proposed Rule Stage.
77 .....	Harmonization of the Fees and Application Procedures for the Global Entry and SENTRI Programs and Other Changes.	1651-AB34	Proposed Rule Stage.

## DEPARTMENT OF HOMELAND SECURITY—Continued

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
78 .....	Collection of Biometric Data From Aliens Upon Entry To and Exit From the United States.	1651–AB12	Final Rule Stage.
79 .....	Implementation of the Electronic System for Travel Authorization (ESTA) at U.S. Land Borders.	1651–AB14	Final Rule Stage.
80 .....	Mandatory Advance Electronic Information for International Mail Shipments .....	1651–AB33	Final Rule Stage.
81 .....	Vetting of Certain Surface Transportation Employees .....	1652–AA69	Proposed Rule Stage.
82 .....	Amending Vetting Requirements for Employees With Access to a Security Identification Display Area (SIDA).	1652–AA70	Proposed Rule Stage.
83 .....	Protection of Sensitive Security Information .....	1652–AA08	Final Rule Stage.
84 .....	Flight Training for Aliens and Other Designated Individuals; Security Awareness Training for Flight School Employees.	1652–AA35	Final Rule Stage.
85 .....	Security Training for Surface Transportation Employees .....	1652–AA55	Final Rule Stage.
86 .....	Visa Security Program Fee .....	1653–AA77	Proposed Rule Stage.
87 .....	Establishing a Maximum Period of Authorized Stay for Students, Exchange Visitors, and Media Representatives.	1653–AA78	Proposed Rule Stage.
88 .....	Cost of Assistance Estimates in the Disaster Declaration Process for the Public Assistance Program.	1660–AA99	Proposed Rule Stage.
89 .....	Update to FEMA's Regulations on Rulemaking Procedures .....	1660–AA91	Final Rule Stage.

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Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
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91 .....	Economic Growth Regulatory Relief, and Consumer Protection Act: Implementation of New Physical Conditions Inspection Standards (FR–6086).	2577–AD05	Proposed Rule Stage.

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Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
92 .....	Revisions to the Requirements for Exploratory Drilling on the Arctic Outer Continental Shelf.	1082–AA01	Proposed Rule Stage.
93 .....	Risk Management, Financial Assurance and Loss Prevention .....	1082–AA02	Proposed Rule Stage.
94 .....	Deregulating and Streamlining Renewable Energy Regulations .....	1010–AE04	Proposed Rule Stage.
95 .....	Non-Energy Solid Leasable Mineral Royalty Rate Reduction .....	1004–AE58	Proposed Rule Stage.
96 .....	Revisions to the Oil and Gas Site Security, Oil Measurement, and Gas Measurement Regulations.	1004–AE59	Proposed Rule Stage.

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98 .....	Implementing Legal Requirements Regarding the Equal Opportunity Clause's Religious Exemption.	1250–AA09	Final Rule Stage.
99 .....	Trust Annual Reports .....	1245–AA09	Final Rule Stage.
100 .....	Regular and Basic Rates Under the Fair Labor Standards Act .....	1235–AA24	Final Rule Stage.
101 .....	Joint Employer Status Under the Fair Labor Standards Act .....	1235–AA26	Final Rule Stage.
102 .....	Trade Adjustment Assistance for Workers .....	1205–AB78	Proposed Rule Stage.
103 .....	Apprenticeship Programs, Labor Standards for Registration, Amendment of Regulations.	1205–AB85	Final Rule Stage.
104 .....	Default Electronic Disclosures by Employee Pension Benefit Plans Under ERISA	1210–AB90	Proposed Rule Stage.
105 .....	Exposure to Beryllium to Review General Industry Provisions .....	1218–AD20	Final Rule Stage.

## DEPARTMENT OF VETERANS AFFAIRS

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
106 .....	Program of Comprehensive Assistance for Family Caregivers Amendments Under the VA MISSION Act of 2018.	2900–AQ48	Proposed Rule Stage.

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Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
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108 .....	Addition of Certain Per- and Polyfluoroalkyl Substances (PFAS) to the Toxics Release Inventory.	2070–AK51	Prerule Stage.
109 .....	Regulatory Determinations for Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfate (PFOS).	2040–AF93	Prerule Stage.
110 .....	Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act.	2060–AM75	Proposed Rule Stage.
111 .....	Review of the National Ambient Air Quality Standards for Particulate Matter .....	2060–AS50	Proposed Rule Stage.
112 .....	Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Project Emissions Accounting.	2060–AT89	Proposed Rule Stage.
113 .....	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Review.	2060–AT90	Proposed Rule Stage.
114 .....	Renewable Fuel Standard Program: Modification of Statutory Volume Targets .....	2060–AU28	Proposed Rule Stage.
115 .....	Review of the Primary National Ambient Air Quality Standards for Ozone .....	2060–AU40	Proposed Rule Stage.
116 .....	Renewable Fuel Standard Program: Standards for 2020, Biomass-Based Diesel Volumes for 2021, and Other Changes.	2060–AU42	Proposed Rule Stage.
117 .....	Increasing Consistency and Transparency in Considering Benefits and Costs in the Clean Air Act Rulemaking Process.	2060–AU51	Proposed Rule Stage.
118 .....	Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl Sulfonate Chemical Substances; Significant New Use Rule.	2070–AJ99	Proposed Rule Stage.
119 .....	Pesticides; Agricultural Worker Protection Standard; Revision of the Application Exclusion Zone Requirements.	2070–AK49	Proposed Rule Stage.
120 .....	Review of Dust-Lead Post-Abatement Clearance Levels .....	2070–AK50	Proposed Rule Stage.
121 .....	Protectants (Pips) To Reflect Newer Technologies .....	2070–AK54	Proposed Rule Stage.
122 .....	Strengthening Transparency in Regulatory Science .....	2080–AA14	Proposed Rule Stage.
123 .....	Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; Enhancing Public Access to Information; Reconsideration of Beneficial Use Criteria and Piles.	2050–AG98	Proposed Rule Stage.
124 .....	Financial Responsibility Requirements Under CERCLA Section 108(b) for the Chemical Manufacturing Industry.	2050–AH05	Proposed Rule Stage.
125 .....	Financial Responsibility Requirements Under CERCLA Section 108(b) for the Petroleum and Coal Products Manufacturing Industry.	2050–AH06	Proposed Rule Stage.
126 .....	Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities: Federal CCR Permit Program.	2050–AH07	Proposed Rule Stage.
127 .....	Designating PFOA and PFOS as CERCLA Hazardous Substances .....	2050–AH09	Proposed Rule Stage.
128 .....	Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; A Holistic Approach to Closure Part A: Deadline to Initiate Closure.	2050–AH10	Proposed Rule Stage.
129 .....	Hazardous and Solid Waste Management System: Disposal of CCR; A Holistic Approach to Closure Part B: Alternate Demonstration for Unlined Surface Impoundments; Implementation of Closure; Legacy Units.	2050–AH11	Proposed Rule Stage.
130 .....	National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions.	2040–AF15	Proposed Rule Stage.
131 .....	Peak Flows Management .....	2040–AF81	Proposed Rule Stage.
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133 .....	Clean Water Act Section 404(c) Regulatory Revision .....	2040–AF88	Proposed Rule Stage.
134 .....	Vessel Incidental Discharge Act of 2018—Development of National Performance Standards for Marine Pollution Control Devices for Discharges Incidental to the Normal Operation of Commercial Vessels.	2040–AF92	Proposed Rule Stage.
135 .....	Review of Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units.	2060–AT56	Final Rule Stage.
136 .....	NESHAP: Coal- and Oil-Fired Electric Utility Steam Generating Units—Reconsideration of Supplemental Cost Finding and Residual Risk and Technology Review.	2060–AT99	Final Rule Stage.
137 .....	The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks.	2060–AU09	Final Rule Stage.
138 .....	Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act: Reconsideration of Amendments.	2050–AG95	Final Rule Stage.
139 .....	Revised Definition of “Waters of the United States” (Step 2) .....	2040–AF75	Final Rule Stage.

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
140 .....	Federal Sector Equal Employment Opportunity Process .....	3046–AB00	Proposed Rule Stage.
141 .....	Amendments to Regulations Under the Americans With Disabilities Act .....	3046–AB10	Proposed Rule Stage.
142 .....	Amendments to Regulations Under the Genetic Information Nondiscrimination Act of 2008.	3046–AB11	Proposed Rule Stage.

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION—Continued

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
143 .....	Joint Employer Status Under the Federal Equal Employment Opportunity Stat- utes.	3046–AB16	Proposed Rule Stage.

## SMALL BUSINESS ADMINISTRATION

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
144 .....	Small Business HUBZone Program and Government Contracting Programs .....	3245–AG38	Final Rule Stage.
145 .....	Women-Owned Small Business and Economically Disadvantaged Women- Owned Small Business—Certification.	3245–AG75	Final Rule Stage.

## SOCIAL SECURITY ADMINISTRATION

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
146 .....	Hearings Held by Administrative Appeals Judges of the Appeals Council .....	0960–AI25	Proposed Rule Stage.
147 .....	Rules Regarding the Frequency and Notice of Continuing Disability Reviews .....	0960–AI27	Proposed Rule Stage.
148 .....	Revising Evaluation of Vocational Factors in the Disability Determination Process	0960–AI40	Proposed Rule Stage.
149 .....	Removing Inability to Communicate in English as an Education Category .....	0960–AH86	Final Rule Stage.
150 .....	Setting the Manner for the Appearance of Parties and Witnesses at a Hearing ....	0960–AI09	Final Rule Stage.

## DOD/GSA/NASA (FAR)

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
151 .....	Federal Acquisition Regulation (FAR); FAR Case 2013–002; Reporting of Non- conforming Items to the Government-Industry Data Exchange Program.	9000–AM58	Final Rule Stage.

## CONSUMER PRODUCT SAFETY COMMISSION

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
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153 .....	Regulatory Options for Table Saws .....	3041–AC31	Final Rule Stage.

## NATIONAL INDIAN GAMING COMMISSION

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
154 .....	Definitions .....	3141–AA32	Proposed Rule Stage.
155 .....	Management Contracts .....	3141–AA58	Proposed Rule Stage.
156 .....	Buy Indian Goods and Services (BIGS) .....	3141–AA62	Proposed Rule Stage.

## NUCLEAR REGULATORY COMMISSION

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
157 .....	Enhanced Weapons for Spent Fuel Storage Installations and Transportation— Section 161A Authority [NRC–2015–0018].	3150–AJ55	Prerule Stage.
158 .....	NuScale Small Modular Reactor Design Certification [NRC–2017–0029] .....	3150–AJ98	Prerule Stage.
159 .....	Low-Level Radioactive Waste Disposal [NRC–2011–0012] .....	3150–AI92	Proposed Rule Stage.
160 .....	Enhanced Security for Special Nuclear Material [NRC–2014–0118] .....	3150–AJ41	Proposed Rule Stage.
161 .....	Cyber Security at Fuel Cycle Facilities [NRC–2015–0179] .....	3150–AJ64	Proposed Rule Stage.
162 .....	Approval of American Society of Mechanical Engineers Code Cases, Revision 39 [NRC–2017–0025].	3150–AJ94	Proposed Rule Stage.
163 .....	2019 Edition of the American Society of Mechanical Engineers Boiler and Pres- sure Vessel Code [NRC–2017–0226].	3150–AK09	Proposed Rule Stage.
164 .....	Revision of Fee Schedules: Fee Recovery for FY 2020 [NRC–2017–0228] .....	3150–AK10	Proposed Rule Stage.

## REGULATORY INFORMATION SERVICE CENTER

### Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions—Fall 2019

**AGENCY:** Regulatory Information Service Center.

**ACTION:** Introduction to the Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions.

**SUMMARY:** Publication of the Unified Agenda of Regulatory and Deregulatory Actions and the Regulatory Plan represent key components of the regulatory planning mechanism prescribed in Executive Order 12866, “Regulatory Planning and Review,” Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs,” January 30, 2017, and Executive Order 13777, “Enforcing the Regulatory Reform Agenda,” February 24, 2017. The fall editions of the Unified Agenda include the agency regulatory plans required by E.O. 12866, which identify regulatory priorities and provide additional detail about the most important significant regulatory actions that agencies expect to take in the coming year.

In addition, the Regulatory Flexibility Act requires that agencies publish semiannual “regulatory flexibility agendas” describing regulatory actions they are developing that will have significant effects on small businesses and other small entities (5 U.S.C. 602).

The Unified Agenda of Regulatory and Deregulatory Actions (Unified Agenda), published in the fall and spring, helps agencies fulfill all of these requirements. All federal regulatory agencies have chosen to publish their regulatory agendas as part of this publication. The complete Unified Agenda and Regulatory Plan can be found online at <http://www.reginfo.gov> and a reduced print version can be found in the **Federal Register**. Information regarding obtaining printed copies can also be found on the Reginfo.gov website (or below, VI. How can users get copies of the Plan and the Agenda?).

The fall 2019 Unified Agenda publication appearing in the **Federal Register** includes the Regulatory Plan and agency regulatory flexibility agendas, in accordance with the publication requirements of the Regulatory Flexibility Act. Agency regulatory flexibility agendas contain only those Agenda entries for rules that are likely to have a significant economic impact on a substantial number of small entities and entries that have been

selected for periodic review under section 610 of the Regulatory Flexibility Act.

The complete fall 2019 Unified Agenda contains the Regulatory Plans of 28 Federal agencies and 66 Federal agency regulatory agendas.

**ADDRESSES:** Regulatory Information Service Center (MVE), General Services Administration, 1800 F Street NW, 2219F, Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:** For further information about specific regulatory actions, please refer to the agency contact listed for each entry.

To provide comment on or to obtain further information about this publication, contact: John C. Thomas, Executive Director, Regulatory Information Service Center (MR), U.S. General Services Administration, 1800 F Street NW, Washington, DC 20405, (202) 482–7340. You may also send comments to us by email at: [risc@gsa.gov](mailto:risc@gsa.gov).

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- IV. What information appears for each entry?
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- VI. How can users get copies of the Plan and the Agenda?

Introduction to the Fall 2019 Regulatory Plan

#### Agency Regulatory Plans

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Department of Health and Human Services  
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Department of Housing and Urban Development  
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##### Other Executive Agencies

Architectural and Transportation Barriers Compliance Board  
Environmental Protection Agency  
Equal Employment Opportunity Commission  
General Services Administration  
National Aeronautics and Space Administration  
National Archives and Records Administration  
Office of Personnel Management  
Pension Benefit Guaranty Corporation

Small Business Administration  
Social Security Administration

##### Independent Regulatory Agencies

Consumer Financial Protection Bureau  
Consumer Product Safety Commission  
Federal Trade Commission  
National Indian Gaming Commission  
Nuclear Regulatory Commission

#### Agency Agendas

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Department of Commerce  
Department of Defense  
Department of Energy  
Department of Health and Human Services  
Department of Homeland Security  
Department of the Interior  
Department of Labor  
Department of Transportation  
Department of the Treasury  
Department of Veterans Affairs

##### Other Executive Agencies

Architectural and Transportation Barriers Compliance Board  
Environmental Protection Agency  
General Services Administration  
National Aeronautics and Space Administration  
Office of Management and Budget  
Railroad Retirement Board  
Small Business Administration

##### Joint Authority

Department of Defense/General Services Administration/National Aeronautics and Space Administration (Federal Acquisition Regulation)

##### Independent Regulatory Agencies

Commodity Futures Trading Commission  
Consumer Financial Protection Bureau  
Consumer Product Safety Commission  
Federal Communications Commission  
Federal Reserve System  
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Introduction to the Fall 2019 Regulatory Plan

#### Agency Regulatory Plans

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Department of Energy



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 Department of Labor  
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 Department of Treasury  
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 National Archives and Records Administration  
 Office of Personnel Management  
 Pension Benefit Guaranty Corporation  
 Small Business Administration  
 Social Security Administration  
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#### *Independent Regulatory Agencies*

Consumer Product Safety Commission  
 Federal Trade Commission  
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 Department of Defense  
 Department of Energy  
 Department of Health and Human Services  
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 Department of Transportation  
 Department of Treasury  
 Department of Veterans Affairs

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Architectural and Transportation Barriers Compliance Board  
 Environmental Protection Agency  
 Federal Acquisition Regulation  
 General Services Administration  
 National Aeronautics and Space Administration  
 Office of Management and Budget  
 Railroad Retirement Board  
 Small Business Administration

##### **Independent Agencies**

Commodity Futures Trading Commission  
 Consumer Financial Protection Bureau  
 Product Safety Commission  
 Federal Communication Commission  
 Federal Reserve System  
 National Labor Relations Board  
 Nuclear Regulatory Commission  
 Securities and Exchange Commission

## **Introduction to the Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions**

### **I. What are the Regulatory Plan and the Unified Agenda?**

*The Regulatory Plan* serves as a defining statement of the

Administration's regulatory and deregulatory policies and priorities. The Plan is part of the fall edition of the Unified Agenda. Each participating agency's regulatory plan contains: (1) A narrative statement of the agency's regulatory and deregulatory priorities, and, for the most part, (2) a description of the most important significant regulatory and deregulatory actions that the agency reasonably expects to issue in proposed or final form during the upcoming fiscal year. This edition includes the regulatory plans of 30 agencies.

*The Unified Agenda* provides information about regulations that the Government is considering or reviewing. The Unified Agenda has appeared in the **Federal Register** twice each year since 1983 and has been available online since 1995. The complete Unified Agenda is available to the public at <http://www.reginfo.gov>. The online Unified Agenda offers flexible search tools and access to the historic Unified Agenda database to 1995. The complete online edition of the Unified Agenda includes regulatory agendas from 65 Federal agencies. Agencies of the United States Congress are not included.

The fall 2019 Unified Agenda publication appearing in the **Federal Register** consists of The Regulatory Plan and agency regulatory flexibility agendas, in accordance with the publication requirements of the Regulatory Flexibility Act. Agency regulatory flexibility agendas contain only those Agenda entries for rules that are likely to have a significant economic impact on a substantial number of small entities and entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act. Printed entries display only the fields required by the Regulatory Flexibility Act. Complete agenda information for those entries appears, in a uniform format, in the online Unified Agenda at <http://www.reginfo.gov>.

The following agencies have no entries for inclusion in the printed regulatory flexibility agenda. An asterisk (\*) indicates agencies that appear in The Regulatory Plan. The regulatory agendas of these agencies are available to the public at <http://reginfo.gov>.

##### *Cabinet Departments*

Department of Education \*  
 Department of Justice \*  
 Department of Housing and Urban Development \*  
 Department of State

##### *Other Executive Agencies*

Agency for International Development

American Battle Monuments

Commission  
 Commission on Civil Rights  
 Committee for Purchase From the People Who Are Blind or Severely Disabled  
 Corporation for National and Community Service  
 Council on Environmental Quality  
 Court Services and Offender Supervision Agency for the District of Columbia  
 Equal Employment Opportunity Commission \*  
 Federal Mediation Conciliation Service  
 Institute of Museum and Library Services  
 National Archives and Records Administration \*  
 National Endowment for the Arts  
 National Endowment for the Humanities  
 National Mediation Board  
 Office of Government Ethics  
 Office of Personnel Management \*  
 Peace Corps  
 Pension Benefit Guaranty Corporation \*  
 Presidio Trust  
 Private Civil Liberties Oversight Board  
 Social Security Administration \*  
 U.S. Agency for Global Media  
 United States International Development Finance Corporation

##### *Independent Agencies*

Farm Credit Administration  
 Federal Deposit Insurance Corporation  
 Federal Energy Regulatory Commission  
 Federal Housing Finance Agency  
 Federal Maritime Commission  
 Federal Mine Safety and Health Review Commission  
 Federal Trade Commission \*  
 National Credit Union Administration  
 National Indian Gaming Commission \*  
 National Transportation Safety Board  
 Postal Regulatory Commission  
 U.S. Chemical Safety and Hazard Investigation Board

The Regulatory Information Service Center compiles the Unified Agenda for the Office of Information and Regulatory Affairs (OIRA), part of the Office of Management and Budget. OIRA is responsible for overseeing the Federal Government's regulatory, paperwork, and information resource management activities, including implementation of Executive Order 12866 (incorporated in Executive Order 13563). The Center also provides information about Federal regulatory activity to the President and his Executive Office, the Congress, agency officials, and the public.

The activities included in the Agenda are, in general, those that will have a regulatory action within the next 12 months. Agencies may choose to include activities that will have a longer timeframe than 12 months. Agency

agendas also show actions or reviews completed or withdrawn since the last Unified Agenda. Executive Order 12866 does not require agencies to include regulations concerning military or foreign affairs functions or regulations related to agency organization, management, or personnel matters.

Agencies prepared entries for this publication to give the public notice of their plans to review, propose, and issue regulations. They have tried to predict their activities over the next 12 months as accurately as possible, but dates and schedules are subject to change.

Agencies may withdraw some of the regulations now under development, and they may issue or propose other regulations not included in their agendas. Agency actions in the rulemaking process may occur before or after the dates they have listed. The Regulatory Plan and Unified Agenda do not create a legal obligation on agencies to adhere to schedules in this publication or to confine their regulatory activities to those regulations that appear within it.

## II. Why are the Regulatory Plan and the Unified Agenda published?

*The Regulatory Plan and the Unified Agenda* helps agencies comply with their obligations under the Regulatory Flexibility Act and various Executive orders and other statutes.

### *Regulatory Flexibility Act*

*The Regulatory Flexibility Act* requires agencies to identify those rules that may have a significant economic impact on a substantial number of small entities (5 U.S.C. 602). Agencies meet that requirement by including the information in their submissions for the Unified Agenda. Agencies may also indicate those regulations that they are reviewing as part of their periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610). Executive Order 13272, "Proper Consideration of Small Entities in Agency Rulemaking," signed August 13, 2002 (67 FR 53461), provides additional guidance on compliance with the Act.

### *Executive Order 12866*

*Executive Order 12866*, "Regulatory Planning and Review," September 30, 1993 (58 FR 51735), requires covered agencies to prepare an agenda of all regulations under development or review. The Order also requires that certain agencies prepare annually a regulatory plan of their "most important significant regulatory actions," which appears as part of the fall Unified Agenda. Executive Order 13497, signed January 30, 2009 (74 FR 6113), revoked

the amendments to Executive Order 12866 that were contained in Executive Order 13258 and Executive Order 13422.

### *Executive Order 13771*

*Executive Order 13771*, "Reducing Regulation and Controlling Regulatory Costs," January 30, 2017 (82 FR 9339) requires each agency to identify for elimination two prior regulations for every one new regulation issued, and the cost of planned regulations be prudently managed and controlled through a budgeting process.

### *Executive Order 13777*

*Executive Order 13777*, "Enforcing the Regulatory Reform Agenda," February 24, 2017 (82 FR 12285) requires each agency to designate an agency official as its Regulatory Reform Officer (RRO). Each RRO shall oversee the implementation of regulatory reform initiatives and policies to ensure that agencies effectively carry out regulatory reforms, consistent with applicable law. The Executive Order also directs that each agency designate a regulatory Reform Task Force.

### *Executive Order 13563*

*Executive Order 13563*, "Improving Regulation and Regulatory Review," January 18, 2011 (76 FR 3821) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review that were established in Executive Order 12866, which includes the general principles of regulation and public participation, and orders integration and innovation in coordination across agencies; flexible approaches where relevant, feasible, and consistent with regulatory approaches; scientific integrity in any scientific or technological information and processes used to support the agencies' regulatory actions; and retrospective analysis of existing regulations.

### *Executive Order 13132*

*Executive Order 13132*, "Federalism," August 4, 1999 (64 FR 43255), directs agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have "federalism implications" as defined in the Order. Under the Order, an agency that is proposing a regulation with federalism implications, which either preempt State law or impose non-statutory unfunded substantial direct compliance costs on State and local governments, must consult with State and local officials early in the process of developing the regulation. In

addition, the agency must provide to the Director of the Office of Management and Budget a federalism summary impact statement for such a regulation, which consists of a description of the extent of the agency's prior consultation with State and local officials, a summary of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which those concerns have been met. As part of this effort, agencies include in their submissions for the Unified Agenda information on whether their regulatory actions may have an effect on the various levels of government and whether those actions have federalism implications.

### *Unfunded Mandates Reform Act of 1995*

*The Unfunded Mandates Reform Act of 1995* (Pub. L. 104–4, title II) requires agencies to prepare written assessments of the costs and benefits of significant regulatory actions "that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any 1 year." The requirement does not apply to independent regulatory agencies, nor does it apply to certain subject areas excluded by section 4 of the Act. Affected agencies identify in the Unified Agenda those regulatory actions they believe are subject to title II of the Act.

### *Executive Order 13211*

*Executive Order 13211*, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," May 18, 2001 (66 FR 28355), directs agencies to provide, to the extent possible, information regarding the adverse effects that agency actions may have on the supply, distribution, and use of energy. Under the Order, the agency must prepare and submit a Statement of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for "those matters identified as significant energy actions." As part of this effort, agencies may optionally include in their submissions for the Unified Agenda information on whether they have prepared or plan to prepare a Statement of Energy Effects for their regulatory actions.

### *Small Business Regulatory Enforcement Fairness Act*

*The Small Business Regulatory Enforcement Fairness Act* (Pub. L. 104–121, title II) established a procedure for congressional review of rules (5 U.S.C. 801 *et seq.*), which defers, unless exempted, the effective date of a

“major” rule for at least 60 days from the publication of the final rule in the **Federal Register**. The Act specifies that a rule is “major” if it has resulted, or is likely to result, in an annual effect on the economy of \$100 million or more or meets other criteria specified in that Act. The Act provides that the Administrator of OIRA will make the final determination as to whether a rule is major.

### III. How are the Regulatory Plan and the Unified Agenda organized?

The *Regulatory Plan* appears in part II in a daily edition of the **Federal Register**. The Plan is a single document beginning with an introduction, followed by a table of contents, followed by each agency’s section of the Plan. Following the Plan in the **Federal Register**, as separate parts, are the regulatory flexibility agendas for each agency whose agenda includes entries for rules which are likely to have a significant economic impact on a substantial number of small entities or rules that have been selected for periodic review under section 610 of the Regulatory Flexibility Act. Each printed agenda appears as a separate part. The sections of the Plan and the parts of the Unified Agenda are organized alphabetically in four groups: Cabinet departments; other executive agencies; the Federal Acquisition Regulation, a joint authority (Agenda only); and independent regulatory agencies. Agencies may in turn be divided into subagencies. Each printed agency agenda has a table of contents listing the agency’s printed entries that follow. Each agency’s part of the Agenda contains a preamble providing information specific to that agency. Each printed agency agenda has a table of contents listing the agency’s printed entries that follow.

Each agency’s section of the Plan contains a narrative statement of regulatory priorities and, for most agencies, a description of the agency’s most important significant regulatory and deregulatory actions. Each agency’s part of the Agenda contains a preamble providing information specific to that agency plus descriptions of the agency’s regulatory and deregulatory actions.

The online, complete Unified Agenda contains the preambles of all participating agencies. Unlike the printed edition, the online Agenda has no fixed ordering. In the online Agenda, users can select the particular agencies’ agendas they want to see. Users have broad flexibility to specify the characteristics of the entries of interest to them by choosing the desired responses to individual data fields. To

see a listing of all of an agency’s entries, a user can select the agency without specifying any particular characteristics of entries.

Each entry in the Agenda is associated with one of five rulemaking stages. The rulemaking stages are:

1. *Prerule Stage*—actions agencies will undertake to determine whether or how to initiate rulemaking. Such actions occur prior to a Notice of Proposed Rulemaking (NPRM) and may include Advance Notices of Proposed Rulemaking (ANPRMs) and reviews of existing regulations.

2. *Proposed Rule Stage*—actions for which agencies plan to publish a Notice of Proposed Rulemaking as the next step in their rulemaking process or for which the closing date of the NPRM Comment Period is the next step.

3. *Final Rule Stage*—actions for which agencies plan to publish a final rule or an interim final rule or to take other final action as the next step.

4. *Long-Term Actions*—items under development but for which the agency does not expect to have a regulatory action within the 12 months after publication of this edition of the Unified Agenda. Some of the entries in this section may contain abbreviated information.

5. *Completed Actions*—actions or reviews the agency has completed or withdrawn since publishing its last agenda. This section also includes items the agency began and completed between issues of the Agenda.

Long-Term Actions are rulemakings reported during the publication cycle that are outside of the required 12-month reporting period for which the Agenda was intended. Completed Actions in the publication cycle are rulemakings that are ending their lifecycle either by Withdrawal or completion of the rulemaking process. Therefore, the Long-Term and Completed RINs do not represent the ongoing, forward-looking nature intended for reporting developing rulemakings in the Agenda pursuant to Executive Order 12866, section 4(b) and 4(c). To further differentiate these two stages of rulemaking in the Unified Agenda from active rulemakings, Long-Term and Completed Actions are reported separately from active rulemakings, which can be any of the first three stages of rulemaking listed above. A separate search function is provided on <http://reginfo.gov> to search for Completed and Long-Term Actions apart from each other and active RINs.

A bullet (•) preceding the title of an entry indicates that the entry is appearing in the Unified Agenda for the first time.

In the printed edition, all entries are numbered sequentially from the beginning to the end of the publication. The sequence number preceding the title of each entry identifies the location of the entry in this edition. The sequence number is used as the reference in the printed table of contents. Sequence numbers are not used in the online Unified Agenda because the unique Regulation Identifier Number (RIN) is able to provide this cross-reference capability.

Editions of the Unified Agenda prior to fall 2007 contained several indexes, which identified entries with various characteristics. These included regulatory actions for which agencies believe that the Regulatory Flexibility Act may require a Regulatory Flexibility Analysis, actions selected for periodic review under section 610(c) of the Regulatory Flexibility Act, and actions that may have federalism implications as defined in Executive Order 13132 or other effects on levels of government. These indexes are no longer compiled, because users of the online Unified Agenda have the flexibility to search for entries with any combination of desired characteristics. The online edition retains the Unified Agenda’s subject index based on the **Federal Register** Thesaurus of Indexing Terms. In addition, online users have the option of searching Agenda text fields for words or phrases.

### IV. What information appears for each entry?

All entries in the online Unified Agenda contain uniform data elements including, at a minimum, the following information:

*Title of the Regulation*—a brief description of the subject of the regulation. In the printed edition, the notation “Section 610 Review” following the title indicates that the agency has selected the rule for its periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610(c)). Some agencies have indicated completions of section 610 reviews or rulemaking actions resulting from completed section 610 reviews. In the online edition, these notations appear in a separate field.

*Priority*—an indication of the significance of the regulation. Agencies assign each entry to one of the following five categories of significance.

#### (1) Economically Significant

As defined in Executive Order 12866, a rulemaking action that will have an annual effect on the economy of \$100 million or more or will adversely affect in a material way the economy, a sector

of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The definition of an “economically significant” rule is similar but not identical to the definition of a “major” rule under 5 U.S.C. 801 (Pub. L. 104–121). (See below.)

#### (2) Other Significant

A rulemaking that is not Economically Significant but is considered Significant by the agency. This category includes rules that the agency anticipates will be reviewed under Executive Order 12866 or rules that are a priority of the agency head. These rules may or may not be included in the agency’s regulatory plan.

#### (3) Substantive, Nonsignificant

A rulemaking that has substantive impacts, but is neither Significant, nor Routine and Frequent, nor Informational/Administrative/Other.

#### (4) Routine and Frequent

A rulemaking that is a specific case of a multiple recurring application of a regulatory program in the Code of Federal Regulations and that does not alter the body of the regulation.

#### (5) Informational/Administrative/Other

A rulemaking that is primarily informational or pertains to agency matters not central to accomplishing the agency’s regulatory mandate but that the agency places in the Unified Agenda to inform the public of the activity.

**Major**—whether the rule is “major” under 5 U.S.C. 801 (Pub. L. 104–121) because it has resulted or is likely to result in an annual effect on the economy of \$100 million or more or meets other criteria specified in that Act. The Act provides that the Administrator of the Office of Information and Regulatory Affairs will make the final determination as to whether a rule is major.

**Unfunded Mandates**—whether the rule is covered by section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). The Act requires that, before issuing an NPRM likely to result in a mandate that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector of more than \$100 million in 1 year, agencies, other than independent regulatory agencies, shall prepare a written statement containing an assessment of the anticipated costs and benefits of the Federal mandate.

**Legal Authority**—the section(s) of the United States Code (U.S.C.) or Public Law (Pub. L.) or the Executive order

(E.O.) that authorize(s) the regulatory action. Agencies may provide popular name references to laws in addition to these citations.

**CFR Citation**—the section(s) of the Code of Federal Regulations that will be affected by the action.

**Legal Deadline**—whether the action is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to an NPRM, a Final Action, or some other action.

**Abstract**—a brief description of the problem the regulation will address; the need for a Federal solution; to the extent available, alternatives that the agency is considering to address the problem; and potential costs and benefits of the action.

**Timetable**—the dates and citations (if available) for all past steps and a projected date for at least the next step for the regulatory action. A date displayed in the form 12/00/19 means the agency is predicting the month and year the action will take place but not the day it will occur. In some instances, agencies may indicate what the next action will be, but the date of that action is “To Be Determined.” “Next Action Undetermined” indicates the agency does not know what action it will take next.

**Regulatory Flexibility Analysis Required**—whether an analysis is required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because the rulemaking action is likely to have a significant economic impact on a substantial number of small entities as defined by the Act.

**Small Entities Affected**—the types of small entities (businesses, governmental jurisdictions, or organizations) on which the rulemaking action is likely to have an impact as defined by the Regulatory Flexibility Act. Some agencies have chosen to indicate likely effects on small entities even though they believe that a Regulatory Flexibility Analysis will not be required.

**Government Levels Affected**—whether the action is expected to affect levels of government and, if so, whether the governments are State, local, tribal, or Federal.

**International Impacts**—whether the regulation is expected to have international trade and investment effects, or otherwise may be of interest to the Nation’s international trading partners.

**Federalism**—whether the action has “federalism implications” as defined in Executive Order 13132. This term refers to actions “that 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.” Independent regulatory agencies are not required to supply this information.

**Included in the Regulatory Plan**—whether the rulemaking was included in the agency’s current regulatory plan published in fall 2017.

**Agency Contact**—the name and phone number of at least one person in the agency who is knowledgeable about the rulemaking action. The agency may also provide the title, address, fax number, email address, and TDD for each agency contact.

Some agencies have provided the following optional information:

**RIN Information URL**—the internet address of a site that provides more information about the entry.

**Public Comment URL**—the internet address of a site that will accept public comments on the entry. Alternatively, timely public comments may be submitted at the Governmentwide e-rulemaking site, <http://www.regulations.gov>.

**Additional Information**—any information an agency wishes to include that does not have a specific corresponding data element.

**Compliance Cost to the Public**—the estimated gross compliance cost of the action.

**Affected Sectors**—the industrial sectors that the action may most affect, either directly or indirectly. Affected sectors are identified by North American Industry Classification System (NAICS) codes.

**Energy Effects**—an indication of whether the agency has prepared or plans to prepare a Statement of Energy Effects for the action, as required by Executive Order 13211 “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” signed May 18, 2001 (66 FR 28355).

**Related RINs**—one or more past or current RIN(s) associated with activity related to this action, such as merged RINs, split RINs, new activity for previously completed RINs, or duplicate RINs.

**Statement of Need**—a description of the need for the regulatory action.

**Summary of the Legal Basis**—a description of the legal basis for the action, including whether any aspect of the action is required by statute or court order.

**Alternatives**—a description of the alternatives the agency has considered or will consider as required by section 4(c)(1)(B) of Executive Order 12866.

**Anticipated Costs and Benefits**—a description of preliminary estimates of

the anticipated costs and benefits of the action.

**Risks**—a description of the magnitude of the risk the action addresses, the amount by which the agency expects the action to reduce this risk, and the relation of the risk and this risk reduction effort to other risks and risk reduction efforts within the agency's jurisdiction.

## V. Abbreviations

The following abbreviations appear throughout this publication:

**ANPRM**—An Advance Notice of Proposed Rulemaking is a preliminary notice, published in the **Federal Register**, announcing that an agency is considering a regulatory action. An agency may issue an ANPRM before it develops a detailed proposed rule. An ANPRM describes the general area that may be subject to regulation and usually asks for public comment on the issues and options being discussed. An ANPRM is issued only when an agency believes it needs to gather more information before proceeding to a notice of proposed rulemaking.

**CFR**—The Code of Federal Regulations is an annual codification of the general and permanent regulations published in the **Federal Register** by the agencies of the Federal Government. The Code is divided into 50 titles, each title covering a broad area subject to Federal regulation. The CFR is keyed to and kept up to date by the daily issues of the **Federal Register**.

**E.O.**—An Executive order is a directive from the President to Executive agencies, issued under constitutional or statutory authority. Executive orders are published in the **Federal Register** and in title 3 of the Code of Federal Regulations.

**FR**—The **Federal Register** is a daily Federal Government publication that provides a uniform system for publishing Presidential documents, all proposed and final regulations, notices of meetings, and other official documents issued by Federal agencies.

**FY**—The Federal fiscal year runs from October 1 to September 30.

■ **NPRM**—A Notice of Proposed Rulemaking is the document an agency issues and publishes in the **Federal Register** that describes and solicits public comments on a proposed regulatory action. Under the Administrative Procedure Act (5 U.S.C. 553), an NPRM must include, at a minimum: A statement of the time, place, and nature of the public rulemaking proceeding;

■ A reference to the legal authority under which the rule is proposed; and Either the terms or substance of the proposed rule or a description of the subjects and issues involved.

**PL (or Pub. L.)**—A public law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, unlike a private law that applies only to those persons or entities specifically designated. Public laws are numbered in sequence throughout the 2-year life of each Congress; for example, Public Law 112–4 is the fourth public law of the 112th Congress.

**RFA**—A Regulatory Flexibility Analysis is a description and analysis of the impact of a rule on small entities, including small businesses, small governmental jurisdictions, and certain small not-for-profit organizations. The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires each agency to prepare an initial RFA for public comment when it is required to publish an NPRM and to make available a final RFA when the final rule is published, unless the agency head certifies that the rule would not have a significant economic impact on a substantial number of small entities.

**RIN**—The Regulation Identifier Number is assigned by the Regulatory Information Service Center to identify each regulatory action listed in the Regulatory Plan and the Unified Agenda, as directed by Executive Order 12866 (section 4(b)). Additionally, OMB has asked agencies to include RINs in the headings of their Rule and Proposed Rule documents when publishing them in the **Federal Register**, to make it easier for the public and agency officials to

track the publication history of regulatory actions throughout their development.

**Seq. No.**—The sequence number identifies the location of an entry in the printed edition of the Regulatory Plan and the Unified Agenda. Note that a specific regulatory action will have the same RIN throughout its development but will generally have different sequence numbers if it appears in different printed editions of the Unified Agenda. Sequence numbers are not used in the online Unified Agenda.

**U.S.C.**—The United States Code is a consolidation and codification of all general and permanent laws of the United States. The U.S.C. is divided into 50 titles, each title covering a broad area of Federal law.

## VI. How can users get copies of the Plan and the Agenda?

Copies of the **Federal Register** issue containing the printed edition of The Regulatory Plan and the Unified Agenda (agency regulatory flexibility agendas) are available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250–7954. Telephone: (202) 512–1800 or 1–866–512–1800 (toll-free).

Copies of individual agency materials may be available directly from the agency or may be found on the agency's website. Please contact the particular agency for further information.

All editions of The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions since fall 1995 are available in electronic form at <http://reginfo.gov>, along with flexible search tools.

The Government Printing Office's GPO FDsys website contains copies of the Agendas and Regulatory Plans that have been printed in the **Federal Register**. These documents are available at <http://www.fdsys.gov>.

Dated: November 18, 2019.

**John C. Thomas,**  
Executive Director.

[FR Doc. 2019–26533 Filed 12–23–19; 8:45 am]

BILLING CODE 6820–27–P





# FEDERAL REGISTER

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Vol. 84

Thursday,

No. 247

December 26, 2019

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Part III

Department of Agriculture

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Semiannual Regulatory Agenda



**DEPARTMENT OF AGRICULTURE****Office of the Secretary****2 CFR Subtitle B, Ch. IV****5 CFR Ch. LXXIII****7 CFR Subtitle A; Subtitle B, Chs. I–XI, XIV–XVIII, XX, XXV–XXXVIII, XLII****9 CFR Chs. I–III****36 CFR Ch. II****48 CFR Ch. 4****Semiannual Regulatory Agenda, Fall 2019****AGENCY:** Office of the Secretary, USDA.**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** This agenda provides summary descriptions of the significant and not significant regulatory and deregulatory actions being developed in agencies of the U.S. Department of Agriculture (USDA) in conformance with Executive Orders (E.O.) 12866 “Regulatory Planning and Review,” 13771 “Reducing Regulation and Controlling Regulatory Costs,” 13777,

“Enforcing the Regulatory Reform Agenda,” and 13563, “Improving Regulation and Regulatory Review.” The agenda also describes regulations affecting small entities as required by section 602 of the Regulatory Flexibility Act, Public Law 96–354. This agenda also identifies regulatory actions that are being reviewed in compliance with section 610(c) of the Regulatory Flexibility Act. We invite public comment on those actions as well as any regulation consistent with E.O. 13563.

USDA has attempted to list all regulations and regulatory reviews pending at the time of publication except for minor and routine or repetitive actions, but some may have been inadvertently missed. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the date shown.

USDA’s complete regulatory agenda is available online at [www.reginfo.gov](http://www.reginfo.gov). Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), USDA’s printed agenda entries include only:

(1) Rules that are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules identified for periodic review under section 610 of the Regulatory Flexibility Act.

For this edition of the USDA regulatory agenda, the most important regulatory and deregulatory actions are summarized in a Statement of Regulatory Priorities that is included in the Regulatory Plan, which appears in both the online regulatory agenda and in part II of the **Federal Register** that includes the abbreviated regulatory agenda.

**FOR FURTHER INFORMATION CONTACT:** For further information on any specific entry shown in this agenda, please contact the person listed for that action. For general comments or inquiries about the agenda, please contact Michael Poe, Office of Budget and Program Analysis, U.S. Department of Agriculture, Washington, DC 20250, (202) 720–3257.

Dated: July 31, 2019.

**Michael Poe,***Legislative and Regulatory Staff.***AGRICULTURAL MARKETING SERVICE—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
165 .....	Undue and Unreasonable Preferences and Advantages Under the Packers and Stockyards Act .....	0581–AD81

**AGRICULTURAL MARKETING SERVICE—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
166 .....	Establishment of a Domestic Hemp Production Program ( <b>Reg Plan Seq No. 1</b> ) .....	0581–AD82

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

**AGRICULTURAL MARKETING SERVICE—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
167 .....	Establishment of a Milk Donation Program .....	0581–AD87

**FARM SERVICE AGENCY—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
168 .....	Emergency Forest Restoration Program .....	0560–AH89

**ANIMAL AND PLANT HEALTH INSPECTION SERVICE—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
169 .....	Bovine Spongiform Encephalopathy and Scrapie; Importation of Small Ruminants and Their Germplasm, Products, and Byproducts.	0579–AD10

## ANIMAL AND PLANT HEALTH INSPECTION SERVICE—FINAL RULE STAGE—Continued

Sequence No.	Title	Regulation Identifier No.
170 .....	Lacey Act Implementation Plan: De Minimis Exception .....	0579–AD44
171 .....	Brucellosis and Bovine Tuberculosis; Update of Import Provisions .....	0579–AD65
172 .....	Importation, Interstate Movement, and Release Into the Environment of Certain Genetically Engineered Organisms ( <b>Reg Plan Seq No. 2</b> ).	0579–AE47

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

## ANIMAL AND PLANT HEALTH INSPECTION SERVICE—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
173 .....	Importation of Fresh Citrus Fruit From the Republic of South Africa Into the Continental United States .....	0579–AD95
174 .....	Removal of Emerald Ash Borer Domestic Quarantine Regulations .....	0579–AE42

## ANIMAL AND PLANT HEALTH INSPECTION SERVICE—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
175 .....	Plant Pest Regulations; Update of General Provisions .....	0579–AC98
176 .....	Livestock Marketing Facilities .....	0579–AE02

## FOREST SERVICE—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
177 .....	Special Uses—Communications Uses Rent .....	0596–AD43

**DEPARTMENT OF AGRICULTURE (USDA)**

*Agricultural Marketing Service (AMS)*

Proposed Rule Stage

**165. Undue and Unreasonable Preferences and Advantages Under the Packers and Stockyards Act**

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* Pub. L. 110–234

*Abstract:* This action would invite comments on proposed revisions to regulations issued under the Packers and Stockyards Act (P&S Act). The revisions would specify criteria the Secretary could consider in determining whether conduct or action by packers, swine contractors, or live poultry dealers constitutes an undue or unreasonable preference or advantage and a violation of the P&S Act.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/00/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael V. Durando, Associate Deputy Administrator, Fair Trade Practices Program, Department of

Agriculture, Agricultural Marketing Service, 1400 Independence Avenue SW, Washington, DC 20250–0237, Phone: 202 720–0219.

*RIN:* 0581–AD81

**DEPARTMENT OF AGRICULTURE (USDA)**

*Agricultural Marketing Service (AMS)*

Final Rule Stage

**166. Establishment of a Domestic Hemp Production Program**

*Regulatory Plan:* This entry is Seq. No. 1 in part II of this issue of the **Federal Register**.

*RIN:* 0581–AD82

**DEPARTMENT OF AGRICULTURE (USDA)**

*Agricultural Marketing Service (AMS)*

Completed Actions

**167. Establishment of a Milk Donation Program**

*E.O. 13771 Designation:* Other.

*Legal Authority:* Pub. L. 104–127

*Abstract:* This action begins the rulemaking process to establish a Milk Donation Program as mandated by the Agriculture Improvement Act of 2018 (2018 Farm Bill). The proposed program would allow milk processors who account to Federal milk marketing orders (FMMO) to claim limited reimbursements for the cost of farm milk used to make donated fluid milk products. Under the program, processors would partner with non-profit organizations to distribute the donated products to individuals in low-income groups.

*Completed:*

Reason	Date	FR Cite
Final Rule .....	09/05/19	84 FR 46653
Final Rule Effective.	09/16/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Erin Taylor, Phone: 202 720–7311, Email: [Erin.taylor@ams.usda.gov](mailto:Erin.taylor@ams.usda.gov).

*RIN:* 0581–AD87

**BILLING CODE 3410–02–P**

**DEPARTMENT OF AGRICULTURE  
(USDA)***Farm Service Agency (FSA)*

## Completed Actions

**168. Emergency Forest Restoration Program***E.O. 13771 Designation:**Legal Authority:* Pub. L. 110–246

*Abstract:* The interim rule published on November 17, 2010, added a new subpart regulations in 7 CFR part 701 to implement the Emergency Forest Restoration Program (EFRP), which was authorized by the 2008 Farm Bill. EFRP provides cost-share funding to owners of nonindustrial private forest land to restore the land after the land is damaged by a natural disaster.

*Completed:*

Reason	Date	FR Cite
Notice of Completion of Interim Rule.	09/10/19	84 FR 47405

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Deirdre Holder, Phone: 202 205–5851, Email: [deirdre.holder@usda.gov](mailto:deirdre.holder@usda.gov).

*RIN:* 0560–AH89

BILLING CODE 3410–05–P

**DEPARTMENT OF AGRICULTURE  
(USDA)***Animal and Plant Health Inspection Service (APHIS)*

## Final Rule Stage

**169. Bovine Spongiform Encephalopathy and Scrapie; Importation of Small Ruminants and Their Germplasm, Products, and Byproducts***E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 7 U.S.C. 450; 7 U.S.C. 1622; 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 7 U.S.C. 8301 to 8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701

*Abstract:* We are amending the regulations governing the importation of animals and animal products to revise conditions for the importation of live sheep, goats, and certain other non-bovine ruminants, and products derived from sheep and goats, with regard to transmissible spongiform encephalopathies such as bovine spongiform encephalopathy (BSE) and scrapie. We are removing BSE-related import restrictions on sheep and goats and most of their products, and adding

import restrictions related to transmissible spongiform encephalopathies for certain wild, zoological, or other non-bovine ruminant species. The conditions we are adopting for the importation of specified commodities are based on internationally accepted scientific literature and will, in general, align our regulations with guidelines established in the World Organization for Animal Health's Terrestrial Animal Health Code.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/18/16	81 FR 46619
NPRM Comment Period End.	09/16/16	
Final Rule .....	02/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Alexandra MacKenzie, Veterinary Medical Officer, Animal Permitting and Negotiating Services, NIES, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 39, Riverdale, MD 20737, Phone: 301 851–3300.

*RIN:* 0579–AD10**170. Lacey Act Implementation Plan: De Minimis Exception***E.O. 13771 Designation:* Deregulatory.*Legal Authority:* 16 U.S.C. 3371 *et seq.*

*Abstract:* The Food, Conservation, and Energy Act of 2008 amended the Lacey Act to provide, among other things, that importers submit a declaration at the time of importation for certain plants and plant products. The declaration requirement of the Lacey Act became effective on December 15, 2008, and enforcement of that requirement is being phased in. We are amending the regulations to establish an exception to the declaration requirement for products containing a minimal amount of plant materials. This action would relieve the burden on importers while continuing to ensure that the declaration requirement fulfills the purposes of the Lacey Act.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	06/30/11	76 FR 38330
ANPRM Comment Period End.	08/29/11	
NPRM .....	07/09/18	83 FR 31697
NPRM Comment Period End.	09/07/18	
Final Rule .....	01/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Dorothy Wayson, National Program Coordinator, Lacey Act Program, Compliance and Environmental Coordination, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 150, Riverdale, MD 20737, Phone: 301 851–2036.

*RIN:* 0579–AD44**171. Brucellosis and Bovine Tuberculosis; Update of Import Provisions***E.O. 13771 Designation:* Other.

*Legal Authority:* 7 U.S.C. 1622; 7 U.S.C. 8301 to 8317; 15 U.S.C. 1828; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701

*Abstract:* We are amending the regulations governing the importation of cattle and bison with respect to bovine tuberculosis and brucellosis. The changes will make these requirements clearer and assure that they more effectively mitigate the risk of introduction of these diseases into the United States.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/16/15	80 FR 78461
NPRM Comment Period End.	03/15/16	
NPRM Comment Period Extended.	03/11/16	81 FR 12832
NPRM Comment Period Extended End.	05/16/16	
NPRM—Partial Withdrawal.	03/27/19	84 FR 11448
Final Rule .....	05/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Kelly Rhodes, Senior Staff Veterinarian, Regionalization Evaluation Services, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 38, Riverdale, MD 20737–1236, Phone: 301 851–3300.

*RIN:* 0579–AD65**172. Importation, Interstate Movement, and Release Into the Environment of Certain Genetically Engineered Organisms**

*Regulatory Plan:* This entry is Seq. No. 2 in part II of this issue of the Federal Register.

*RIN:* 0579–AE47

**DEPARTMENT OF AGRICULTURE  
(USDA)***Animal and Plant Health Inspection  
Service (APHIS)*

## Long-Term Actions

**173. Importation of Fresh Citrus Fruit  
From the Republic of South Africa Into  
the Continental United States**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 7 U.S.C. 450; 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 21 U.S.C. 136 and 136a

*Abstract:* This rulemaking will amend the fruits and vegetables regulations to allow the importation of several varieties of fresh citrus fruit, as well as citrus hybrids, into the continental United States from areas in the Republic of South Africa where citrus black spot has been known to occur. As a condition of entry, the fruit will have to be produced in accordance with a systems approach that includes shipment traceability, packinghouse registration and procedures, and phytosanitary treatment. The fruit will also be required to be imported in commercial consignments and accompanied by a phytosanitary certificate issued by the national plant protection organization of the Republic of South Africa with an additional declaration confirming that the fruit has been produced in accordance with the systems approach. This action will allow for the importation of fresh citrus fruit, including citrus hybrids, from the Republic of South Africa while continuing to provide protection against the introduction of plant pests into the United States.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End. Next Action Under- terminated.	08/28/14 10/27/14	79 FR 51273

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Tony Román, *Phone:* 301 851-2242.

*RIN:* 0579-AD95**174. Removal of Emerald Ash Borer  
Domestic Quarantine Regulations**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786

*Abstract:* This rulemaking would remove the domestic quarantine regulations for the plant pest emerald ash borer. This action would discontinue the domestic regulatory component of the emerald ash borer

program as a means to more effectively direct available resources toward management and containment of the pest. Funding previously allocated to the implementation and enforcement of these domestic quarantine regulations would instead be directed to a non-regulatory option of research into, and deployment of, biological control agents for emerald ash borer, which would serve as the primary tool to mitigate and control the pest.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End. Next Action Under- terminated.	09/19/18 11/19/18	83 FR 47310

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Robyn Rose, *Phone:* 301 851-2283.

*RIN:* 0579-AE42**DEPARTMENT OF AGRICULTURE  
(USDA)***Animal and Plant Health Inspection  
Service (APHIS)*

## Completed Actions

**175. Plant Pest Regulations; Update of  
General Provisions**

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 7 U.S.C. 450; 7 U.S.C. 2260; 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 7 U.S.C. 8301 to 8817; 21 U.S.C. 111; 21 U.S.C. 114a; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332

*Abstract:* We are revising our regulations regarding the movement of plant pests. We are also adding criteria to the regulations for the importation, interstate movement, and release of biological control organisms. This final rule also establishes regulations to allow the interstate movement of certain plant pests and biological control organisms without restriction by granting exceptions from permit requirements for those pests and organisms. Finally, we are revising our regulations regarding the importation and interstate movement of soil. This rule clarifies the points that we will consider when assessing the risks associated with the movement and release of certain organisms and facilitates the movement of regulated organisms and articles in a manner that protects U.S. agriculture.

*Completed:*

Reason	Date	FR Cite
Final Rule ..... Final Rule Effective.	06/25/19 08/09/19	84 FR 29938

*Regulatory Flexibility Analysis  
Required:* Yes.

*Agency Contact:* Colin Stewart,  
*Phone:* 301 851-2237.

*RIN:* 0579-AC98**176. Livestock Marketing Facilities**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 7 U.S.C. 8301 to 8317

*Abstract:* We are proposing to amend the regulations governing approval of facilities that receive livestock moved in interstate commerce. We are also proposing several amendments to the conditions under which livestock may move to such facilities without official identification or prior issuance of an interstate certificate of veterinary inspection or alternative documentation. These changes are necessary to update the regulations governing livestock marketing facilities, while also helping ensure animal disease traceability of livestock that are moved in interstate commerce to such facilities.

*Completed:*

Reason	Date	FR Cite
Withdrawn .....	09/10/19	84 FR 47443

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Neil  
Hammerschmidt, *Phone:* 301 851-3539.

*RIN:* 0579-AE02**BILLING CODE 3410-34-P****DEPARTMENT OF AGRICULTURE  
(USDA)***Forest Service (FS)*

## Long-Term Actions

**177. • Special Uses—Communications  
Uses Rent**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 43 U.S.C. 1761 to 1771

*Abstract:* Consistent with the requirement in title V, section 504(g) of the Federal Land Policy and Management Act, the proposed rule would update the Forest Service's rental fee schedule for communications uses based on fair market value. Updated rental fees that exceed 100 percent of current rental fees would be phased in over a 3-year period.

*Timetable:*

Action	Date	FR Cite
NPRM .....	To Be Determined	

*Regulatory Flexibility Analysis*  
*Required:* Yes.  
*Agency Contact:* Edwina Howard–  
Agu, Regulatory Analyst, Department of  
Agriculture, Forest Service, 1400  
Independence Avenue SW, Washington,

DC 20250–0003, *Phone:* 202 205–1419,  
*Email:* [ehowardagu@fs.fed.us](mailto:ehowardagu@fs.fed.us).  
*RIN:* 0596–AD43  
[FR Doc. 2019–26534 Filed 12–23–19; 8:45 am]  
**BILLING CODE 3410–18–P**



# FEDERAL REGISTER

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Vol. 84

Thursday,

No. 247

December 26, 2019

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Part IV

Department of Commerce

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Semiannual Regulatory Agenda

**DEPARTMENT OF COMMERCE****Office of the Secretary****13 CFR Ch. III****15 CFR Subtitle A; Subtitle B, Chs. I, II, III, VII, VIII, IX, and XI****19 CFR Ch. III****37 CFR Chs. I, IV, and V****48 CFR Ch. 13****50 CFR Chs. II, III, IV, and VI****Fall 2019 Semiannual Agenda of Regulations**

**AGENCY:** Office of the Secretary, Commerce.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** In compliance with Executive Order 12866, entitled “Regulatory Planning and Review,” and the Regulatory Flexibility Act, as amended, the Department of Commerce (Commerce), in the spring and fall of each year, publishes in the **Federal Register** an agenda of regulations under development or review over the next 12 months. Rulemaking actions are grouped according to prerulemaking, proposed rules, final rules, long-term actions, and rulemaking actions completed since the spring 2019 agenda. The purpose of the Agenda is to provide information to the public on regulations that are currently under review, being proposed, or issued by Commerce. The Agenda is intended to facilitate comments and views by interested members of the public.

Commerce’s fall 2019 regulatory agenda includes regulatory activities that are expected to be conducted during the period October 1, 2019, through September 30, 2020.

**FOR FURTHER INFORMATION CONTACT:**

*Specific:* For additional information about specific regulatory actions listed in the agenda, contact the individual identified as the contact person.

*General:* Comments or inquiries of a general nature about the Agenda should be directed to Asha Mathew, Chief Counsel for Regulation, Office of the Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, Washington, DC 20230, telephone: 202–482–3151.

**SUPPLEMENTARY INFORMATION:** Commerce hereby publishes its fall 2019 Unified Agenda of Federal Regulatory and Deregulatory Actions pursuant to Executive Order 12866 and the

Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* Executive Order 12866 requires agencies to publish an agenda of those regulations that are under consideration pursuant to this order. By memorandum of June 26, 2019, the Office of Management and Budget issued guidelines and procedures for the preparation and publication of the fall 2019 Unified Agenda. The Regulatory Flexibility Act requires agencies to publish, in the spring and fall of each year, a regulatory flexibility agenda that contains a brief description of the subject of any rule likely to have a significant economic impact on a substantial number of small entities.

Beginning with the fall 2007 edition, the internet became the basic means for disseminating the Unified Agenda. The complete Unified Agenda is available online at [www.reginfo.gov](http://www.reginfo.gov), in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

In this edition of Commerce’s regulatory agenda, a list of the most important significant regulatory and deregulatory actions and a Statement of Regulatory Priorities are included in the Regulatory Plan, which appears in both the online Unified Agenda and in part II of the issue of the **Federal Register** that includes the Unified Agenda.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act, Commerce’s printed agenda entries include only:

(1) Rules that are in the Agency’s regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act’s Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the internet. In addition, for fall editions of the Agenda, Commerce’s entire Regulatory Plan will continue to be printed in the **Federal Register**.

Within Commerce, the Office of the Secretary and various operating units may issue regulations. Among these operating units, the National Oceanic and Atmospheric Administration (NOAA), the Bureau of Industry and Security, and the Patent and Trademark

Office issue the greatest share of Commerce’s regulations.

A large number of regulatory actions reported in the Agenda deal with fishery management programs of NOAA’s National Marine Fisheries Service (NMFS). To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of NMFS’ programs, an “Explanation of Information Contained in NMFS Regulatory Entries” is provided below.

**Explanation of Information Contained in NMFS Regulatory Entries**

The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (the Act) governs the management of fisheries within the Exclusive Economic Zone of the United States (EEZ). The EEZ refers to those waters from the outer edge of the State boundaries, generally 3 nautical miles, to a distance of 200 nautical miles. For fisheries that require conservation and management measures, eight Regional Fishery Management Councils (Councils) prepare and submit to NMFS Fishery Management Plans (FMPs) for fisheries within their respective areas in the EEZ. The Councils are required by law to conduct public hearings on the development of FMPs and FMP amendments. Consistent with applicable law, environmental and other analyses are developed that consider alternatives to proposed actions.

Pursuant to the Magnuson-Stevens Act, the Councils also submit to NMFS proposed regulations that they deem necessary or appropriate to implement FMPs. The proposed regulations, FMPs, and FMP amendments are subject to review and approval by NMFS, based on consistency with the Magnuson-Stevens Act and other applicable law. NMFS is responsible for conducting the rulemaking process for FMP implementing regulations. The Council process for developing FMPs and amendments and proposed regulations makes it difficult for NMFS to determine the significance and timing of some regulatory actions under consideration by the Councils at the time the semiannual regulatory agenda is published.

Commerce’s fall 2019 regulatory agenda follows.

Dated: July 31, 2019.

**Peter B. Davidson,**  
*General Counsel.*



## INTERNATIONAL TRADE ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
178 .....	Regulations Concerning Scope Inquiries and Covered Merchandise Referrals From U.S. Customs and Border Protection.	0625–AB10

## BUREAU OF INDUSTRY AND SECURITY—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
179 .....	Expansion of Export, Reexport, and Transfer (In-Country) Controls for Military End Use or Military End Users in the People's Republic of China (China), Russia, or Venezuela.	0694–AH53

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
180 .....	Comprehensive Fishery Management Plan for Puerto Rico .....	0648–BD32
181 .....	Comprehensive Fishery Management Plan for St. Croix .....	0648–BD33
182 .....	Comprehensive Fishery Management Plan for St. Thomas/St. John .....	0648–BD34
183 .....	International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Treatment of U.S. Purse Seine Fishing With Respect to U.S. Territories.	0648–BF41
184 .....	International Fisheries; South Pacific Tuna Fisheries; Implementation of Amendments to the South Pacific Tuna Treaty.	0648–BG04
185 .....	Illegal, Unregulated, and Unreported Fishing; Fisheries Enforcement; High Seas Driftnet Fishing Moratorium Protection Act.	0648–BG11
186 .....	International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Requirements to Safeguard Fishery Observers.	0648–BG66
187 .....	Area of Overlap Between the Convention Areas of the Inter-American Tropical Tuna Commission and the Western and Central Pacific Fisheries Commission.	0648–BH59
188 .....	Omnibus Deep-Sea Coral Amendment .....	0648–BH67
189 .....	Regulatory Amendment to the Pacific Coast Groundfish Fishery Management Plan to Implement an Electronic Monitoring Program for Bottom Trawl and Non-Whiting Midwater Trawl Vessels.	0648–BH70
190 .....	Vessel Movement, Monitoring, and Declaration Management Enhancement for the Pacific Coast Groundfish Fishery; Pacific Coast Groundfish Fishery Management Plan.	0648–BI45
191 .....	Requirements to Safeguard Fishery Observers in the Eastern Pacific Ocean .....	0648–BI86
192 .....	Revisions to the Seabird Avoidance Program for the Pacific Coast Groundfish Fishery Management Plan	0648–BI99
193 .....	Framework Adjustment 59 to the Northeast Multispecies Fishery Management Plan .....	0648–BJ12
194 .....	Designation of Critical Habitat for the Arctic Ringed Seal .....	0648–BC56
195 .....	Amendment and Updates to the Pelagic Longline Take Reduction Plan .....	0648–BF90
196 .....	Endangered and Threatened Species; Designation of Critical Habitat for Threatened Caribbean and Indo-Pacific Reef-Building Corals.	0648–BG26
197 .....	Revision to Critical Habitat Designation for Endangered Southern Resident Killer Whales .....	0648–BH95
198 .....	Designation of Critical Habitat for the Mexico, Central American, and Western Pacific Distinct Population Segments of Humpback Whales Under the Endangered Species Act.	0648–BI06

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
199 .....	Jonah Crab Fishery; Interstate Fishery Management Plan for Jonah Crab .....	0648–BF43
200 .....	Commerce Trusted Trader Program .....	0648–BG51
201 .....	Rule to Implement the For-Hire Reporting Amendments .....	0648–BG75
202 .....	Generic Amendment to the Fishery Management Plans for the Reef Fish Resources of the Gulf of Mexico and Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region.	0648–BH72
203 .....	Magnuson-Stevens Fisheries Conservation and Management Act; Traceability Information Program for Seafood ( <b>Reg Plan Seq No. 15</b> ).	0648–BH87
204 .....	Atlantic Highly Migratory Species; Pelagic Longline Bluefin Tuna Area-Based and Weak Hook Management.	0648–BI51
205 .....	Reduce Gulf of Mexico Red Grouper Annual Catch Limits and Annual Catch Targets .....	0648–BI63
206 .....	Interim 2019 Tribal Pacific Whiting Allocation and Require Consideration of Chinook Salmon Bycatch Before Reapportioning Tribal Whiting; Pacific Coast Groundfish.	0648–BI67
207 .....	Framework Action to Reduce Gulf of Mexico Red Grouper Annual Catch Limits and Annual Catch Targets to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico.	0648–BI95
208 .....	Amendment 18 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, U.S. Waters.	0648–BI96
209 .....	Reducing Disturbances to Hawaiian Spinner Dolphins From Human Interactions .....	0648–AU02
210 .....	Taking and Importing Marine Mammals: Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico ( <b>Reg Plan Seq No. 14</b> ).	0648–BB38

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—FINAL RULE STAGE—Continued

Sequence No.	Title	Regulation Identifier No.
211 .....	Regulation to Reduce Incidental Bycatch and Mortality of Sea Turtles in the Southeastern U.S. Shrimp Fisheries.	0648–BG45

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
212 .....	Implementation of a Program for Transshipments by Large Scale Fishing Vessels in the Eastern Pacific Ocean.	0648–BD59
213 .....	Wisconsin-Lake Michigan National Marine Sanctuary Designation .....	0648–BG01

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
214 .....	Pacific Coast Groundfish Fishing Capacity Reduction Loan Refinance .....	0648–BE90
215 .....	Regulatory Amendment to the Pacific Coast Groundfish Fishery Management Plan to Implement an Electronic Monitoring Program for the Pacific Whiting Fishery.	0648–BF52
216 .....	Halibut Deck Sorting Monitoring Requirements for Trawl Catcher/Processors Operating in Non-Pollock Groundfish Fisheries off Alaska.	0648–BI53
217 .....	Establishing an Overfishing Limit, Acceptable Biological Catch, and Annual Catch Limit for the Central Subpopulation of Northern Anchovy; Coastal Pelagic Species Fishery Management Plan.	0648–BI73

## PATENT AND TRADEMARK OFFICE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
218 .....	Trademark Fee Adjustment ( <b>Reg Plan Seq No. 16</b> ) .....	0651–AD42

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

## PATENT AND TRADEMARK OFFICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
219 .....	Setting and Adjusting Patent Fees During Fiscal Year 2020 ( <b>Reg Plan Seq No. 17</b> ) .....	0651–AD31

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

## DEPARTMENT OF COMMERCE (DOC)

## International Trade Administration (ITA)

## Proposed Rule Stage

## 178. Regulations Concerning Scope Inquiries and Covered Merchandise Referrals From U.S. Customs and Border Protection

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 19 U.S.C. 1671 *et seq.*; Pub. L. 114–125, sec. 421  
*Abstract:* The Department of Commerce (Commerce) is proposing to amend its regulations concerning scope inquiries (19 CFR 351.225) and to set forth procedures addressing covered merchandise referrals from U.S. Customs and Border Protection (CBP or the Customs Service).

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/00/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jessica Link, Department of Commerce, International Trade Administration, 1401 Constitution Avenue NW, Washington, DC 20230, Phone: 202 482–1411, Email: [jessica.link@trade.gov](mailto:jessica.link@trade.gov).

*RIN:* 0625–AB10

## DEPARTMENT OF COMMERCE (DOC)

## Bureau of Industry and Security (BIS)

## Final Rule Stage

## 179. Expansion of Export, Reexport, and Transfer (In-Country) Controls for Military End Use or Military End Users in the People's Republic of China (China), Russia, or Venezuela

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 15 U.S.C. 1824a; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; 30 U.S.C. 185(s); 30 U.S.C. 185(u); 42 U.S.C. 2139a; 43 U.S.C. 1354; 50 U.S.C. 1701 *et seq.*; 50 U.S.C. 4305; 50 U.S.C. 4601 *et seq.*; E.O. 12058; E.O. 12851; E.O. 12938; E.O. 12947; E.O.

13026; E.O. 13099; E.O. 13222; E.O. 13224; Pub. L. 108–11

**Abstract:** The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) to expand license requirements on exports, reexports, and transfers (in-country) of items intended for military end use or military end users in the People's Republic of China (China), Russia, or Venezuela. Specifically, this rule expands the licensing requirements for China to include "military end users," in addition to "military end use." It broadens the items for which the licensing requirements and review policy apply and expand the definition of "military end use." Next, it creates a new reason for control and associated review policy for regional stability for certain items to China, Russia, or Venezuela, moving existing text related to this policy. Finally, it adds Electronic Export Information filing requirements in the Automated Export System for exports to China, Russia, and Venezuela.

**Timetable:**

Action	Date	FR Cite
Final Action .....	11/00/19	

**Regulatory Flexibility Analysis Required:** Yes.

**Agency Contact:** Hillary Hess, Director, Regulatory Policy Division, Department of Commerce, Bureau of Industry and Security, 14th Street and Pennsylvania Avenue NW, Washington, DC 20230, *Phone:* 202 482–2440, *Fax:* 202 482–3355, *Email:* hillary.hess@bis.doc.gov.

*RIN:* 0694–AH53

**DEPARTMENT OF COMMERCE (DOC)**

*National Oceanic and Atmospheric Administration (NOAA)*

Proposed Rule Stage

**National Marine Fisheries Service**

**180. Comprehensive Fishery Management Plan for Puerto Rico**

*E.O. 13771 Designation:* Not subject to, not significant.

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

**Abstract:** This rule would implement a comprehensive Puerto Rico Fishery Management Plan. The Plan would incorporate, and modify as needed, Federal fisheries management measures presently included in each of the existing species-based U.S. Caribbean Fishery Management Plans (Spiny Lobster, Reef Fish, Coral, and Queen Conch Fishery Management Plans) as those measures pertain to Puerto Rico exclusive economic zone waters. The

goal of this action is to create a Fishery Management Plan tailored to the specific fishery management needs of Puerto Rico. This new Plan, in conjunction with similar comprehensive Fishery Management Plans being developed for St. Croix and St. Thomas/St. John, would replace the Spiny Lobster, Reef Fish, Coral and Queen Conch Fishery Management Plans presently governing the commercial and recreational harvest in U.S. Caribbean exclusive economic zone waters.

**Timetable:**

Action	Date	FR Cite
NPRM .....	11/00/19	

**Regulatory Flexibility Analysis Required:** Yes.

**Agency Contact:** Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email:* roy.crabtree@noaa.gov.

*RIN:* 0648–BD32

**181. Comprehensive Fishery Management Plan for St. Croix**

*E.O. 13771 Designation:* Not subject to, not significant.

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

**Abstract:** This rule would implement a comprehensive St. Croix Fishery Management Plan. The Plan would incorporate, and modify as needed, Federal fisheries management measures presently included in each of the existing species-based U.S. Caribbean Fishery Management Plans (Spiny Lobster, Reef Fish, Coral, and Queen Conch Fishery Management Plans) as those measures pertain to St. Croix exclusive economic zone waters. The goal of this action is to create a Fishery Management Plan tailored to the specific fishery management needs of St. Croix. This new Plan, in conjunction with similar comprehensive Fishery Management Plans being developed for Puerto Rico and St. Thomas/St. John, would replace the Spiny Lobster, Reef Fish, Coral and Queen Conch Fishery Management Plans presently governing the commercial and recreational harvest in U.S. Caribbean exclusive economic zone waters.

**Timetable:**

Action	Date	FR Cite
NPRM .....	11/00/19	

**Regulatory Flexibility Analysis Required:** Yes.

**Agency Contact:** Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email:* roy.crabtree@noaa.gov.

*RIN:* 0648–BD33

**182. Comprehensive Fishery Management Plan for St. Thomas/St. John**

*E.O. 13771 Designation:* Not subject to, not significant.

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

**Abstract:** This rule would implement a comprehensive St. Thomas/St. John Fishery Management Plan. The Plan would incorporate, and modify as needed, Federal fisheries management measures presently included in each of the existing species-based U.S. Caribbean Fishery Management Plans (Spiny Lobster, Reef Fish, Coral, and Queen Conch Fishery Management Plans) as those measures pertain to St. Thomas/St. John exclusive economic zone waters. The goal of this action is to create a Fishery Management Plan tailored to the specific fishery management needs of St. Thomas/St. John. This new Plan, in conjunction with similar comprehensive Fishery Management Plans being developed for St. Croix and Puerto Rico, would replace the Spiny Lobster, Reef Fish, Coral and Queen Conch Fishery Management Plans presently governing the commercial and recreational harvest in U.S. Caribbean exclusive economic zone waters.

**Timetable:**

Action	Date	FR Cite
NPRM .....	11/00/19	

**Regulatory Flexibility Analysis Required:** Yes.

**Agency Contact:** Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email:* roy.crabtree@noaa.gov.

*RIN:* 0648–BD34

**183. International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Treatment of U.S. Purse Seine Fishing With Respect to U.S. Territories**

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 16 U.S.C. 6901 *et seq.*

**Abstract:** This action would establish rules and/or procedures to address the

treatment of U.S.-flagged purse seine vessels and their fishing activities in regulations issued by the National Marine Fisheries Service that implement decisions of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Commission), of which the United States is a member. Under the Western and Central Pacific Fisheries Convention Implementation Act, the National Marine Fisheries Service exercises broad discretion when determining how it implements Commission decisions, such as purse seine fishing restrictions. The National Marine Fisheries Service intends to examine the potential impacts of the domestic implementation of Commission decisions, such as purse seine fishing restrictions, on the economies of the U.S. territories that participate in the Commission, and examine the connectivity between the activities of U.S.-flagged purse seine fishing vessels and the economies of the territories. Based on that and other information, the National Marine Fisheries Service might propose regulations that mitigate adverse economic impacts of purse seine fishing restrictions on the U.S. territories and/or that, in the context of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention), recognize that one or more of the U.S. territories have their own purse seine fisheries that are distinct from the purse seine fishery of the United States and that are consequently subject to special provisions of the Convention and of Commission decisions.

Timetable:

Action	Date	FR Cite
ANPRM .....	10/23/15	80 FR 64382
ANPRM Comment Period End.	11/23/15	
NPRM .....	09/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Tosatto, Regional Administrator, Pacific Islands Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1845 Wasp Boulevard, Building 176, Honolulu, HI 96818, Phone: 808 725-5000, Email: michael.tosatto@noaa.gov.

RIN: 0648-BF41

184. International Fisheries; South Pacific Tuna Fisheries; Implementation of Amendments to the South Pacific Tuna Treaty

E.O. 13771 Designation: Not subject to, not significant.  
Legal Authority: 16 U.S.C. 973 et seq.  
Abstract: Under authority of the South Pacific Tuna Act of 1988, this rule would implement recent amendments to the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America (also known as the South Pacific Tuna Treaty). The rule would include modification to the procedures used to request licenses for U.S. vessels in the western and central Pacific Ocean purse seine fishery, including changing the annual licensing period from June-to-June to the calendar year, and modifications to existing reporting requirements for purse seine vessels fishing in the western and central Pacific Ocean. The rule would implement only those aspects of the Treaty amendments that can be implemented under the existing South Pacific Tuna Act.

Timetable:

Action	Date	FR Cite
NPRM .....	11/00/19	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Tosatto, Regional Administrator, Pacific Islands Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1845 Wasp Boulevard, Building 176, Honolulu, HI 96818, Phone: 808 725-5000, Email: michael.tosatto@noaa.gov.  
RIN: 0648-BG04

185. Illegal, Unregulated, and Unreported Fishing; Fisheries Enforcement; High Seas Driftnet Fishing Moratorium Protection Act

E.O. 13771 Designation: Regulatory.  
Legal Authority: Pub. L. 114-81  
Abstract: This proposed rule will make conforming amendments to regulations implementing the various statutes amended by the Illegal, Unreported and Unregulated Fishing Enforcement Act of 2015 (Pub. L. 114-81). The Act amends several regional fishery management organization implementing statutes as well as the High Seas Driftnet Fishing Moratorium Protection Act. It also provides authority to implement two new international agreements under the Antigua Convention, which amends the Convention for the establishment of an

Inter-American Tropical Tuna Commission, and the United Nations Food and Agriculture Organization Agreement on Port State Measures to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing (Port State Measures Agreement), which restricts the entry into U.S. ports by foreign fishing vessels that are known to be or are suspected of engaging in illegal, unreported, and unregulated fishing. This proposed rule will also implement the Port State Measures Agreement. To that end, this proposed rule will require the collection of certain information from foreign fishing vessels requesting permission to use U.S. ports. It also includes procedures to designate and publicize the ports to which foreign fishing vessels may seek entry and procedures for conducting inspections of these foreign vessels accessing U.S. ports. Further, the rule establishes procedures for notification of: the denial of port entry or port services for a foreign vessel, the withdrawal of the denial of port services if applicable, the taking of enforcement action with respect to a foreign vessel, or the results of any inspection of a foreign vessel to the flag nation of the vessel and other competent authorities as appropriate.

Timetable:

Action	Date	FR Cite
NPRM .....	12/00/19	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Alexa Cole, Acting Director, Office of International Affairs and Seafood Inspection, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301 427-8286, Email: alexa.cole@noaa.gov.  
RIN: 0648-BG11

186. International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Requirements To Safeguard Fishery Observers

E.O. 13771 Designation: Not subject to, not significant.  
Legal Authority: 16 U.S.C. 6901 et seq.  
Abstract: This rule would establish requirements to enhance the safety of fishery observers on highly migratory species fishing vessels. This rule would be issued under the authority of the Western and Central Pacific Fisheries Convention Implementation Act, and pursuant to decisions made by the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. This action is necessary

for the United States to satisfy its obligations under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, to which it is a Contracting Party.

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Michael Tosatto, Regional Administrator, Pacific Islands Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1845 Wasp Boulevard, Building 176, Honolulu, HI 96818, Phone: 808 725-5000, Email: michael.tosatto@noaa.gov.  
RIN: 0648-BG66

**187. Area of Overlap Between the Convention Areas of the Inter-American Tropical Tuna Commission and the Western and Central Pacific Fisheries Commission**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 16 U.S.C. 6901 et seq.; 16 U.S.C. 951 et seq.

*Abstract:* Under authority of the Western and Central Pacific Fisheries Convention Implementation Act and the Tuna Conventions Act, an area of overlap (overlap area) exists between the respective areas of competence of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean and the Inter-American Tropical Tuna Commission. NMFS proposes to change the application of the two Commissions' management decisions in the overlap area to specifically apply Inter-American Tropical Tuna Commission management measures in the overlap area rather than those of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean that currently apply there.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	06/12/18	83 FR 27305
ANPRM Comment Period End.	07/12/18	
NPRM .....	11/00/19	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Michael Tosatto, Regional Administrator, Pacific Islands Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1845 Wasp Boulevard,

Building 176, Honolulu, HI 96818, Phone: 808 725-5000, Email: michael.tosatto@noaa.gov.  
RIN: 0648-BH59

**188. Omnibus Deep-Sea Coral Amendment**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 16 U.S.C. 1801 et seq.  
*Abstract:* This action would implement the New England Fishery Management Council's Omnibus Deep-Sea Coral Amendment. The Amendment would implement measures that reduce impacts of fishing gear on deep-sea corals in the Gulf of Maine and on the outer continental shelf. In doing so, this action would prohibit the use of mobile bottom-tending gear in two areas in the Gulf of Maine (Mount Desert Rock and Outer Schoodic Ridge), and it would prohibit the use of all gear (with an exception for red crab pots) along the outer continental shelf in waters deeper than a minimum of 600 meters.

*Timetable:*

Action	Date	FR Cite
Notice of Availability.	08/26/19	84 FR 44596
NPRM .....	12/00/19	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Michael Pentony, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, Phone: 978 281-9283, Fax: 978 281-9207, Email: michael.pentony@noaa.gov.  
RIN: 0648-BH67

**189. Regulatory Amendment to the Pacific Coast Groundfish Fishery Management Plan To Implement an Electronic Monitoring Program for Bottom Trawl and Non-Whiting Midwater Trawl Vessels**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 16 U.S.C. 1801 et seq.  
*Abstract:* The proposed action would implement a regulatory amendment to the Pacific Fishery Management Council's Pacific Coast Groundfish Fishery Management Plan to allow bottom trawl and midwater trawl vessels targeting non-whiting species the option to use electronic monitoring (video cameras and associated sensors) in place of observers to meet requirements for 100-percent observer coverage. By allowing vessels the option to use electronic monitoring to meet monitoring requirements, this action is intended to increase operational flexibility and reduce monitoring costs for the fleet.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/00/19	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Barry Thom, Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232, Phone: 503 231-6266, Email: barry.thom@noaa.gov.

RIN: 0648-BH70

**190. Vessel Movement, Monitoring, and Declaration Management Enhancement for the Pacific Coast Groundfish Fishery; Pacific Coast Groundfish Fishery Management Plan**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 16 U.S.C. 1801 et seq.  
*Abstract:* This rulemaking action would implement the Pacific Fishery Management Council's action to implement various measures that provide more efficient and effective monitoring, improve enforcement of restricted areas, and reduce costs for the Pacific coast groundfish fleet. This action would: Increase the required frequency of signals transmitted from type-approved vessel monitoring system (VMS) units from once per hour to every 15 minutes to provide finer-scale vessel location data; allow vessels to use alternative VMS units; add a VMS declaration to indicate when a vessel is testing gear; allow vessels participating in the midwater trawl whiting fishery to change their declaration while at-sea to select a new whiting fishery; and allow vessels to move pot gear from one management area to another during a single trip while retaining fish from the primary management area.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/10/19	84 FR 54579
NPRM Comment Period End.	11/12/19	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Barry Thom, Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232, Phone: 503 231-6266, Email: barry.thom@noaa.gov.

RIN: 0648-BI45

**191. Requirements To Safeguard Fishery Observers in the Eastern Pacific Ocean**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 951 *et seq.*

*Abstract:* This rulemaking action would domestically implement recently adopted resolutions on improving observer safety at sea by parties to the Inter-American Tropical Tuna Commission (IATTC) and the Agreement on the International Dolphin Conservation Program (AIDCP), including the United States. The resolutions are binding for IATTC member nations and AIDCP Parties, and under the Tuna Conventions Act, 16 U.S.C. 951 *et seq.* and the Marine Mammal Protection Act of 1972, as amended. These resolutions aim to strengthen protections for observers required in longline and transshipment observer programs required under the IATTC and on purse seine vessels required by the AIDCP. In implementing them, this rulemaking proposes to include provisions that detail responsibilities for vessel owners and operators, responsibilities for IATTC and AIDCP members to which fishing vessels are flagged, responsibilities for members that have jurisdiction over ports, and responsibilities for observer providers. The action is necessary for the United States to satisfy its international obligations as a Member of the IATTC and AIDCP.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/00/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Barry Thom, Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232, *Phone:* 503 231-6266, *Email:* [barry.thom@noaa.gov](mailto:barry.thom@noaa.gov).

*RIN:* 0648-BI86

**192. • Revisions to the Seabird Avoidance Program for the Pacific Coast Groundfish Fishery Management Plan**

*E.O. 13771 Designation:* Not subject to, not significant.

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

*Abstract:* In response to a recommendation by the Pacific Fishery Management Council, this proposed rule would require commercial groundfish bottom longline vessels 26 feet length overall (LOA) and longer

managed under the Pacific Coast Groundfish Fishery Management Plan (FMP) to deploy streamer lines or to set gear during civil twilight when fishing in Federal waters north of 36 degrees N. latitude. The purpose of this proposed rule is to reduce interactions between seabirds, especially Endangered Species Act listed species, and groundfish longline gear. The action is necessary to fulfill terms and conditions of a 2017 biological opinion published by the United States Fish and Wildlife Service to minimize takes of endangered short-tailed albatross by the Pacific Coast groundfish fishery.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/12/19	84 FR 48094
NPRM Comment Period End.	10/15/19	
Final Rule .....	12/00/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Barry Thom, Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232, *Phone:* 503 231-6266, *Email:* [barry.thom@noaa.gov](mailto:barry.thom@noaa.gov).

*RIN:* 0648-BI99

**193. • Framework Adjustment 59 to the Northeast Multispecies Fishery Management Plan**

*E.O. 13771 Designation:* Not subject to, not significant.

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

*Abstract:* This rulemaking action proposes to implement management measures included in the New England Fishery Management Council's Framework Adjustment 59 to the Northeast Multispecies Fishery Management Plan (Framework 59) developed in response to new scientific information. The proposed action would set fishing years 2020-2022 specifications for 15 groundfish stocks, and fishing year 2020 total allocable catches (TAC) for the three U.S./Canada stocks: Eastern Georges Bank cod, Eastern Georges Bank haddock, and Georges Bank yellowtail flounder. This action would also revise the Georges Bank cod incidental TAC to remove the allocation to the Closed Area I Hook Gear Haddock Special Access Program, and as necessary in response to any new data coming from the Marine Recreational Information Program, address commercial/recreational allocation issues.

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael Pentony, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281-9283, *Fax:* 978 281-9207, *Email:* [michael.pentony@noaa.gov](mailto:michael.pentony@noaa.gov).

*RIN:* 0648-BJ12

**194. Designation of Critical Habitat for the Arctic Ringed Seal**

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 16 U.S.C. 1531 *et seq.*

*Abstract:* The National Marine Fisheries Service published a final rule to list the Arctic ringed seal as a threatened species under the Endangered Species Act (ESA) in December 2012. The ESA requires designation of critical habitat at the time a species is listed as threatened or endangered, or within one year of listing if critical habitat is not then determinable. This rulemaking would designate critical habitat for the Arctic ringed seal. The critical habitat designation would be in the northern Bering, Chukchi, and Beaufort seas within the current range of the species.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/03/14	79 FR 71714
Proposed Rule ....	12/09/14	79 FR 73010
Notice of Public Hearings.	01/13/15	80 FR 1618
Comment Period Extended.	02/02/15	80 FR 5498
Proposed Rule 2	09/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 427-8400.

*RIN:* 0648-BC56

**195. Amendment and Updates to the Pelagic Longline Take Reduction Plan**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 1361 *et seq.*

*Abstract:* Serious injury and mortality of the Western North Atlantic short-finned pilot whale stock incidental to the Category I Atlantic pelagic longline fishery continues at levels exceeding

their Potential Biological Removal. This proposed action will examine a number of management measures to amend the Pelagic Longline Take Reduction Plan to reduce the incidental mortality and serious injury of short-finned pilot whales taken in the Atlantic Pelagic Longline fishery to below Potential Biological Removal. Potential management measures may include changes to the current limitations on mainline length, new requirements to use weak hooks (hooks with reduced breaking strength), and non-regulatory measures related to determining the best procedures for safe handling and release of marine mammals. The need for the proposed action is to ensure the Pelagic Longline Take Reduction Plan meets its Marine Mammal Protection Act mandated short- and long-term goals.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301 427-8400.  
*RIN:* 0648-BF90

**196. Endangered and Threatened Species; Designation of Critical Habitat for Threatened Caribbean and Indo-Pacific Reef-Building Corals**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 16 U.S.C. 1531 *et seq.*  
*Abstract:* On September 10, 2014, the National Marine Fisheries Service listed 20 species of reef-building corals as threatened under the Endangered Species Act, 15 in the Indo-Pacific and five in the Caribbean. Of the 15 Indo-Pacific species, seven occur in U.S. waters of the Pacific Islands Region, including in American Samoa, Guam, the Commonwealth of the Mariana Islands, and the Pacific Remote Island Areas. This proposed rule would designate critical habitat for the seven species in U.S. waters (*Acropora globiceps*, *Acropora jacquelineae*, *Acropora retusa*, *Acropora speciosa*, *Euphyllia paradivisa*, *Isopora crateriformis*, and *Seriatopora aculeata*). The proposed designation would cover coral reef habitat around 17 island or atoll units in the Pacific Islands Region, including four in American Samoa, one in Guam, seven in the Commonwealth of the Mariana Islands, and five in

Pacific Remote Island Areas, containing essential features that support reproduction, growth, and survival of the listed coral species. This rule also proposes to designate critical habitat for the five Caribbean corals and proposed to revise critical habitat for two previously-listed corals, *Acropora palmata* and *Acropora cervicornis*.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301 427-8400.  
*RIN:* 0648-BG26

**197. Revision to Critical Habitat Designation for Endangered Southern Resident Killer Whales**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 16 U.S.C. 1531 *et seq.*  
*Abstract:* The proposed action would revise the designation of critical habitat for the endangered Southern Resident killer whale distinct population segment, pursuant to section 4 of the Endangered Species Act. Critical habitat for this population is currently designated within inland waters of Washington. In response to a 2014 petition, NMFS is proposing to expand the designation to include areas occupied by Southern Resident killer whales in waters along the U.S. West Coast. Impacts from the designation would stem mainly from Federal agencies' requirement to consult with NMFS, under section 7 of the Endangered Species Act, to ensure that any action they carry out, permit (authorize), or fund will not result in the destruction or adverse modification of critical habitat of a listed species. Federal agencies are already required to consult on effects to the currently designated critical habitat in inland waters of Washington, but consultation would be newly required for actions affecting the expanded critical habitat areas. Federal agencies are also already required to consult within the Southern Resident killer whales' range (including along the U.S. West Coast) to ensure that any action they carry out, permit, or fund will not jeopardize the continued existence of the species; this requirement would not change with a

revision to the critical habitat designation.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/19/19	84 FR 49214
NPRM Comment Period End.	12/18/19	
Final Rule .....	09/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301 427-8400.  
*RIN:* 0648-BH95

**198. Designation of Critical Habitat for the Mexico, Central American, and Western Pacific Distinct Population Segments of Humpback Whales Under the Endangered Species Act**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 16 U.S.C. 1531 *et seq.*  
*Abstract:* This action will propose the designation of critical habitat for three distinct population segments of humpback whales (*Megaptera novaeangliae*) pursuant to section 4 of the Endangered Species Act. The three distinct population segments of humpback whales concerned—the Mexico, Central American, and Western Pacific distinct population segments—were listed under the Endangered Species Act on September 8, 2016, thereby triggering the requirement under section 4 of the Endangered Species Act to designate critical habitat to the maximum extent prudent and determinable. Proposed critical habitat for these three distinct population segments of humpback whales will include marine habitats within the Pacific Ocean and Bering Sea and will likely overlap with several existing designations, including critical habitat for leatherback sea turtles, North Pacific right whales, Steller sea lions, southern resident killer whales, and the southern distinct population segment of green sturgeon. Impacts from the designations for humpback whales would stem from the statutory requirement for Federal agencies to consult with NMFS, under section 7 of the Endangered Species Act, to ensure that any action they carry out, authorize, or fund will not result in the destruction or adverse modification of humpback whale critical habitat. Within many of the areas we are evaluating for potential proposal as critical habitat for the humpback whales distinct

population segments, Federal agencies are already required to consult on effects to currently designated critical habitat for other listed species. Federal agencies are also already required to consult with NMFS under section 7 of the Endangered Species Act to ensure that any action they authorize, fund or carry out will not jeopardize the continued existence of the listed distinct population segments of humpback whales.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/09/19	84 FR 54354
NPRM Comment Period End.	12/09/19	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301 427-8400.

RIN: 0648-BI06

## DEPARTMENT OF COMMERCE (DOC)

*National Oceanic and Atmospheric Administration (NOAA)*

Final Rule Stage

### National Marine Fisheries Service

#### 199. Jonah Crab Fishery; Interstate Fishery Management Plan for Jonah Crab

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 1801 *et seq.*; 16 U.S.C. 5101 *et seq.*

*Abstract:* The National Marine Fisheries Service proposes Federal Jonah crab regulations to help achieve the goal of the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan to promote Jonah crab conservation, reduce the possibility of recruitment failure, and allow the industry to continue fishing the resource at present levels. The Jonah Crab Plan was developed out of concern for potential impacts to the status of the Jonah crab resource, given the recent and rapid increase in landings. Commercial and recreational measures and reporting requirements were recommended for Federal implementation in the Jonah Crab Plan. Measures include: Permitting, minimum size, prohibition on retaining egg-bearing females, and incidental bycatch limit, and reporting requirements that

are consistent with American lobster fishery requirements. Most States have implemented measures consistent with the Plan. The proposed measures would complement those implemented by the States.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	10/13/16	81 FR 70658
ANPRM Comment Period End.	11/14/16	
NPRM .....	03/22/19	84 FR 10756
NPRM Comment Period End.	04/22/19	
Final Action .....	11/00/19	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Michael Pentony, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, Phone: 978 281-9283, Fax: 978 281-9207, Email: michael.pentony@noaa.gov.

RIN: 0648-BF43

#### 200. Commerce Trusted Trader Program

*E.O. 13771 Designation:* Deregulatory.

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

*Abstract:* This rule will establish a voluntary Commerce Trusted Trader Program for importers, aiming to provide benefits such as reduced targeting and inspections and enhanced streamlined entry into the United States for certified importers. Specifically, this rule would establish the criteria required of a Commerce Trusted Trader, and identify specifically how the program will be monitored and by whom. It will require that a Commerce Trusted Trader establish a secure supply chain and maintain the records necessary to verify the legality of all designated product entering into U.S. commerce, but will excuse the Commerce Trusted Trader from entering that data into the International Trade Data System prior to entry, as required by Seafood Import Monitoring Program (finalized on December 9, 2016). The rule will identify the benefits available to a Commerce Trusted Trader, detail the application process, and specify how the Commerce Trusted Trader will be audited by third-party entities while the overall program will be monitored by the National Marine Fisheries Service.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/17/18	83 FR 2412

Action	Date	FR Cite
NPRM Comment Period End.	03/19/18	
Withdrawal .....	12/00/19	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Alexa Cole, Acting Director, Office of International Affairs and Seafood Inspection, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301 427-8286, Email: alexa.cole@noaa.gov.

RIN: 0648-BG51

#### 201. Rule To Implement the For-Hire Reporting Amendments

*E.O. 13771 Designation:* Not subject to, not significant.

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

*Abstract:* This rule proposes to implement Amendment 39 for the Snapper-Grouper Fishery of the South Atlantic Region, Amendment 9 for the Dolphin and Wahoo Fishery of the Atlantic, and Amendment 27 to the Coastal Migratory Pelagics Fishery of the Gulf of Mexico and Atlantic Regions (For-Hire Reporting Amendments). The For-Hire Reporting Amendments rule proposes mandatory weekly electronic reporting for charter vessel operators with a Federal for-hire permit in the snapper-grouper, dolphin wahoo, or coastal migratory pelagics fisheries; reduces the time allowed for headboat operators to complete their electronic reports; and requires location reporting by charter vessels with the same level of detail currently required for headboat vessels.

*Timetable:*

Action	Date	FR Cite
Notice of Availability.	03/14/18	83 FR 11164
NPRM .....	04/04/18	83 FR 14400
NPRM Comment Period End.	05/04/18	
Final Action .....	11/00/19	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, Phone: 727 824-5305, Fax: 727 824-5308, Email: roy.crabtree@noaa.gov.

RIN: 0648-BG75



## 202. Generic Amendment to the Fishery Management Plans for the Reef Fish Resources of the Gulf of Mexico and Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region

*E.O. 13771 Designation:* Not subject to, not significant.

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

*Abstract:* This action, recommended by the Gulf of Mexico Fishery Management Council, would modify data reporting for owners or operators of federally permitted for-hire vessels (charter vessels and headboats) in the Gulf of Mexico, requiring them to declare the type of trip (for-hire or other) prior to departing for any trip, and electronically submit trip-level reports prior to off-loading fish at the end of each fishing trip. The declaration would include the expected return time and landing location. Landing reports would include information about catch and effort during the trip. The action would also require that these reports be submitted via approved hardware that includes a global positioning system attached to the vessel that is capable, at a minimum, of archiving global positioning system locations. This requirement would not preclude the use of global positioning system devices that provide real-time location data, such as the currently approved vessel monitoring systems.

*Timetable:*

Action	Date	FR Cite
Notice of Availability.	06/21/18	83 FR 28797
NPRM .....	10/26/18	83 FR 54069
Correction .....	11/08/18	83 FR 55850
Comment Period Extended.	11/20/18	83 FR 58522
NPRM Comment Period End.	11/26/18	
Comment Period Extended End.	01/09/19	
Final Action .....	01/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824-5305, *Fax:* 727 824-5308, *Email:* roy.crabtree@noaa.gov.  
*RIN:* 0648-BH72

## 203. Magnuson-Stevens Fisheries Conservation and Management Act; Traceability Information Program for Seafood

*Regulatory Plan:* This entry is Seq. No. 15 in part II of this issue of the **Federal Register**.

*RIN:* 0648-BH87

## 204. Atlantic Highly Migratory Species; Pelagic Longline Bluefin Tuna Area-Based and Weak Hook Management

*E.O. 13771 Designation:* Derogatory.  
*Legal Authority:* 16 U.S.C. 1801 *et seq.*; 16 U.S.C. 971 *et seq.*

*Abstract:* Atlantic Highly Migratory Species (HMS) fisheries are managed under the dual authority of the Magnuson-Stevens Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). This rulemaking will address the area-based and weak hook management measures for bluefin tuna in the pelagic longline fishery. NMFS implemented an individual bluefin tuna quota system for pelagic longline fishery participants in 2015. With this approach and its emphasis on individual vessel accountability, NMFS has determined some fleetwide measures may be redundant. This action would appropriately streamline regulations and increase flexibility to the Atlantic pelagic longline fishery while maintaining bycatch reduction and conservation and management obligations.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/12/19	84 FR 33205
NPRM Correction	08/08/19	84 FR 38918
NPRM Comment Period End.	09/30/19	
Final Action .....	04/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Alan Risenhoover, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Room 13362, Silver Spring, MD 20910, *Phone:* 301 713-2334, *Fax:* 301 713-0596, *Email:* alan.risenhoover@noaa.gov.  
*RIN:* 0648-BI51

## 205. Reduce Gulf of Mexico Red Grouper Annual Catch Limits and Annual Catch Targets

*E.O. 13771 Designation:* Not subject to, not significant.

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

*Abstract:* The Gulf of Mexico Fishery Management Council (Council) has requested that NMFS publish a rule under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) to temporarily reduce the red grouper commercial and recreational Annual Catch Limits (ACLs) and associated Annual Catch Targets (ACTs). In October 2018, the

Council's Scientific and Statistical Committee (SSC) reviewed the results of an interim analysis performed by the Southeast Fisheries Science Center and recommended that the Council reduce the red grouper commercial and recreational ACLs and ACTs, effective for the 2019 fishing year. In addition, there have been recent decreases in red grouper landings and public testimony at the October Council meeting expressed concern about the status of the red grouper stock. Therefore, the Council is developing a framework action to reduce the ACLs and ACTs. In the meantime, based on these recent unforeseen circumstances, and consistent with the Council's request, NMFS intends to implement a rule under MSA section 305(c) to establish lower red grouper ACLs and ACTs for 2019.

*Timetable:*

Action	Date	FR Cite
Proposed Emergency Rule.	03/05/19	84 FR 7864
Proposed Emergency Rule Comment Period End.	03/20/19	
Final Emergency Rule.	05/17/19	84 FR 22389
Final Emergency Rule Effective.	05/17/19	
Extension of Emergency Rule.	11/00/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824-5305, *Fax:* 727 824-5308, *Email:* roy.crabtree@noaa.gov.  
*RIN:* 0648-BI63

## 206. Interim 2019 Tribal Pacific Whiting Allocation and Require Consideration of Chinook Salmon Bycatch Before Reapportioning Tribal Whiting; Pacific Coast Groundfish

*E.O. 13771 Designation:* Not subject to, not significant.

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

*Abstract:* NMFS issued a final rule for the tribal Pacific whiting (whiting) fishery off the coast of Washington State. The purpose is to establish an interim 2019 tribal whiting allocation, and to protect ESA-listed Chinook salmon, as required in the Terms and Conditions of a December 11, 2017, Biological Opinion. NMFS developed this rule after discussions with the

affected tribes and the non-tribal fisheries interests. As in prior years, this allocation is an “interim” allocation that is not intended to set precedent for future years.

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/15/19	84 FR 9471
NPRM Comment Period End.	04/01/19	
Final Rule .....	05/10/19	84 FR 20578
Final Rule Effective.	05/10/19	
Correcting Amendment.	11/00/19	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Barry Thom, Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232, *Phone:* 503 231-6266, *Email:* barry.thom@noaa.gov.

*RIN:* 0648-BI67

**207. • Framework Action To Reduce Gulf of Mexico Red Grouper Annual Catch Limits and Annual Catch Targets to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico**

*E.O. 13771 Designation:* Not subject to, not significant.

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

*Abstract:* NMFS proposes to implement management measures described in a framework action to the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico (Gulf), as prepared by the Gulf of Mexico Fishery Management Council (Council). The framework action is titled “Modification of Gulf of Mexico Red Grouper Annual Catch Limits and Annual Catch Targets.” This proposed rule would reduce the red grouper commercial and recreational annual catch limits (ACLs) and annual catch targets (ACTs). The purpose of this rule is to continue the Gulf red grouper commercial and recreational ACL and ACT reductions implemented through emergency rulemaking in 2019 to protect the stock and to continue to achieve optimum yield.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/19/19	84 FR 34845
NPRM Comment Period End.	08/19/19	
Final Rule .....	10/01/19	84 FR 52036
Final Rule Effective.	10/31/19	

*Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824-5305, *Fax:* 727 824-5308, *Email:* roy.crabtree@noaa.gov.

*RIN:* 0648-BI95

**208. • Amendment 18 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, U.S. Waters**

*E.O. 13771 Designation:* Deregulatory. *Legal Authority:* 16 U.S.C. 1801 *et seq.*

*Abstract:* This action would implement the Gulf of Mexico Fishery Management Council’s Amendment 18 to the Shrimp Fishery Management Plan. It would do so by adjusting the target reduction goal for juvenile red snapper mortality in the Federal Gulf of Mexico (Gulf) shrimp trawl fishery in the 10–30 fathom depth zone, as well as modifying the Plan’s framework procedure to streamline the process to make future modifications to this target reduction goal. As part of the Gulf red snapper rebuilding plan, NMFS previously capped effort in the Gulf shrimp fishery based on Council recommendation to protect juvenile red snapper caught as bycatch in shrimp nets. However, the Gulf red snapper stock is no longer overfished or undergoing overfishing, and the red snapper stock acceptable biological catch (ABC) has consistently increased under the rebuilding plan. Accordingly, this action is expected to promote economic stability and achievement of optimum yield in the Federal Gulf shrimp fishery by reducing effort constraints, while continuing to protect Gulf red snapper.

*Timetable:*

Action	Date	FR Cite
Notice of Availability.	08/01/19	84 FR 37611
NPRM .....	08/29/19	84 FR 45459
NPRM Comment Period End.	09/30/19	
Final Action .....	11/00/19	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824-5305, *Fax:* 727 824-5308, *Email:* roy.crabtree@noaa.gov.

*RIN:* 0648-BI96

**209. Reducing Disturbances to Hawaiian Spinner Dolphins From Human Interactions**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 1361 *et seq.*

*Abstract:* This action would implement regulatory measures under the Marine Mammal Protection Act to protect Hawaiian spinner dolphins that are resting in protected bays from take due to close approach interactions with humans.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	12/12/05	70 FR 73426
ANPRM Comment Period End.	01/11/06	
NPRM .....	08/24/16	81 FR 57854
NPRM Comment Period End.	10/23/16	
NPRM Comment Period Re-opened.	11/16/16	81 FR 80629
NPRM Comment Period Re-opened End.	12/01/16	
Final Action .....	01/00/20	

*Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 427-8400.

*RIN:* 0648-AU02

**210. Taking and Importing Marine Mammals: Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico**

*Regulatory Plan:* This entry is Seq. No. 14 in part II of this issue of the **Federal Register**.

*RIN:* 0648-BB38

**211. Regulation To Reduce Incidental Bycatch and Mortality of Sea Turtles in the Southeastern U.S. Shrimp Fisheries**

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 16 U.S.C. 1531 *et seq.*

*Abstract:* The purpose of the proposed action is to aid in the protection and recovery of listed sea turtle populations by reducing incidental bycatch and mortality of small sea turtles in the Southeastern U.S. shrimp fisheries. As a result of new information on sea turtle bycatch in shrimp trawls and turtle excluder device testing, NMFS conducted an evaluation of the Southeastern U.S. shrimp fisheries that

resulted in a draft environmental impact statement. This rule proposes to withdraw the alternative tow time restriction and require certain vessels using skimmer trawls, pusher-head trawls, and wing nets (butterfly trawls), with the exception of vessels participating in the Biscayne Bay wing net fishery in Miami-Dade County, Florida, to use turtle excluder devices designed to exclude small sea turtles.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/16/16	81 FR 91097
NPRM Comment Period End.	02/14/17	
Final Action .....	12/00/19	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301 427-8400.

*RIN:* 0648-BG45

## DEPARTMENT OF COMMERCE (DOC)

*National Oceanic and Atmospheric Administration (NOAA)*

### Long-Term Actions

#### National Marine Fisheries Service

##### 212. Implementation of a Program for Transshipments by Large Scale Fishing Vessels in the Eastern Pacific Ocean

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 951 *et seq.*; 16 U.S.C. 971 *et seq.*

*Abstract:* This rule would implement the Inter-American Tropical Tuna Commission program to monitor transshipments by large-scale tuna fishing vessels, and would govern transshipments by U.S. large-scale tuna fishing vessels and carrier, or receiving, vessels. The rule would establish: Criteria for transshipping in port; criteria for transshipping at sea by longline vessels to an authorized carrier vessel with an Inter-American Tropical Tuna Commission observer onboard and an operational vessel monitoring system; and require the Pacific Transshipment Declaration Form, which must be used to report transshipments in the Inter-American Tropical Tuna Commission Convention Area. This rule is necessary for the United States to satisfy its international obligations under the 1949 Convention for the Establishment of an Inter-American

Tropical Tuna, to which it is a Contracting Party.

*Timetable:*

Action	Date	FR Cite
NPRM .....	To Be Determined	

*Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Barry Thom, Phone: 503 231-6266, Email: barry.thom@noaa.gov.

*RIN:* 0648-BD59

## NOS/ONMS

### 213. Wisconsin-Lake Michigan National Marine Sanctuary Designation

*E.O. 13771 Designation:* Regulatory. *Legal Authority:* 16 U.S.C. 1431 *et seq.* *Abstract:* On December 2, 2014,

pursuant to section 304 of the National Marine Sanctuaries Act and the Sanctuary Nomination Process (79 FR 33851), a coalition of community groups submitted a nomination asking NOAA to designate an area of Wisconsin's Lake Michigan waters as a national marine sanctuary. The area is a region that includes 875 square miles of Lake Michigan waters and bottomlands adjacent to Manitowoc, Sheboygan, and Ozaukee counties and the cities of Port Washington, Sheboygan, Manitowoc, and Two Rivers. It includes 80 miles of shoreline and extends 9 to 14 miles from the shoreline. The area contains an extraordinary collection of submerged maritime heritage resources (shipwrecks) as demonstrated by the listing of 15 shipwrecks on the National Register of Historic Places. The area includes 39 known shipwrecks, 123 reported vessel losses, numerous other historic maritime-related features, and is adjacent to communities that have embraced their centuries-long relationship with Lake Michigan. NOAA completed its review of the nomination in accordance with the Sanctuary Nomination Process and on February 5, 2015, added the area to the inventory of nominations that are eligible for designation. On October 7, 2015, NOAA issued a notice of intent to begin the designation process and asked for public comment on making this area a national marine sanctuary. Designation under the National Marine Sanctuaries Act would allow NOAA to supplement and complement work by the State of Wisconsin and other Federal agencies to protect this collection of nationally significant shipwrecks.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/09/17	82 FR 2269

Action	Date	FR Cite
NPRM Comment Period End.	03/31/17	
Final Action .....	11/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Vicki Wedell, Phone: 240 533-0650, Email: vicki.wedell@noaa.gov.

*RIN:* 0648-BG01

## DEPARTMENT OF COMMERCE (DOC)

*National Oceanic and Atmospheric Administration (NOAA)*

### Completed Actions

#### 214. Pacific Coast Groundfish Fishing Capacity Reduction Loan Refinance

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 16 U.S.C. 1801 *et seq.*; 16 U.S.C. 1861 *et seq.*; 5 U.S.C. 561 *et seq.*

*Abstract:* Congress enacted the 2015 National Defense Authorization Act to refinance the existing debt obligation funding the fishing capacity reduction program for the Pacific Coast Groundfish fishery implemented under section 212. Pending appropriation of funds to effect the refinance, the National Marine Fisheries Service issued proposed regulations to seek comment on the refinancing and to prepare for an industry referendum and final rule. However, a subsequent appropriation to fund the refinancing was never enacted. As a result, the National Marine Fisheries Service has no funds with which to proceed, and the refinancing authority cannot be implemented at this time.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/06/15	80 FR 46941
NPRM Comment Period End.	09/08/15	
Withdrawn .....	08/28/19	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Brian Pawlak, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301 427-8621, Email: brian.t.pawlak@noaa.gov.

*RIN:* 0648-BE90

## 215. Regulatory Amendment to the Pacific Coast Groundfish Fishery Management Plan To Implement an Electronic Monitoring Program for the Pacific Whiting Fishery

*E.O. 13771 Designation:* Deregulatory.

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

*Abstract:* This action implements a regulatory amendment to the Pacific Coast Groundfish Fishery Management Plan to allow Pacific whiting vessels the option to use electronic monitoring (video cameras and associated sensors) in place of observers to meet requirements for 100-percent observer coverage. Vessels participating in the catch share program are required to carry an observer on all trips to ensure total accountability for at-sea discards. For some vessels, electronic monitoring may have lower costs than observers and a reduced logistical burden. By allowing vessels the option to use electronic monitoring to meet monitoring requirements, this action is intended to increase operational flexibility and reduce monitoring costs for the Pacific whiting fleet.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/06/16	81 FR 61161
NPRM Comment Period End.	10/06/16	
Final Rule .....	06/28/19	84 FR 31146
Correction .....	07/26/19	84 FR 36034
Final Rule Effective.	07/29/19	
Correction Effective.	07/29/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Barry Thom, Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232, Phone: 503 231-6266, Email: [barry.thom@noaa.gov](mailto:barry.thom@noaa.gov).

*RIN:* 0648-BF52

## 216. Halibut Deck Sorting Monitoring Requirements for Trawl Catcher/Processors Operating in Non-Pollock Groundfish Fisheries off Alaska

*E.O. 13771 Designation:* Deregulatory.

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

*Abstract:* In the non-pollock trawl groundfish fisheries off Alaska, there are catch limits for Pacific halibut as a prohibited species if halibut mortality reaches the limit, the fishery closes regardless of whether or not fishery

participants have reached the quotas for the actual target groundfish species. This proposed action would implement catch handling and monitoring requirements to allow the sorting of Pacific halibut prohibited species catch (PSC) on the deck of trawl catcher/processors and motherships participating in these fisheries. This would allow Pacific halibut to be discarded prior to entering the onboard factory, thereby reducing discard mortality. Reducing halibut discard mortality could in turn maximize harvest of the directed groundfish fisheries that otherwise might be constrained by the regulatory halibut PSC limits. To participate in halibut deck sorting, a vessel would be required to comply with additional monitoring and equipment requirements to ensure accurate accounting for halibut PSC sorted on deck. Participation in this program along with the associated costs would be voluntary, allowing for flexibility for individual vessel owners of non-pollock trawl catcher/processors and motherships to determine if the benefits of reduced halibut mortality, and the corresponding reduction in fleet-wide PSC rates, outweigh the individual costs of complying with the monitoring and enforcement requirements.

*Timetable:*

Action	Date	FR Cite
NPRM .....	04/16/19	84 FR 15566
NPRM Comment Period End.	05/16/19	
Final Rule .....	10/15/19	84 FR 55044
Final Rule Effective.	11/14/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* James Balsiger, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 West Ninth Street, Juneau, AK 99801, Phone: 907 586-7221, Fax: 907 586-7465, Email: [jim.balsiger@noaa.gov](mailto:jim.balsiger@noaa.gov).

*RIN:* 0648-BI53

## 217. Establishing an Overfishing Limit, Acceptable Biological Catch, and Annual Catch Limit for the Central Subpopulation of Northern Anchovy; Coastal Pelagic Species Fishery Management Plan

*E.O. 13771 Designation:* Not subject to, not significant.

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

*Abstract:* On January 18, 2018, the U.S. District Court for the Northern District of California granted summary judgment to the conservation group Oceana, in litigation over management of Northern Anchovy off the West Coast under the Magnuson-Stevens Fishery Conservation and Management Act (*Oceana, Inc. v. Ross*). Specifically, the court vacated all currently existing management reference points (*i.e.*, Annual Catch Limit, Overfishing Limit, Acceptable Biological Catch) for the central subpopulation of Northern Anchovy (CSNA). This was followed by a separate court order requiring NMFS to establish a new Overfishing Limit (OFL), Acceptable Biological Catch (ABC), and Annual Catch Limit (ACL) no later than April 18, 2019. This action is the result of these court orders and establishes a new OFL, ABC, and ACL for the CSNA. NMFS originally intended to issue a final rule without advance public notice and comment to ensure a rule was in place before the court-ordered deadline. The Court rejected this plan and ordered NMFS to publish a proposed rule with opportunity for public comment followed by a final rule.

*Timetable:*

Action	Date	FR Cite
NPRM .....	04/08/19	84 FR 13858
NPRM Comment Period End.	04/23/19	
Final Action .....	05/31/19	84 FR 25196
Final Action Effective.	07/01/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Barry Thom, Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232, Phone: 503 231-6266, Email: [barry.thom@noaa.gov](mailto:barry.thom@noaa.gov).

*RIN:* 0648-BI73

## DEPARTMENT OF COMMERCE (DOC)

*Patent and Trademark Office (PTO)*

Proposed Rule Stage

### 218. • Trademark Fee Adjustment

*Regulatory Plan:* This entry is Seq. No. 16 in part II of this issue of the **Federal Register**.

*RIN:* 0651-AD42

**DEPARTMENT OF COMMERCE (DOC)**

*RIN:* 0651–AD31

*Patent and Trademark Office (PTO)*

[FR Doc. 2019–26535 Filed 12–23–19; 8:45 am]

Final Rule Stage

**BILLING CODE 3510–12–P**

**219. Setting and Adjusting Patent Fees  
During Fiscal Year 2020**

*Regulatory Plan:* This entry is Seq.  
No. 17 in part II of this issue of the  
**Federal Register.**





# FEDERAL REGISTER

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Vol. 84

Thursday,

No. 247

December 26, 2019

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Part V

Department of Defense

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Semiannual Regulatory Agenda

**DEPARTMENT OF DEFENSE****32 CFR Chs. I, V, VI, and VII****33 CFR Ch. II****36 CFR Ch. II****48 CFR Ch. II****Improving Government Regulations;  
Unified Agenda of Federal Regulatory  
and Deregulatory Actions****AGENCY:** Department of Defense (DoD).**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** This agenda announces the proposed regulatory actions the Department of Defense (DOD) plans for the next 12 months and those completed since the spring 2019 agenda. It was developed under the guidelines of Executive Order 12866 "Regulatory Planning and Review," Executive Order 13771 "Reducing Regulation and Controlling Regulatory Costs," and Executive Order 13563 "Improving Regulation and Regulatory Review." This Agenda documents DOD's work under Executive Order 13777 "Enforcing the Regulatory Reform Agenda," and many regulatory actions support the recommendations of the DoD Regulatory Reform Task Force (as indicated in the individual rule abstracts). Members of the public may submit comments on individual proposed and interim final rulemakings at [www.regulations.gov](http://www.regulations.gov) during the comment period that follows publication in the **Federal Register**.

This agenda updates the report published on May 22, 2019, and includes regulations expected to be issued and under review over the next 12 months. The next agenda will publish in the spring of 2020.

The complete Unified Agenda will be available online at [www.reginfo.gov](http://www.reginfo.gov).

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), the Department of Defense's printed agenda entries include only:

(1) Rules that are in the Agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Any rules that the Agency has identified for periodic review under

section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's agenda requirements. Additional information on these entries is in the Unified Agenda available online.

**FOR FURTHER INFORMATION CONTACT:** For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Ms. Patricia Toppings, telephone 571-372-0485, or write to Office of the Chief Management Officer, Directorate for Oversight and Compliance, Regulatory and Advisory Committee Division, 9010 Defense Pentagon, Washington, DC 20301-9010, or email: [patricia.l.toppings.civ@mail.mil](mailto:patricia.l.toppings.civ@mail.mil).

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, write to Office of the General Counsel, 1600 Defense Pentagon, Washington, DC 20301-1600, or call 703-693-9958.

For general information on Office of the Secretary regulations, other than those which are procurement-related, contact Ms. Morgan Park, telephone 571-372-0489, or write to Office of the Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Advisory Committee Division, 9010 Defense Pentagon, Washington, DC 20301-9010, or email: [morgan.e.park.civ@mail.mil](mailto:morgan.e.park.civ@mail.mil).

For general information on Office of the Secretary regulations which are procurement-related, contact Ms. Jennifer Hawes, telephone 571-372-6115, or write to Office of the Under Secretary of Defense for Acquisition and Sustainment, Defense Pricing and Contracting, Defense Acquisition Regulations System, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301-3060, or email: [jennifer.l.hawes2.civ@mail.mil](mailto:jennifer.l.hawes2.civ@mail.mil).

For general information on Department of the Army regulations, contact Ms. Brenda Bowen, telephone 571-515-0206, or write to the U.S. Army Records Management and Declassification Agency, ATTN: AAHS-RDO, Building 1458, Suite NW6305, 9301 Chapek Road, Ft. Belvoir, VA 22060-5605, or email: [brenda.s.bowen.civ@mail.mil](mailto:brenda.s.bowen.civ@mail.mil).

For general information on the U.S. Army Corps of Engineers regulations, contact Ms. Stacey Jensen, telephone 703-695-6791, or write to Office of the

Assistant Secretary of the Army (Civil Works), 108 Army Pentagon, Room 3E441, Washington, DC 20310-0108, or email: [stacey.m.jensen.civ@mail.mil](mailto:stacey.m.jensen.civ@mail.mil).

For general information on Department of the Navy regulations, contact CDR Meredith Werner, telephone 703-614-7408, or write to Department of the Navy, Office of the Judge Advocate General, Administrative Law Division (Code 13), Washington Navy Yard, 1322 Patterson Avenue SE, Suite 3000, Washington, DC 20374-5066, or email: [meredith.werner@navy.mil](mailto:meredith.werner@navy.mil).

For general information on Department of the Air Force regulations, contact Bao-Anh Trinh, telephone 703-614-8500, or write the Office of the Secretary of the Air Force, Chief, Information Dominance/Chief Information Officer (SAF CIO/A6), 1800 Air Force Pentagon, Washington, DC 20330-1800, or email: [usaf.pentagon.saf-cio-a6.mbx.af-foia@mail.mil](mailto:usaf.pentagon.saf-cio-a6.mbx.af-foia@mail.mil).

For specific agenda items, contact the appropriate individual indicated for each regulatory action.

**SUPPLEMENTARY INFORMATION:** This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions reports on actions planned by the Office of the Secretary of Defense (OSD), the Military Departments, procurement-related actions, and actions planned by the U.S. Army Corps of Engineers.

This agenda also identifies rules impacted by the:

- a. Regulatory Flexibility Act;
- b. Paperwork Reduction Act of 1995;
- c. Unfunded Mandates Reform Act of 1995.

Generally, rules discussed in this agenda will contain five sections: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; (4) completed actions; and (5) long-term actions. Where certain regulatory actions indicate that small entities are affected, the effect on these entities may not necessarily have significant economic impact on a substantial number of these entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601(6)).

The publishing of this agenda does not waive the applicability of the military affairs exemption in section 553 of title 5 U.S.C. and section 3 of Executive Order 12866.

Dated: July 26, 2019.

**Lisa W. Hershman,**  
Deputy Chief Management Officer.



## DEFENSE ACQUISITION REGULATIONS COUNCIL—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
220 .....	Covered Telecommunications Equipment or Services (DFARS Case 2018–D022) ( <b>Reg Plan Seq No. 22</b> )	0750–AJ84
221 .....	Prompt Payments of Small Business Subcontractors (DFARS Case 2018–D068) ( <b>Reg Plan Seq No. 23</b> )	0750–AK25
222 .....	Nonmanufacturer Rule for 8(a) Participants (DFARS Case 2019–D004) ( <b>Reg Plan Seq No. 25</b> ) .....	0750–AK39

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

## OFFICE OF ASSISTANT SECRETARY FOR HEALTH AFFAIRS—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
223 .....	Chiropractic and Acupuncture Treatment Under the TRICARE Program .....	0720–AB77

## DEPARTMENT OF DEFENSE (DOD)

*Defense Acquisition Regulations Council (DARC)*

Final Rule Stage

**220. Covered Telecommunications Equipment or Services (DFARS Case 2018–D022)**

*Regulatory Plan:* This entry is Seq. No. 22 in part II of this issue of the **Federal Register**.

*RIN:* 0750–AJ84

**221. Prompt Payments of Small Business Subcontractors (DFARS Case 2018–D068)**

*Regulatory Plan:* This entry is Seq. No. 23 in part II of this issue of the **Federal Register**.

*RIN:* 0750–AK25

**222. Nonmanufacturer Rule for 8(A) Participants (DFARS Case 2019–D004)**

*Regulatory Plan:* This entry is Seq. No. 25 in part II of this issue of the **Federal Register**.

*RIN:* 0750–AK39

## DEPARTMENT OF DEFENSE (DOD)

*Office of Assistant Secretary for Health Affairs (DODOASHA)*

Proposed Rule Stage

**223. • Chiropractic and Acupuncture Treatment Under the Tricare Program**

*E.O. 13771 Designation:* Other.

*Legal Authority:* Not Yet Determined

*Abstract:* Under the current regulations, TRICARE excludes chiropractors as TRICARE-authorized providers whether or not their services would be eligible as medically necessary care if furnished by any other authorized provider. In addition, the current regulation excludes acupuncture treatment whether used as a therapeutic agent or as an anesthetic. This proposed rule seeks to eliminate these exclusions and to add benefit coverage of chiropractic and acupuncture treatment when deemed medically necessary for specific conditions. This proposed rule will add licensed Doctors of Chiropractic (DCs) and Licensed

Acupuncturists (LACs) who meet established qualifications as TRICARE-authorized providers and will establish reimbursement rates and cost-sharing provisions for covered chiropractic and acupuncture treatment.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Joy Mullane, Department of Defense, Office of Assistant Secretary for Health Affairs, Office of Assistant Secretary for Health Affairs, 16401 E Centretex Parkway, Aurora, CO 80011–9066, *Phone:* 303 676–3457, *Fax:* 303 676–3579, *Email:* joy.mullane.civ@mail.mil.

*RIN:* 0720–AB77

[FR Doc. 2019–26538 Filed 12–23–19; 8:45 am]

**BILLING CODE 5001–06–P**





# FEDERAL REGISTER

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Vol. 84

Thursday,

No. 247

December 26, 2019

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Part VI

Department of Energy

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Semiannual Regulatory Agenda

**DEPARTMENT OF ENERGY****10 CFR Chs. II, III, and X****48 CFR Ch. 9****Fall 2019 Unified Agenda of Regulatory and Deregulatory Actions****AGENCY:** Department of Energy.**ACTION:** Semi-annual regulatory agenda.

**SUMMARY:** The Department of Energy (DOE) has prepared and is making available its portion of the semi-annual Unified Agenda of Federal Regulatory and Deregulatory Actions (Agenda), including its Regulatory Plan (Plan), pursuant to Executive Order 12866, "Regulatory Planning and Review," and the Regulatory Flexibility Act.

**SUPPLEMENTARY INFORMATION:** The Agenda is a government-wide compilation of upcoming and ongoing regulatory activity, including a brief description of each rulemaking and a timetable for action. The Agenda also includes a list of regulatory actions completed since publication of the last Agenda. The Department of Energy's portion of the Agenda includes regulatory actions called for by statute, including amendments contained in the Energy Independence and Security Act of 2007 (EISA) and the American Energy Manufacturing Technical Corrections Act (AEMTCA), and programmatic needs of DOE offices.

The internet is the basic means for disseminating the Agenda and providing users the ability to obtain

information from the Agenda database. DOE's entire Fall 2019 Regulatory Agenda can be accessed online by going to [www.reginfo.gov](http://www.reginfo.gov).

Publication in the **Federal Register** is mandated by the Regulatory Flexibility Act (5 U.S.C. 602) only for Agenda entries that require either a regulatory flexibility analysis or periodic review under section 610 of that Act. The Plan appears in both the online Agenda and the **Federal Register** and includes the most important of DOE's significant regulatory actions and a Statement of Regulatory and Deregulatory Priorities.

**Bill Cooper,**  
General Counsel.

**ENERGY EFFICIENCY AND RENEWABLE ENERGY—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
224 .....	Energy Conservation Standards for Residential Conventional Cooking Products .....	1904–AD15
225 .....	Energy Conservation Standards for Residential Non-Weatherized Gas Furnaces and Mobile Home Gas Furnaces.	1904–AD20

**ENERGY EFFICIENCY AND RENEWABLE ENERGY—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
226 .....	Energy Conservation Standards for General Service Lamps .....	1904–AD09
227 .....	Energy Conservation Standards for Commercial Water Heating Equipment .....	1904–AD34

**ENERGY EFFICIENCY AND RENEWABLE ENERGY—LONG-TERM ACTIONS**

Sequence No.	Title	Regulation Identifier No.
228 .....	Energy Conservation Standards for Commercial Packaged Boilers .....	1904–AD01
229 .....	Modifying the Energy Conservation Program to Implement a Market-Based Approach .....	1904–AE11

**DEPARTMENT OF ENERGY (DOE)***Energy Efficiency and Renewable Energy (EE)*

## Proposed Rule Stage

**224. Energy Conservation Standards for Residential Conventional Cooking Products**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 42 U.S.C. 6295(m)(1); 42 U.S.C. 6292 (a)(10); 42 U.S.C. 6295(h)  
*Abstract:* The Energy Policy and Conservation Act (EPCA), as amended by Energy Independence and Security Act of 2007 (EISA), requires the Secretary to determine whether updating the statutory energy conservation standards for residential conventional cooking products would yield a significant savings in energy use and is technologically feasible and

economically justified. DOE is reviewing the current standards to make such determination.

*Timetable:*

Action	Date	FR Cite
Request for Information (RFI).	02/12/14	79 FR 8337
RFI Comment Period End.	03/14/14	
RFI Comment Period Extended.	03/03/14	79 FR 11714
RFI Comment Period Extended End.	04/14/14	
NPRM and Public Meeting.	06/10/15	80 FR 33030
NPRM Comment Period Extended.	07/30/15	80 FR 45452
NPRM Comment Period Extended End.	09/09/15	

Action	Date	FR Cite
Supplemental NPRM.	09/02/16	81 FR 60784
SNPRM Comment Period Extended.	09/30/16	81 FR 67219
SNPRM Comment Period Extended End.	11/02/16	
Supplemental NPRM.	12/00/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Stephanie Johnson, General Engineer, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW, Building Technologies Office, EE5B, Washington, DC 20002, Phone: 202 287–1943, Email: [stephanie.johnson@ee.doe.gov](mailto:stephanie.johnson@ee.doe.gov).

RIN: 1904-AD15

**225. Energy Conservation Standards for Residential Non-Weatherized Gas Furnaces and Mobile Home Gas Furnaces**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 42 U.S.C.

6295(f)(4)(C); 42 U.S.C. 6295(m)(1); 42 U.S.C. 6295(gg)(3)

*Abstract:* The Energy Policy and Conservation Act, as amended, (EPCA) prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including residential furnaces. EPCA also requires the DOE to determine whether more stringent amended standards would be technologically feasible and economically justified and would save a significant amount of energy. DOE is considering amendments to its energy conservation standards for residential non-weatherized gas furnaces and mobile home gas furnaces in partial fulfillment of a court-ordered remand of DOE's 2011 rulemaking for these products.

*Timetable:*

Action	Date	FR Cite
Notice of Public Meeting.	10/30/14	79 FR 64517
NPRM and Notice of Public Meeting.	03/12/15	80 FR 13120
NPRM Comment Period Extended.	05/20/15	80 FR 28851
NPRM Comment Period Extended End.	07/10/15	
Notice of Data Availability (NODA).	09/14/15	80 FR 55038
NODA Comment Period End.	10/14/15	
NODA Comment Period Reopened.	10/23/15	80 FR 64370
NODA Comment Period Reopened End.	11/06/15	
Supplemental NPRM and Notice of Public Meeting.	09/23/16	81 FR 65720
Supplemental NPRM Comment Period End.	11/22/16	
SNPRM Comment Period Reopened.	12/05/16	81 FR 87493
SNPRM Comment Period End.	01/06/17	
Supplemental NPRM.	02/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* John Cymbalsky, Building Technologies Office, EE-5B, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW, Washington, DC 20585, *Phone:* 202 287-1692, *Email:* john.cymbalsky@ee.doe.gov.

RIN: 1904-AD20

**DEPARTMENT OF ENERGY (DOE)**

*Energy Efficiency and Renewable Energy (EE)*

Final Rule Stage

**226. Energy Conservation Standards for General Service Lamps**

*E.O. 13771 Designation:* Derregulatory.  
*Legal Authority:* 42 U.S.C.

6295(i)(6)(A)

*Abstract:* The U.S. Department of Energy (DOE) will issue a Supplemental Notice of Proposed Rulemaking that includes a proposed determination with respect to whether to amend or adopt standards for general service light-emitting diode (LED) lamps and that may include a proposed determination with respect to whether to amend or adopt standards for compact fluorescent lamps. According to the Settlement Agreement between the National Electrical Manufacturers Association (NEMA) and DOE will use its best efforts to issue the GSL SNOPR by May 28, 2018.

*Timetable:*

Action	Date	FR Cite
Framework Document Availability; Notice of Public Meeting.	12/09/13	78 FR 73737
Framework Document Comment Period End.	01/23/14	
Framework Document Comment Period Extended.	01/23/14	79 FR 3742
Framework Document Comment Period Extended End.	02/07/14	
Preliminary Analysis and Notice of Public Meeting.	12/11/14	79 FR 73503
Preliminary Analysis Comment Period Extended.	01/30/15	80 FR 5052
Preliminary Analysis Comment Period Extended End.	02/23/15	
Notice of Public Meeting; Webinar.	03/15/16	81 FR 13763
NPRM .....	03/17/16	81 FR 14528

Action	Date	FR Cite
NPRM Comment Period End.	05/16/16	
Notice of Public Meeting; Webinar.	10/05/16	81 FR 69009
Proposed Definition and Data Availability.	10/18/16	81 FR 71794
Proposed Definition and Data Availability Comment Period End.	11/08/16	
Final Rule Adopting a Definition for GSL.	01/19/17	82 FR 7276
Final Rule Adopting a Definition for GSL Effective.	01/01/20	
Final Rule Adopting a Definition for GSL Including IRL.	01/19/17	82 FR 7322
Final Rule Adopting a Definition for GSL Including IRL Effective.	01/01/20	
Supplemental NPRM.	11/00/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Lucy deButts, Buildings Technologies Office, EE-5B, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW, Washington, DC 20585, *Phone:* 202 287-1604, *Email:* lucy.debutts@ee.doe.gov.

RIN: 1904-AD09

**227. Energy Conservation Standards for Commercial Water Heating Equipment**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 42 U.S.C.

6313(a)(6)(C)(i) and (vi)

*Abstract:* Once completed, this rulemaking will fulfill the U.S. Department of Energy's (DOE) statutory obligation under the Energy Policy and Conservation Act, as amended, (EPCA) to either propose amended energy conservation standards for commercial water heaters and hot water supply boilers, or determine that the existing standards do not need to be amended. (Unfired hot water storage tanks and commercial heat pump water heaters are being considered in a separate rulemaking.) DOE must determine whether national standards more stringent than those that are currently in place would result in a significant additional amount of energy savings and whether such amended national standards would be technologically feasible and economically justified.

*Timetable:*

Action	Date	FR Cite
Request for Information (RFI).	10/21/14	79 FR 62899
RFI Comment Period End.	11/20/14	
NPRM .....	05/31/16	81 FR 34440
NPRM Comment Period End.	08/01/16	
NPRM Comment Period Re-opened.	08/05/16	81 FR 51812
NPRM Comment Period Re-opened End.	08/30/16	
Notice of Data Availability (NODA).	12/23/16	81 FR 94234
NODA Comment Period End.	01/09/17	
Final Action .....	02/00/20	

#### *Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Catherine Rivest, General Engineer, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW, Building Technologies Office, EE-5B, Washington, DC 20585, *Phone:* 202 586-7335, *Email:* catherine.rivest@ee.doe.gov.

*RIN:* 1904-AD34

#### **DEPARTMENT OF ENERGY (DOE)**

##### *Energy Efficiency and Renewable Energy (EE)*

##### Long-Term Actions

#### **228. Energy Conservation Standards for Commercial Packaged Boilers**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 42 U.S.C. 6313(a)(6)(C); 42 U.S.C. 6311(11)(B)  
*Abstract:* The Energy Policy and Conservation Act (EPCA), as amended by the American Energy Manufacturing

Technical Corrections Act (AEMTCA), requires the Secretary to determine whether updating the statutory energy conservation standards for commercial packaged boilers is technically feasible and economically justified and would save a significant amount of energy. If justified, the Secretary will issue amended energy conservation standards for such equipment. DOE last updated the standards for commercial packaged boilers on July 22, 2009. DOE issued a NOPR pursuant to the 6-year-look-back requirement on March 24, 2016. Under EPCA, DOE has 2 years to issue a final rule after publication of the NOPR.

#### *Timetable:*

Action	Date	FR Cite
Notice of Proposed Determination (NOPD).	08/13/13	78 FR 49202
NOPD Comment Period End.	09/12/13	
Notice of Public Meeting and Framework Document Availability.	09/03/13	78 FR 54197
Framework Document Comment Period End.	10/18/13	
Notice of Public Meeting and Preliminary Analysis.	11/20/14	79 FR 69066
Preliminary Analysis Comment Period End.	01/20/15	
Withdrawal of NOPD.	08/25/15	80 FR 51487
NPRM .....	03/24/16	81 FR 15836
NPRM Comment Period Extended.	05/04/16	81 FR 26747
NPRM Comment Period Extended End.	06/22/16	

Action	Date	FR Cite
Next Action Undetermined.		

#### *Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Catherine Rivest, *Phone:* 202 586-7335, *Email:* catherine.rivest@ee.doe.gov.

*RIN:* 1904-AD01

#### **229. Modifying the Energy Conservation Program To Implement a Market-Based Approach**

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 42 U.S.C. 6291

*Abstract:* The U.S. Department of Energy (DOE) is evaluating the potential use of some form of a market-based approach such as an averaging, trading, fee-base or other type of market-based policy mechanism for the U.S. Appliance and Equipment Energy Conservation Standards (ECS) program.

#### *Timetable:*

Action	Date	FR Cite
Request for Information (RFI).	11/28/17	82 FR 56181
RFI Comment Period Extended.	02/23/18	83 FR 8016
RFI Comment Period Extended End.	03/26/18	
Next Action Undetermined.		

#### *Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* John Cymbalsky, *Phone:* 202 287-1692, *Email:* john.cymbalsky@ee.doe.gov.

*RIN:* 1904-AE11

[FR Doc. 2019-26536 Filed 12-23-19; 8:45 am]

**BILLING CODE 6450-01-P**



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Vol. 84

Thursday,

No. 247

December 26, 2019

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Part VII

Department of Health and Human Services

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Semiannual Regulatory Agenda

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Office of the Secretary****21 CFR Ch. I****25 CFR Ch. V****42 CFR Chs. I–V****45 CFR Subtitle A; Subtitle B, Chs. II, III, and XIII****Regulatory Agenda****AGENCY:** Office of the Secretary, HHS.**ACTION:** Semiannual Regulatory Agenda.

**SUMMARY:** The Regulatory Flexibility Act of 1980 and Executive Order (E.O.) 12866 require the semiannual issuance of an inventory of rulemaking actions under development throughout the Department, offering for public review summarized information about forthcoming regulatory actions.

**FOR FURTHER INFORMATION CONTACT:** Ann C. Agnew, Executive Secretary, Department of Health and Human Services, 200 Independence Avenue SW, Washington, DC 20201; (202) 690–5627.

**SUPPLEMENTARY INFORMATION:** The Department of Health and Human Services (HHS) is the Federal government’s lead Agency for protecting the health of all Americans and providing essential human services, especially for those who are least able to help themselves. HHS enhances the health and well-being of Americans by promoting effective health and human services and by fostering sound, sustained advances in the sciences underlying medicine, public health, and social services.

This Agenda presents the regulatory activities that the Department expects to undertake in the foreseeable future to advance this mission. HHS has an agencywide effort to support the Agenda’s purpose of encouraging more

effective public participation in the regulatory process. For example, to encourage public participation, we regularly update our regulatory web page (<http://www.HHS.gov/regulations>), which includes links to HHS rules currently open for public comment, and also provides a “regulations toolkit” with background information on regulations, the commenting process, how public comments influence the development of a rule, and how the public can provide effective comments.

The rulemaking abstracts included in this paper issue of the **Federal Register** cover, as required by the Regulatory Flexibility Act of 1980, those prospective HHS rulemakings likely to have a significant economic impact on a substantial number of small entities. The Department’s complete Regulatory Agenda is accessible online at <http://www.RegInfo.gov>.

**Ann C. Agnew,**  
*Executive Secretary to the Department.*

**OFFICE FOR CIVIL RIGHTS—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
230 .....	Nondiscrimination in Health and Health Education Programs or Activities ( <b>Reg Plan Seq No. 44</b> ) .....	0945–AA11

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

**OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
231 .....	21st Century Cures Act: Interoperability, Information Blocking, and the ONC Health IT Certification Program ( <b>Reg Plan Seq No. 45</b> ).	0955–AA01

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

**FOOD AND DRUG ADMINISTRATION—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
232 .....	Postmarketing Safety Reporting Requirements for Human Drug and Biological Products .....	0910–AA97
233 .....	Over-the-Counter (OTC) Drug Review—Cough/Cold (Antihistamine) Products .....	0910–AF31
234 .....	Medication Guide; Patient Medication Information .....	0910–AH68
235 .....	Testing Standards for Batteries and Battery Management Systems in Battery-Operated Tobacco Products .....	0910–AH90
236 .....	Requirements for Tobacco Product Manufacturing Practice ( <b>Reg Plan Seq No. 47</b> ) .....	0910–AH91
237 .....	Nutrient Content Claims, Definition of Term: Healthy ( <b>Reg Plan Seq No. 48</b> ) .....	0910–AI13
238 .....	Revocation of Uses of Partially Hydrogenated Oils in Foods .....	0910–AI15

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

**FOOD AND DRUG ADMINISTRATION—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
239 .....	Sunscreen Drug Products For Over-The-Counter-Human Use; Final Monograph .....	0910–AF43
240 .....	Sunlamp Products; Amendment to the Performance Standard .....	0910–AG30
241 .....	Food Labeling: Gluten-Free Labeling of Fermented or Hydrolyzed Foods .....	0910–AH00
242 .....	Mammography Quality Standards Act; Amendments to Part 900 Regulations .....	0910–AH04
243 .....	General and Plastic Surgery Devices: Sunlamp Products .....	0910–AH14
244 .....	Required Warnings for Cigarette Packages and Advertisements .....	0910–AI39



## FOOD AND DRUG ADMINISTRATION—FINAL RULE STAGE—Continued

Sequence No.	Title	Regulation Identifier No.
245 .....	Milk and Cream Product and Yogurt Products, Final Rule to Revoke the Standards for Lowfat Yogurt and Nonfat Yogurt and to Amend the Standard for Yogurt.	0910-AI40

## FOOD AND DRUG ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
246 .....	Acute Nicotine Toxicity Warnings for E-Liquids .....	0910-AH24
247 .....	Administrative Detention of Tobacco Products .....	0910-AI05

## FOOD AND DRUG ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
248 .....	Over-the-Counter (OTC) Drug Review—Laxative Drug Products .....	0910-AF38
249 .....	Over-the-Counter (OTC) Drug Review—Weight Control Products .....	0910-AF45
250 .....	Electronic Distribution of Prescribing Information for Human Prescription Drugs Including Biological Products.	0910-AG18
251 .....	Combinations of Bronchodilators With Expectorants; Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use.	0910-AH16
252 .....	Topical Antimicrobial Drug Products for Over-the-Counter Human Use: Final Monograph for Consumer Antiseptic Rub Products.	0910-AH97

## CENTERS FOR MEDICARE &amp; MEDICAID SERVICES—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
253 .....	CY 2021 Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B (CMS-1734-P) ( <b>Section 610 Review</b> ).	0938-AU10
254 .....	Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals; the Long-Term Care Hospital Prospective Payment System; and FY 2021 Rates (CMS-1735-P) ( <b>Section 610 Review</b> ).	0938-AU11
255 .....	CY 2021 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS-1736-P) ( <b>Section 610 Review</b> ).	0938-AU12

## CENTERS FOR MEDICARE &amp; MEDICAID SERVICES—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
256 .....	CY 2020 Home Health Prospective Payment System Rate Update and Quality Reporting Requirements (CMS-1711-F) ( <b>Section 610 Review</b> ).	0938-AT68
257 .....	CY 2020 Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B (CMS-1715-F) ( <b>Section 610 Review</b> ).	0938-AT72
258 .....	CY 2020 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS-1717-F) ( <b>Section 610 Review</b> ).	0938-AT74

## CENTERS FOR MEDICARE &amp; MEDICAID SERVICES—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
259 .....	Durable Medical Equipment Fee Schedule, Adjustments to Resume the Transitional 50/50 Blended Rates to Provide Relief in Non-Competitive Bidding Areas (CMS-1687-F) ( <b>Section 610 Review</b> ).	0938-AT21
260 .....	Requirements for Long-Term Care Facilities: Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction (CMS-3347-F) ( <b>Section 610 Review</b> ).	0938-AT36

## CENTERS FOR MEDICARE &amp; MEDICAID SERVICES—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
261 .....	Hospital and Critical Access Hospital (CAH) Changes to Promote Innovation, Flexibility, and Improvement in Patient Care (CMS-3295-F) ( <b>Rulemaking Resulting From a Section 610 Review</b> ).	0938-AS21

## CENTERS FOR MEDICARE &amp; MEDICAID SERVICES—COMPLETED ACTIONS—Continued

Sequence No.	Title	Regulation Identifier No.
262 .....	FY 2020 Inpatient Psychiatric Facilities Prospective Payment System Rate and Quality Reporting Updates (CMS–1712–F).	0938–AT69
263 .....	Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals; the Long-Term Care Hospital Prospective Payment System; and FY 2020 Rates (CMS–1716–F) ( <b>Section 610 Review</b> ).	0938–AT73

**DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)***Office for Civil Rights (OCR)*

Final Rule Stage

**230. Nondiscrimination in Health and Health Education Programs or Activities**

*Regulatory Plan:* This entry is Seq. No. 44 in part II of this issue of the **Federal Register**.

RIN: 0945–AA11

**DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)***Office of the National Coordinator for Health Information Technology (ONC)*

Final Rule Stage

**231. 21st Century Cures Act: Interoperability, Information Blocking, and the ONC Health IT Certification Program**

*Regulatory Plan:* This entry is Seq. No. 45 in part II of this issue of the **Federal Register**.

RIN: 0955–AA01

**DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)***Food and Drug Administration (FDA)*

Proposed Rule Stage

**232. Postmarketing Safety Reporting Requirements for Human Drug and Biological Products**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 42 U.S.C. 216; 42 U.S.C. 241; 42 U.S.C. 242a; 42 U.S.C. 262 and 263; 42 U.S.C. 263a; 42 U.S.C. 264; 42 U.S.C. 300aa–25; 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 360; 21 U.S.C. 360b to 360f; 21 U.S.C. 360i to 360j; 21 U.S.C. 371; 21 U.S.C. 374; 21 U.S.C. 379

*Abstract:* The final rule would amend the postmarketing safety reporting regulations for human drugs and biological products including blood and blood products in order to better align FDA requirements with guidelines of the International Council on

Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH), and to update reporting requirements in light of current pharmacovigilance practice and safety information sources and enhance the quality of safety reports received by FDA. These revisions were proposed as part of a single rulemaking (68 FR 12406) to clarify and revise both premarketing and postmarketing safety reporting requirements for human drug and biological products. Premarketing safety reporting requirements were finalized in a separate final rule published on September 29, 2010 (75 FR 59961).

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/14/03	68 FR 12406
NPRM Comment Period Extended.	06/18/03	
NPRM Comment Period End.	07/14/03	
NPRM Comment Period Extension End.	10/14/03	
Reproposing NPRM.	06/00/20	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Jane E. Baluss, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 51, Room 6278, 10903 New Hampshire Avenue, Silver Spring, MD 20993–0002, *Phone:* 301 796–3469, *Fax:* 301 847–8440, *Email:* jane.baluss@fda.hhs.gov.

RIN: 0910–AA97

**233. Over-the-Counter (OTC) Drug Review—Cough/Cold (Antihistamine) Products**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 21 U.S.C. 321p; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 360; 21 U.S.C. 371

*Abstract:* FDA will be proposing a rule to add the common cold indication to certain over-the-counter (OTC) antihistamine active ingredients. This proposed rule is the result of collaboration under the U.S. Canada Regulatory Cooperation Council as part

of efforts to reduce unnecessary duplication and differences. This pilot exercise will help determine the feasibility of developing an ongoing mechanism for alignment in review and adoption of OTC drug monograph elements.

*Timetable:*

Action	Date	FR Cite
Reopening of Administrative Record.	08/25/00	65 FR 51780
Comment Period End.	11/24/00	
NPRM (Amendment) (Common Cold).	12/00/19	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Janice Adams-King, Regulatory Health Project Manager, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 22, Room 5416, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–3713, *Fax:* 301 796–9899, *Email:* janice.adams-king@fda.hhs.gov.

RIN: 0910–AF31

**234. Medication Guide; Patient Medication Information**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 21 U.S.C. 321 *et seq.*; 42 U.S.C. 262; 42 U.S.C. 264; 21 U.S.C. 371

*Abstract:* The proposed rule would amend FDA medication guide regulations to require a new form of patient labeling, Patient Medication Information, for submission to and review by the FDA for human prescription drug products and certain blood products used, dispensed, or administered on an outpatient basis. The proposed rule would include requirements for Patient Medication Information development and distribution. The proposed rule would require clear and concisely written prescription drug product information presented in a consistent and easily understood format to help patients use their prescription drug products safely and effectively.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Chris Wheeler, Supervisory Project Manager, Department of Health and Human Services, Food and Drug Administration, 10903 New Hampshire Avenue, Building 51, Room 3330, Silver Spring, MD 20993, *Phone:* 301 796-0151, *Email:* chris.wheeler@fda.hhs.gov.

*RIN:* 0910-AH68

### 235. Testing Standards for Batteries and Battery Management Systems in Battery-Operated Tobacco Products

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 21 U.S.C. 301 et. seq.; 21 U.S.C. 371; 21 U.S.C. 387b; 21 U.S.C. 387g; 21 U.S.C. 387i

*Abstract:* This rule would propose to establish a product standard to require testing standards for batteries used in electronic nicotine delivery systems (ENDS) and require design protections including a battery management system for ENDS using batteries and protective housing for replaceable batteries. This product standard would protect the safety of users of battery-powered tobacco products and will help to streamline the FDA premarket review process, ultimately reducing the burden on both manufacturers and the Agency. The proposed rule would be applicable to tobacco products that include a non-user replaceable battery as well as products that include a user replaceable battery.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Nathan Mease, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, 10903 New Hampshire Avenue, WO 71, Room G335, Silver Spring, MD 20993, *Phone:* 877 287-1373, *Email:* ctpregulations@fda.hhs.gov.

*RIN:* 0910-AH90

### 236. Requirements for Tobacco Product Manufacturing Practice

*Regulatory Plan:* This entry is Seq. No. 47 in part II of this issue of the **Federal Register**.

*RIN:* 0910-AH91

### 237. Nutrient Content Claims, Definition of Term: Healthy

*Regulatory Plan:* This entry is Seq. No. 48 in part II of this issue of the **Federal Register**.

*RIN:* 0910-AI13

### 238. Revocation of Uses of Partially Hydrogenated Oils in Foods

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 21 U.S.C. 321; 21 U.S.C. 341; 21 U.S.C. 342; 21 U.S.C. 343; 21 U.S.C. 348; 21 U.S.C. 371; 21 U.S.C. 379e

*Abstract:* In the **Federal Register** of June 17, 2015 (80 FR 34650), we published a declaratory order announcing our final determination that there is no longer a consensus among qualified experts that partially hydrogenated oils (PHOs) are generally recognized as safe (GRAS) for any use in human food. In the **Federal Register** of May 21, 2018 (83 FR 23382), we denied a food additive petition requesting that the food additive regulations be amended to provide for the safe use of PHOs in certain food applications. We are now proposing to update our regulations to remove all mention of partially hydrogenated oils from FDA's GRAS regulations and as an optional ingredient in standards of identity. We are also proposing to revoke all prior sanctions for uses of PHOs in food.

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Ellen Anderson, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, HFS-265, 4300 River Road, College Park, MD 20740, *Phone:* 240 402-1309, *Email:* ellen.anderson@fda.hhs.gov.

*RIN:* 0910-AI15

### DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

*Food and Drug Administration (FDA)*

Final Rule Stage

### 239. Sunscreen Drug Products for Over-the-Counter—Human Use; Final Monograph

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 21 U.S.C. 321p; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 360; 21 U.S.C. 371

*Abstract:* The final rule will describe the conditions of use under which OTC

sunscreen monograph products are generally recognized as safe and effective (GRASE) and not misbranded. Consistent with the Sunscreen Innovation Act, we expect that these conditions will include sunscreen dosage forms and maximum SPF values. The preamble of the final rule will also indicate which sunscreen active ingredients FDA has deferred further rulemaking on while data supporting the GRASE status of those ingredients is developed.

*Timetable:*

Action	Date	FR Cite
ANPRM (Sunscreen and Insect Repellent).	02/22/07	72 FR 7941
ANPRM Comment Period End.	05/23/07	
NPRM (UVA/UVB).	08/27/07	72 FR 49070
NPRM Comment Period End.	12/26/07	
Final Action (UVA/UVB).	06/17/11	76 FR 35620
NPRM (Effectiveness).	06/17/11	76 FR 35672
NPRM (Effectiveness) Comment Period End.	09/15/11	
ANPRM (Dosage Forms).	06/17/11	76 FR 35669
ANPRM (Dosage Forms) Comment Period End.	09/15/11	
NPRM .....	02/26/19	84 FR 6204
NPRM Comment Period End.	06/27/19	
NPRM Extension of Comment Period.	04/18/19	84 FR 16222
NPRM Extension of Comment Period End.	06/27/19	
Final Rule .....	09/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Kristen Hardin, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, 10903 New Hampshire Avenue, WO 22, Room 5491, Silver Spring, MD 20993, *Phone:* 240 402-4246, *Fax:* 301 796-9841, *Email:* kristen.hardin@fda.hhs.gov.

*RIN:* 0910-AF43

### 240. Sunlamp Products; Amendment to the Performance Standard

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 21 U.S.C. 360ii; 21 U.S.C. 360kk; 21 U.S.C. 393; 21 U.S.C. 371

*Abstract:* FDA is updating the performance standard for sunlamp

products to improve safety, reflect new scientific information, and work towards harmonization with international standards. By harmonizing with the International Electrotechnical Commission, this rule will decrease the regulatory burden on industry and allow the Agency to take advantage of the expertise of the international committees, thereby also saving resources.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/22/15	80 FR 79505
NPRM Comment Period End.	03/21/16	
Final Rule .....	06/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Ian Ostermiller, Regulatory Counsel, Center for Devices and Radiological Health, Department of Health and Human Services, Food and Drug Administration, 10903 New Hampshire Avenue, WO 66, Room 5454, Silver Spring, MD 20993, *Phone:* 301 796-5678, *Email:* [ian.ostermiller@fda.hhs.gov](mailto:ian.ostermiller@fda.hhs.gov).

*RIN:* 0910-AG30

#### 241. Food Labeling: Gluten-Free Labeling of Fermented or Hydrolyzed Foods

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* Sec. 206 of the Food Allergen Labeling and Consumer Protection Act; 21 U.S.C. 343(a)(1); 21 U.S.C. 321(n); 21 U.S.C. 371(a)

*Abstract:* This final rule would establish requirements concerning “gluten-free” labeling for foods that are fermented or hydrolyzed or that contain fermented or hydrolyzed ingredients. These additional requirements for the “gluten-free” labeling rule are needed to help ensure that individuals with celiac disease are not misled and receive truthful and accurate information with respect to fermented or hydrolyzed foods labeled as “gluten-free.”

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/18/15	80 FR 71990
NPRM Comment Period Re-opened.	01/22/16	
NPRM Comment Period End.	02/16/16	81 FR 3751
NPRM Comment Period Re-opened.	02/22/16	
NPRM Comment Period Re-opened.	02/23/16	81 FR 8869

Action	Date	FR Cite
NPRM Comment Period Re-opened End.	04/25/16	
Final Rule .....	12/00/19	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Carol D’Lima, Staff Fellow, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition, Room 4D022, HFS 820, 5001 Campus Drive, College Park, MD 20740, *Phone:* 240 402-2371, *Fax:* 301 436-2636, *Email:* [carol.dlima@fda.hhs.gov](mailto:carol.dlima@fda.hhs.gov).

*RIN:* 0910-AH00

#### 242. Mammography Quality Standards Act; Amendments to Part 900 Regulations

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 21 U.S.C. 360i; 21 U.S.C. 360nn; 21 U.S.C. 374(e); 42 U.S.C. 263b

*Abstract:* FDA is amending its regulations governing mammography. The amendments would update the regulations issued under the Mammography Quality Standards Act of 1992 (MQSA) and the Federal Food, Drug, and Cosmetic Act (FD&C Act). FDA is taking this action to address changes in mammography technology and mammography processes that have occurred since the regulations were published in 1997 and to address breast density reporting to patient and healthcare providers.

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/28/19	84 FR 11669
NPRM Comment Period End.	06/26/19	
Final Rule .....	09/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Erica Payne, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health, 10903 New Hampshire Avenue, WO 66, Room 5522, Silver Spring, MD 20993, *Phone:* 301 796-3999, *Fax:* 301 847-8145, *Email:* [erica.payne@fda.hhs.gov](mailto:erica.payne@fda.hhs.gov).

*RIN:* 0910-AH04

#### 243. General and Plastic Surgery Devices: Sunlamp Products

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 21 U.S.C. 360j(e)

*Abstract:* This rule will apply device restrictions to sunlamp products. Sunlamp products include ultraviolet

(UV) lamps and UV tanning beds and booths. The incidence of skin cancer, including melanoma, has been increasing, and a large number of skin cancer cases are attributable to the use of sunlamp products. The devices may cause about 400,000 cases of skin cancer per year, and 6,000 of which are melanoma. Beginning use of sunlamp products at young ages, as well as frequently using sunlamp products, both increases the risk of developing skin cancers and other illnesses, and sustaining other injuries. Even infrequent use, particularly at younger ages, can significantly increase these risks. This rule will apply device restrictions to sunlamp products.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/22/15	80 FR 79493
NPRM Comment Period End.	03/21/16	
Final Rule .....	06/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Ian Ostermiller, Regulatory Counsel, Center for Devices and Radiological Health, Department of Health and Human Services, Food and Drug Administration, 10903 New Hampshire Avenue, WO 66, Room 5454, Silver Spring, MD 20993, *Phone:* 301 796-5678, *Email:* [ian.ostermiller@fda.hhs.gov](mailto:ian.ostermiller@fda.hhs.gov).

*RIN:* 0910-AH14

#### 244. Required Warnings for Cigarette Packages and Advertisements

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 15 U.S.C. 1333; 21 U.S.C. 371; 21 U.S.C. 374; 21 U.S.C. 387c; 21 U.S.C. 387e; 21 U.S.C. 387i; Pub. L. 111-31, secs. 201 and 202, 123 Stat. 1776

*Abstract:* This rule will require color graphics depicting the negative health consequences of smoking to accompany textual warning statements on cigarette packages and in cigarette advertisements. As directed by Congress in the Family Smoking Prevention and Tobacco Control Act, which amends the Federal Cigarette Labeling and Advertising Act, the rule will require these new cigarette health warnings to occupy the top 50 percent of the area of the front and rear panels of cigarette packages and at least 20 percent of the area of cigarette advertisements. The original rule FDA issued in 2011 was vacated by the U.S. Court of Appeals for the District of Columbia Circuit in August 2012 (*R.J. Reynolds Tobacco Co. v. United States Food & Drug Admin.*, 696 F.3d 1205 D.C. Cir. 2012).

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/16/19	84 FR 42754
NPRM Comment Period End.	10/15/19	
Final Rule .....	03/00/20	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Courtney Smith, Senior Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Tobacco Products, Document Control Center, Building 71, Room G335, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796-3894, *Fax:* 301 595-1426, *Email:* [ctpregulations@fda.hhs.gov](mailto:ctpregulations@fda.hhs.gov).

RIN: 0910-AI39

#### 245. Milk and Cream Product and Yogurt Products, Final Rule To Revoke the Standards for Lowfat Yogurt and Nonfat Yogurt and To Amend the Standard for Yogurt

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 21 U.S.C. 321; 21 U.S.C. 336; 21 U.S.C. 341; 21 U.S.C. 343; 21 U.S.C. 348; 21 U.S.C. 371(e); 21 U.S.C. 379e

*Abstract:* This final rule amends the standard of identity for yogurt and revokes the standards of identity for lowfat yogurt and nonfat yogurt. It modernizes the standard for yogurt to allow for technological advances, to preserve the basic nature and essential characteristics of yogurt, and to promote honesty and fair dealing in the interest of consumers. Section 701(e)(1), of the Federal Food, Drug, and Cosmetic Act requires that the amendment or repeal of the definition and standard of identity for a dairy product proceed under a formal rulemaking process. Such is consistent with the formal rulemaking provisions of the Administrative Procedures Act (5 U.S.C. 556 and 557). Although, standard practice is not to include formal rulemaking in the Unified Agenda, this rule is included to highlight the deregulatory work in this space.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	07/03/03	68 FR 39873
ANPRM Comment Period End.	10/01/03	
NPRM .....	01/15/09	74 FR 2443
NPRM Comment Period End.	04/29/09	
Final Rule .....	05/00/20	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Terri Wenger, Food Technologist, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition, 5001 Campus Drive, College Park, MD 20740, *Phone:* 240 402-2371, *Email:* [terri.wenger@fda.hhs.gov](mailto:terri.wenger@fda.hhs.gov).

RIN: 0910-AI40

### DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

#### Food and Drug Administration (FDA)

##### Long-Term Actions

#### 246. Acute Nicotine Toxicity Warnings for E-Liquids

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 21 U.S.C. 301 *et seq.*; 21 U.S.C. 331; 21 U.S.C. 371; 21 U.S.C. 374; 21 U.S.C. 387

*Abstract:* This rule would establish nicotine exposure warning requirements for liquid nicotine and nicotine-containing e-liquid(s) that are made or derived from tobacco and intended for human consumption, and potentially for other tobacco products including, but not limited to, novel tobacco products such as dissolvables, lotions, gels, and drinks. This action is intended to protect users and non-users from accidental exposures to nicotine-containing e-liquids in tobacco products.

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/00/21	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Courtney Smith, Senior Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Tobacco Products, Document Control Center, Building 71, Room G335, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796-3894, *Fax:* 301 595-1426, *Email:* [ctpregulations@fda.hhs.gov](mailto:ctpregulations@fda.hhs.gov).

RIN: 0910-AH24

#### 247. Administrative Detention of Tobacco Products

*E.O. 13771 Designation:* Other.

*Legal Authority:* 21 U.S.C. 334; 21 U.S.C. 371

*Abstract:* The FDA is proposing regulations to establish requirements for the administrative detention of tobacco products. This action, if finalized, would allow FDA to administratively detain tobacco products encountered during inspections that an officer or

employee conducting the inspection has reason to believe are adulterated or misbranded. The intent of administrative detention is to protect public health by preventing the distribution or use of violative tobacco products until FDA has had time to consider the appropriate action to take and, where appropriate, to initiate a regulatory action.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/00/20	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Nathan Mease, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, 10903 New Hampshire Avenue, WO 71, Room G335, Silver Spring, MD 20993, *Phone:* 877 287-1373, *Email:* [ctpregulations@fda.hhs.gov](mailto:ctpregulations@fda.hhs.gov).

RIN: 0910-AI05

### DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

#### Food and Drug Administration (FDA)

##### Completed Actions

#### 248. Over-the-Counter (OTC) Drug Review—Laxative Drug Products

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 371

*Abstract:* The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective, and not misbranded. After a final monograph (*i.e.*, final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. The final rule listed will address the professional labeling for sodium phosphate drug products.

*Completed:*

Action	Date	FR Cite
Withdrawn .....	10/23/19	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Janice Adams-King, *Phone:* 301 796-3713, *Fax:* 301 796-9899, *Email:* [janice.adams-king@fda.hhs.gov](mailto:janice.adams-king@fda.hhs.gov).

RIN: 0910-AF38

#### 249. Over-the-Counter (OTC) Drug Review—Weight Control Products

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 21 U.S.C. 321p; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 360; 21 U.S.C. 371

*Abstract:* The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. The final action finalizes the 2005 proposed rule for weight control products containing phenylpropanolamine.

*Completed:*

Action	Date	FR Cite
Withdrawn .....	10/23/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Janice Adams-King, Phone: 301 796–3713, Email: janice.adams-king@fda.hhs.gov.

*RIN:* 0910–AF45

## 250. Electronic Distribution of Prescribing Information for Human Prescription Drugs Including Biological Products

*E.O. 13771 Designation:* Other.

*Legal Authority:* 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 358; 21 U.S.C. 360; 21 U.S.C. 360b; 21 U.S.C. 360gg to 360ss; 21 U.S.C. 371; 21 U.S.C. 374; 21 U.S.C. 379e; 42 U.S.C. 216; 42 U.S.C. 241; 42 U.S.C. 262; 42 U.S.C. 264

*Abstract:* This rule would require electronic package inserts for human drug and biological prescription products with limited exceptions, in lieu of paper, which is currently used. These inserts contain prescribing information intended for healthcare practitioners. This would ensure that the information accompanying the product is the most up-to-date information regarding important safety and efficacy issues about these products.

*Completed:*

Action	Date	FR Cite
Withdrawn .....	10/23/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael Bernstein, Phone: 301 796–3478, Email: michael.bernstein@fda.hhs.gov.

*RIN:* 0910–AG18

## 251. Combinations of Bronchodilators With Expectorants; Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 21 U.S.C. 321(p); 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 360; 21 U.S.C. 371

*Abstract:* The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective, and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. These actions will propose changes to the final monograph for Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products to address cough/cold drug products containing an oral bronchodilator (ephedrine and its salts) in combination with any expectorant.

*Completed:*

Action	Date	FR Cite
Withdrawn .....	10/23/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Janice Adams-King, Phone: 301 796–3713, Fax: 301 796–9899, Email: janice.adams-king@fda.hhs.gov.

*RIN:* 0910–AH16

## 252. Topical Antimicrobial Drug Products for Over-the-Counter Human Use: Final Monograph for Consumer Antiseptic Rub Products

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 360 and 361; 21 U.S.C. 371; 21 U.S.C. 374 and 375; 21 U.S.C. 379; 42 U.S.C. 216; 42 U.S.C. 241 and 242; 42 U.S.C. 262

*Abstract:* This final rule finalizes part of the 1994 tentative final monograph (TFM) for over-the-counter (OTC) antiseptic drug products that published in the **Federal Register** of June 17, 1994, (the 1994 TFM). The final rule is part of the ongoing review of OTC drug products conducted by FDA. In this final rule, we address whether certain active ingredients used in OTC consumer antiseptic products intended for use without water (referred to as consumer antiseptic rubs) are eligible for evaluation under the OTC Drug Review for use in consumer antiseptic rub products.

*Completed:*

Action	Date	FR Cite
Final Rule .....	04/12/19	84 FR 14847
Final Rule Effective.	04/13/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Anita Kumar, Phone: 301 796–1032, Email: anita.kumar@fda.hhs.gov.

*RIN:* 0910–AH97

## DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

*Centers for Medicare & Medicaid Services (CMS)*

*Proposed Rule Stage*

### 253. • CY 2021 Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B (CMS–1734–P) (Section 610 Review)

*E.O. 13771 Designation:* Other.

*Legal Authority:* 42 U.S.C. 1302; 42 U.S.C. 1395hh

*Abstract:* This annual proposed rule would revise payment policies under the Medicare physician fee schedule, and make other policy changes to payment under Medicare Part B. These changes would apply to services furnished beginning January 1, 2021. Additionally, this rule proposes updates to the Quality Payment Program.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Marge Watchorn, Deputy Director, Division of Practitioner Services, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4–01–15, 7500 Security Boulevard, Baltimore, MD 21244, Phone: 410 786–4361, Email: marge.watchorn@cms.hhs.gov.

*RIN:* 0938–AU10

### 254. • Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals; the Long-Term Care Hospital Prospective Payment System; and FY 2021 Rates (CMS–1735–P) (Section 610 Review)

*E.O. 13771 Designation:* Other.

*Legal Authority:* 42 U.S.C. 1302; 42 U.S.C. 1395hh

*Abstract:* This annual proposed rule would revise the Medicare hospital inpatient and long-term care hospital

prospective payment systems for operating and capital-related costs. This proposed rule would implement changes arising from our continuing experience with these systems. In addition, the rule proposes to establish new requirements or revise existing requirements for quality reporting by specific Medicare providers.

*Timetable:*

Action	Date	FR Cite
NPRM .....	04/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Donald Thompson, Director, Division of Acute Care, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4-08-06, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786-6504, *Email:* donald.thompson@cms.hhs.gov.  
*RIN:* 0938-AU11

**255. • CY 2021 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS-1736-P) (Section 610 Review)**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 42 U.S.C. 1302; 42 U.S.C. 1395hh

*Abstract:* This annual proposed rule would revise the Medicare hospital outpatient prospective payment system to implement statutory requirements and changes arising from our continuing experience with this system. The proposed rule describes changes to the amounts and factors used to determine payment rates for services. In addition, the rule proposes changes to the ambulatory surgical center payment system list of services and rates. This proposed rule would also update and refine the requirements for the Hospital Outpatient Quality Reporting (OQR) Program and the ASC Quality Reporting (ASCQR) Program.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Marjorie Baldo, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4-03-06, 7500 Security Boulevard, Baltimore, MD

21244, *Phone:* 410 786-4617, *Email:* marjorie.baldo@cms.hhs.gov.  
*RIN:* 0938-AU12

**DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)**

*Centers for Medicare & Medicaid Services (CMS)*

*Final Rule Stage*

**256. CY 2020 Home Health Prospective Payment System Rate Update and Quality Reporting Requirements (CMS-1711-F) (Section 610 Review)**

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 42 U.S.C. 1302; 42 U.S.C. 1395(hh)

*Abstract:* This annual final rule updates the payment rates under the Medicare prospective payment system for home health agencies. In addition, this rule finalizes changes to the Home Health Value-Based Purchasing (HHVBP) Model and to the Home Health Quality Reporting Program (HH QRP).

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/18/19	84 FR 34598
NPRM Comment Period End.	09/09/19	
Final Action .....	11/00/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Hillary Loeffler, Director, Division of Home Health and Hospice, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C5-07-22, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786-0456, *Email:* hillary.loeffler@cms.hhs.gov.

*RIN:* 0938-AT68

**257. CY 2020 Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B (CMS-1715-F) (Section 610 Review)**

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 42 U.S.C. 1302; 42 U.S.C. 1395hh

*Abstract:* This annual final rule revises payment policies under the Medicare physician fee schedule, and makes other policy changes to payment under Medicare Part B. These changes apply to services furnished beginning January 1, 2020. Additionally, this rule finalizes updates to the Quality Payment Program.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/14/19	84 FR 40482
NPRM Comment Period End.	09/27/19	
Final Action .....	11/00/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Marge Watchorn, Deputy Director, Division of Practitioner Services, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4-01-15, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786-4361, *Email:* marge.watchorn@cms.hhs.gov.

*RIN:* 0938-AT72

**258. CY 2020 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS-1717-F) (Section 610 Review)**

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 42 U.S.C. 1302; 42 U.S.C. 1395hh

*Abstract:* This annual final rule revises the Medicare hospital outpatient prospective payment system to implement statutory requirements and changes arising from our continuing experience with this system. The rule describes changes to the amounts and factors used to determine payment rates for services. In addition, the rule finalizes changes to the ambulatory surgical center payment system list of services and rates. This rule also updates and refines the requirements for the Hospital Outpatient Quality Reporting (OQR) Program and the ASC Quality Reporting (ASCQR) Program.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/09/19	84 FR 39398
NPRM Comment Period End.	09/27/19	
Final Action .....	11/00/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Elise Barringer, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4-03-06, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786-9222, *Email:* elise.barringer@cms.hhs.gov.

*RIN:* 0938-AT74

**DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)***Centers for Medicare & Medicaid Services (CMS)*

## Long-Term Actions

**259. Durable Medical Equipment Fee Schedule, Adjustments To Resume the Transitional 50/50 Blended Rates To Provide Relief in Non-Competitive Bidding Areas (CMS-1687-F) (Section 610 Review)**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 42 U.S.C. 1302, 1395hh, and 1395rr(b)(1); Pub. L. 114-255, sec. 5004(b), 16007(a) and 16008  
*Abstract:* This final rule follows the interim final rule that published May 11, 2018, and extended the end of the transition period from June 30, 2016, to December 31, 2016 for phasing in adjustments to the fee schedule amounts for certain durable medical equipment (DME) and enteral nutrition paid in areas not subject to the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program (CBP). In addition, the interim rule amended the regulation to resume the transition period for items furnished from August 1, 2017, through December 31, 2018. The interim rule also made technical amendments to existing regulations for DMEPOS items and services to exclude infusion drugs used with DME from the DMEPOS CBP.  
*Timetable:*

Action	Date	FR Cite
Interim Final Rule	05/11/18	83 FR 21912
Interim Final Rule Comment Period End.	07/09/18	
Final Action to be Merged With 0938-AU17.	05/00/21	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Alexander Ullman, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C5-07-26, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786-9671, *Email:* alexander.ullman@cms.hhs.gov.  
*RIN:* 0938-AT21

**260. Requirements for Long-Term Care Facilities: Regulatory Provisions To Promote Program Efficiency, Transparency, and Burden Reduction (CMS-3347-F) (Section 610 Review)**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* secs.1819 and 1919 of the Social Security Act; sec.1819(d)(4)(B) and 1919(d)(4)(B) of

the Social Security Act; sec. 1819(b)(1)(A) and 1919 (b)(1)(A) of the Social Security Act

*Abstract:* This final rule reforms the requirements that long-term care facilities must meet to participate in the Medicare and Medicaid programs that CMS has identified as unnecessary, obsolete, or excessively burdensome on facilities. This rule increases the ability of healthcare professionals to devote resources to improving resident care by eliminating or reducing requirements that impede quality care or that divert resources away from providing high-quality care.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/18/19	84 FR 34737
NPRM Comment Period End.	09/16/19	
Final Action .....	07/00/22	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Ronisha Blackstone, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Clinical Standards and Quality, MS: S3-02-01, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786-6882, *Email:* ronisha.blackstone@cms.hhs.gov.  
*RIN:* 0938-AT36

**DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)***Centers for Medicare & Medicaid Services (CMS)*

## Completed Actions

**261. Hospital and Critical Access Hospital (CAH) Changes To Promote Innovation, Flexibility, and Improvement in Patient Care (CMS-3295-F) (Rulemaking Resulting From a Section 610 Review)**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 42 U.S.C. 1302; 42 U.S.C. 1395hh and 1395rr

*Abstract:* This final rule updates the requirements that hospitals and critical access hospitals (CAHs) must meet to participate in the Medicare and Medicaid programs. These final requirements are intended to conform the requirements to current standards of practice and support improvements in quality of care, reduce barriers to care, and reduce some issues that may exacerbate workforce shortage concerns.

*Completed:*

Reason	Date	FR Cite
Continuation Notice.	06/11/19	84 FR 27069
Final Action—Merged With 0938-AT23.	09/30/19	84 FR 51732
Final Action Effective.	11/29/19	84 FR 51836
Final Action—Merged With 0938-AS59.	09/30/19	
Final Action Effective.	11/29/19	

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Scott Cooper, *Phone:* 410 786-9465, *Email:* scott.cooper@cms.hhs.gov.  
*RIN:* 0938-AS21

**262. FY 2020 Inpatient Psychiatric Facilities Prospective Payment System Rate and Quality Reporting Updates (CMS-1712-F)**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 42 U.S.C. 1302; 42 U.S.C. 1395f; 42 U.S.C. 1395g; 42 U.S.C. 1395hh; . . .

*Abstract:* This annual final rule updates the prospective payment rates for inpatient psychiatric facilities (IPF) with discharges beginning on October 1, 2019. The rule also includes updates to the IPF Quality Reporting Program.

*Completed:*

Reason	Date	FR Cite
NPRM .....	04/23/19	84 FR 16948
Final Action .....	08/06/19	84 FR 38424
Final Action Effective.	10/01/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Sherlene Jacques, *Phone:* 410 786-0510, *Email:* sherlene.jacques@cms.hhs.gov.  
*RIN:* 0938-AT69

**263. Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals; The Long-Term Care Hospital Prospective Payment System; and FY 2020 Rates (CMS-1716-F) (Section 610 Review)**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 42 U.S.C. 1302; 42 U.S.C. 1395hh

*Abstract:* This annual final rule revises the Medicare hospital inpatient and long-term care hospital prospective payment systems for operating and capital-related costs. This rule would implement changes arising from our continuing experience with these systems. In addition, the rule establishes new requirements or revises existing



requirements for quality reporting by specific Medicare providers.

*Completed:*

Reason	Date	FR Cite
NPRM .....	05/03/19	84 FR 19158
Final Action .....	08/16/19	84 FR 42044
Final Action Effective.	10/01/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Donald Thompson,  
*Phone:* 410 786–6504, *Email:*  
*donald.thompson@cms.hhs.gov.*

*RIN:* 0938–AT73

[FR Doc. 2019–26539 Filed 12–23–19; 8:45 am]

**BILLING CODE 4150–03–P**





# FEDERAL REGISTER

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Vol. 84

Thursday,

No. 247

December 26, 2019

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Part VIII

Department of Homeland Security

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Semiannual Regulatory Agenda

**DEPARTMENT OF HOMELAND SECURITY****Office of the Secretary****6 CFR Chs. I and II****[DHS Docket No. OGC–RP–04–001]****Unified Agenda of Federal Regulatory and Deregulatory Actions****AGENCY:** Office of the Secretary, DHS.**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** This regulatory agenda is a semiannual summary of projected regulations, existing regulations, and completed actions of the Department of Homeland Security (DHS) and its components. This agenda provides the public with information about DHS's regulatory and deregulatory activity. DHS expects that this information will enable the public to be more aware of, and effectively participate in, the Department's regulatory and deregulatory activity. DHS invites the public to submit comments on any aspect of this agenda.

**FOR FURTHER INFORMATION CONTACT:**

*General:* Please direct general comments and inquiries on the agenda to the Regulatory Affairs Law Division, Office of the General Counsel, U.S.

Department of Homeland Security, 2707 Martin Luther King Jr. Avenue SE, Mail Stop 0485, Washington, DC 20528–0485.

*Specific:* Please direct specific comments and inquiries on individual actions identified in this agenda to the individual listed in the summary portion as the point of contact for that action.

**SUPPLEMENTARY INFORMATION:** DHS provides this notice pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, Sept. 19, 1980) and Executive Order 12866 “Regulatory Planning and Review” (Sept. 30, 1993) as incorporated in Executive Order 13563 “Improving Regulation and Regulatory Review” (Jan. 18, 2011) and Executive Order 13771 “Reducing Regulation and Controlling Regulatory Costs” (Jan. 30, 2017), which require the Department to publish a semiannual agenda of regulations. The regulatory agenda is a summary of existing and projected regulations as well as actions completed since the publication of the last regulatory agenda for the Department. DHS's last semiannual regulatory agenda was published on June 24, 2019, at 84 FR 29636.

Beginning in fall 2007, the internet became the basic means for disseminating the Unified Agenda. The complete Unified Agenda is available online at [www.reginfo.gov](http://www.reginfo.gov).

The Regulatory Flexibility Act (5 U.S.C. 602) requires Federal agencies to publish their regulatory flexibility agendas in the **Federal Register**. A regulatory flexibility agenda shall contain, among other things, a brief description of the subject area of any rule which is likely to have a significant economic impact on a substantial number of small entities. DHS's printed agenda entries include regulatory actions that are in the Department's regulatory flexibility agenda. Printing of these entries is limited to fields that contain information required by the agenda provisions of the Regulatory Flexibility Act. Additional information on these entries is available in the Unified Agenda published on the internet.

The semiannual agenda of the Department conforms to the Unified Agenda format developed by the Regulatory Information Service Center.

Dated: August 29, 2019.

**Christina E. McDonald,**

*Associate General Counsel for Regulatory Affairs.*

**OFFICE OF THE SECRETARY—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
264 .....	Homeland Security Acquisition Regulation: Safeguarding of Controlled Unclassified Sensitive Information (HSAR Case 2015–001).	1601–AA76
265 .....	Homeland Security Acquisition Regulation: Information Technology Security Awareness Training (HSAR Case 2015–002).	1601–AA78
266 .....	Homeland Security Acquisition Regulation: Privacy Training (HSAR Case 2015–003) .....	1601–AA79

**OFFICE OF THE SECRETARY—LONG-TERM ACTIONS**

Sequence No.	Title	Regulation Identifier No.
267 .....	Homeland Security Acquisition Regulation, Enhancement of Whistleblower Protections for Contractor Employees.	1601–AA72

**U.S. CITIZENSHIP AND IMMIGRATION SERVICES—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
268 .....	Requirements for Filing Motions and Administrative Appeals .....	1615–AB98
269 .....	EB–5 Immigrant Investor Regional Center Program .....	1615–AC11
270 .....	Removing H–4 Dependent Spouses From the Classes of Aliens Eligible for Employment Authorization (Reg Plan Seq No. 67).	1615–AC15
271 .....	U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements (Reg Plan Seq No. 68).	1615–AC18
272 .....	Electronic Processing of Immigration Benefit Requests (Reg Plan Seq No. 70) .....	1615–AC20

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

## U.S. CITIZENSHIP AND IMMIGRATION SERVICES—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
273 .....	Inadmissibility on Public Charge Grounds .....	1615-AA22
274 .....	EB-5 Immigrant Investor Program Modernization .....	1615-AC07

## U.S. COAST GUARD—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
275 .....	Financial Responsibility—Vessels; Superseded Pollution Funds (USCG-2017-0788) .....	1625-AC39

## U.S. COAST GUARD—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
276 .....	Commercial Fishing Vessels—Implementation of 2010 and 2012 Legislation .....	1625-AB85

## U.S. CUSTOMS AND BORDER PROTECTION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
277 .....	Importer Security Filing and Additional Carrier Requirements ( <b>Section 610 Review</b> ) .....	1651-AA70
278 .....	Implementation of the Guam-CNMI Visa Waiver Program ( <b>Section 610 Review</b> ) .....	1651-AA77

## TRANSPORTATION SECURITY ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
279 .....	Security Training for Surface Transportation Employees ( <b>Reg Plan Seq No. 85</b> ) .....	1652-AA55

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

## U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
280 .....	Visa Security Program Fee ( <b>Reg Plan Seq No. 86</b> ) .....	1653-AA77

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

## U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
281 .....	Procedures and Standards for Declining Surety Immigration Bonds and Administrative Appeal Requirement for Breaches.	1653-AA67

## U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
282 .....	Adjusting Program Fees for the Student and Exchange Visitor Program .....	1653-AA74
283 .....	Apprehension, Processing, Care and Custody of Alien Minors and Unaccompanied Alien Children .....	1653-AA75

## CYBERSECURITY AND INFRASTRUCTURE SECURITY AGENCY—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
284 .....	Ammonium Nitrate Security Program .....	1670-AA00
285 .....	Chemical Facility Anti-Terrorism Standards (CFATS) .....	1670-AA01

**DEPARTMENT OF HOMELAND SECURITY (DHS)***Office of the Secretary (OS)*

Final Rule Stage

**264. Homeland Security Acquisition Regulation: Safeguarding of Controlled Unclassified Sensitive Information (HSAR Case 2015-001)***E.O. 13771 Designation:* Fully or Partially Exempt.*Legal Authority:* 5 U.S.C. 301 to 302; 41 U.S.C. 1302; 41 U.S.C. 1303; 41 U.S.C. 1707

*Abstract:* This Homeland Security Acquisition Regulation (HSAR) rule would implement security and privacy measures to ensure Controlled Unclassified Information (CUI), such as Personally Identifiable Information (PII), is adequately safeguarded by DHS contractors. Specifically, the rule would define key terms, outline security requirements and inspection provisions for contractor information technology (IT) systems that store, process or transmit CUI, institute incident notification and response procedures, and identify post-incident credit monitoring requirements.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/19/17	82 FR 6429
NPRM Comment Period End.	03/20/17	
NPRM Comment Period Extended.	03/20/17	82 FR 14341
NPRM Comment Period Extended End.	04/19/17	
Final Rule .....	09/00/20	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Shaundra Duggans, Procurement Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation, 245 Murray Lane SW, Washington, DC 20528, *Phone:* 202 447-0056, *Email:* shaundra.duggans@hq.dhs.gov.

Nancy Harvey, Policy Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Room 3636-15, 301 7th Street SW, Washington, DC 20528, *Phone:* 202 447-0956, *Email:* nancy.harvey@hq.dhs.gov. *RIN:* 1601-AA76

**265. Homeland Security Acquisition Regulation: Information Technology Security Awareness Training (HSAR Case 2015-002)***E.O. 13771 Designation:* Fully or Partially Exempt.*Legal Authority:* 5 U.S.C. 301 and 302; 41 U.S.C. 1707; 41 U.S.C. 1302 and 1303

*Abstract:* This Homeland Security Acquisition Regulation (HSAR) rule would standardize information technology security awareness training and DHS Rules of Behavior requirements for contractor and subcontractor employees who access DHS information systems and information resources or contractor-owned and/or operated information systems and information resources capable of collecting, processing, storing, or transmitting controlled unclassified information (CUI).

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/19/17	82 FR 6446
NPRM Comment Period End.	03/20/17	
NPRM Comment Period Extended.	03/20/17	82 FR 14341
NPRM Comment Period Extended End.	04/19/17	
Final Rule .....	09/00/20	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Shaundra Duggans, Procurement Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation, 245 Murray Lane SW, Washington, DC 20528, *Phone:* 202 447-0056, *Email:* shaundra.duggans@hq.dhs.gov.

Nancy Harvey, Policy Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Room 3636-15, 301 7th Street SW, Washington, DC 20528, *Phone:* 202 447-0956, *Email:* nancy.harvey@hq.dhs.gov. *RIN:* 1601-AA78

**266. Homeland Security Acquisition Regulation: Privacy Training (HSAR Case 2015-003)***E.O. 13771 Designation:* Fully or Partially Exempt.*Legal Authority:* 5 U.S.C. 301 and 302; 41 U.S.C. 1707; 41 U.S.C. 1702; 41 U.S.C. 1303

*Abstract:* This Homeland Security Acquisition Regulation (HSAR) rule would require contractors to complete training that addresses the protection of privacy, in accordance with the Privacy Act of 1974, and the handling and safeguarding of Personally Identifiable Information and Sensitive Personally Identifiable Information.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/19/17	82 FR 6425

Action	Date	FR Cite
NPRM Comment Period End.	03/20/17	
NPRM Comment Period Extended.	03/20/17	82 FR 14341
NPRM Comment Period Extended End.	04/19/17	
Final Rule .....	09/00/20	

*Regulatory Flexibility Analysis*  
*Required:* Yes.

*Agency Contact:* Candace Lightfoot, Procurement Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation, Room 3636-15, 301 7th Street SW, Washington, DC 20528, *Phone:* 202 447-0082, *Email:* candace.lightfoot@hq.dhs.gov.

Nancy Harvey, Policy Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Room 3636-15, 301 7th Street SW, Washington, DC 20528, *Phone:* 202 447-0956, *Email:* nancy.harvey@hq.dhs.gov. *RIN:* 1601-AA79

**DEPARTMENT OF HOMELAND SECURITY (DHS)***Office of the Secretary (OS)*

Long-Term Actions

**267. Homeland Security Acquisition Regulation: Enhancement of Whistleblower Protections for Contractor Employees***E.O. 13771 Designation:* Other.*Legal Authority:* Sec. 827 of the National Defense Authorization Act (NDAA) for Fiscal Year 2013, (Pub. L. 112-239, enacted January 2, 2013); 41 U.S.C. 1302(a)(2); 41 U.S.C. 1707

*Abstract:* The Department of Homeland Security (DHS) is proposing to amend its Homeland Security Acquisition Regulation (HSAR) parts 3003 and 3052 to implement section 827 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. 112-239, enacted January 2, 2013) for the United States Coast Guard (USCG). Section 827 of the NDAA for FY 2013 established enhancements to the Whistleblower Protections for Contractor Employees for all agencies subject to section 2409 of title 10, United States Code, which includes the USCG.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/00/20	

*Regulatory Flexibility Analysis*  
Required: Yes.

*Agency Contact:* Nancy Harvey, Policy Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Room 3636-15, 301 7th Street SW, Washington, DC 20528, *Phone:* 202 447-0956, *Email:* nancy.harvey@hq.dhs.gov.  
*RIN:* 1601-AA72

## DEPARTMENT OF HOMELAND SECURITY (DHS)

### *U.S. Citizenship and Immigration Services (USCIS)*

#### Proposed Rule Stage

#### 268. Requirements for Filing Motions and Administrative Appeals

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 5 U.S.C. 552 and 552a; 8 U.S.C. 1101; 8 U.S.C. 1103; 8 U.S.C. 1304; 6 U.S.C. 112

*Abstract:* This rule proposes to revise the requirements and procedures for the filing of motions and appeals before the Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS), and its Administrative Appeals Office (AAO). The proposed changes are intended to streamline the existing processes for filing motions and appeals and are intended to reduce delays in the review and appellate process. This rule will also propose additional changes necessitated by the establishment of DHS and its components. The proposed changes are intended to promote simplicity, accessibility, and efficiency in the administration of USCIS appeals and motions. The Department will also solicit public comment on proposed changes to the AAO's appellate jurisdiction.

#### *Timetable:*

Action	Date	FR Cite
NPRM .....	12/00/19	

*Regulatory Flexibility Analysis*  
Required: Yes.

*Agency Contact:* William K. Renwick, Jr., Acting Deputy Chief, Department of Homeland Security, U.S. Citizenship and Immigration Services, Administrative Appeals Office, 20 Massachusetts Avenue NW, Washington, DC 20529-2090, *Phone:* 202 272-8377, *Fax:* 202 272-1480, *Email:* william.k.renwick@uscis.dhs.gov.  
*RIN:* 1615-AB98

#### 269. EB-5 Immigrant Investor Regional Center Program

*E.O. 13771 Designation:* Other.

*Legal Authority:* 8 U.S.C. 1153(b)(5); Pub. L. 102-395, secs. 610 and 601(a); Pub. L. 107-273, sec. 11037; Pub. L. 101-649, sec. 121(a); Pub. L. 105-119, sec. 116; Pub. L. 106-396, sec. 402; Pub. L. 108-156, sec. 4; Pub. L. 112-176, sec. 1; Pub. L. 114-113, sec. 575; Pub. L. 114-53, sec. 131; Pub. L. 107-273

*Abstract:* The Department of Homeland Security (DHS) is considering making regulatory changes to the EB-5 Immigrant Investor Regional Center Program. DHS issued an Advance Notice of Proposed Rulemaking (ANPRM) to seek comment from the public on several topics, including: (1) The process for initially designating entities as regional centers, (2) a potential requirement for regional centers to utilize an exemplar filing process, (3) continued participation requirements for maintaining regional center designation; and (4) the process for terminating regional center designation. While DHS has gathered some information related to these topics, the ANPRM sought additional information that can help the Department make operational and security updates to the Regional Center Program while minimizing the impact of such changes on regional center operations and EB-5 investors.

#### *Timetable:*

Action	Date	FR Cite
ANPRM .....	01/11/17	82 FR 3211
ANPRM Comment Period End.	04/11/17	
NPRM .....	08/00/20	

*Regulatory Flexibility Analysis*  
Required: Yes.

*Agency Contact:* Brian Hunt, Acting Chief, Business and Foreign Workers Division, Office of Policy and Strategy, Department of Homeland Security, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue NW, Suite 1200, Washington, DC 20529-2200, *Phone:* 202 272-8377, *Fax:* 202 272-1480, *Email:* brian.j.hunt@uscis.dhs.gov.  
*RIN:* 1615-AC11

#### 270. Removing H-4 Dependent Spouses From the Classes of Aliens Eligible for Employment Authorization

*Regulatory Plan:* This entry is Seq. No. 67 in part II of this issue of the **Federal Register**.

*RIN:* 1615-AC15

#### 271. U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements

*Regulatory Plan:* This entry is Seq. No. 68 in part II of this issue of the **Federal Register**.

*RIN:* 1615-AC18

#### 272. Electronic Processing of Immigration Benefit Requests

*Regulatory Plan:* This entry is Seq. No. 70 in part II of this issue of the **Federal Register**.

*RIN:* 1615-AC20

## DEPARTMENT OF HOMELAND SECURITY (DHS)

### *U.S. Citizenship and Immigration Services (USCIS)*

#### Completed Actions

#### 273. Inadmissibility on Public Charge Grounds

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 8 U.S.C. 1101 to 1103; 8 U.S.C. 1182 and 1183; . . .

*Abstract:* The Department of Homeland Security (DHS) proposed to codify in regulations how it will implement the public charge ground of inadmissibility under 8 U.S.C. 1182(a)(4) on October 10, 2018. After reviewing public feedback on that proposed rule, on August 14, 2019, DHS issued a final rule amending our regulations to prescribe how DHS will determine if an alien is inadmissible on public charge grounds.

#### *Timetable:*

Action	Date	FR Cite
NPRM .....	05/26/99	64 FR 28676
NPRM Comment Period End.	07/26/99	
NPRM .....	10/10/18	83 FR 51114
NPRM Comment Period End.	12/10/18	
Final Rule .....	08/14/19	84 FR 41292
Final Rule Effective.	10/15/19	
Final Rule; Correction.	10/02/19	84 FR 52357
Final Rule Effective; Correction.	10/15/19	

*Regulatory Flexibility Analysis*  
Required: Yes.

*Agency Contact:* Mark Phillips, Chief, Residence and Naturalization Division, Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Policy and Strategy, 20 Massachusetts Avenue NW, Washington, DC 20529, *Phone:* 202 272-8377, *Fax:* 202 272-1480, *Email:* mark.phillips@uscis.dhs.gov.  
*RIN:* 1615-AA22

#### 274. EB-5 Immigrant Investor Program Modernization.

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 8 U.S.C. 1153(b)(5)  
*Abstract:* In January 2017, the Department of Homeland Security

(DHS) proposed to amend its regulations governing the employment-based, fifth preference (EB-5) immigrant investor classification. In general, under the EB-5 program, individuals are eligible to apply for lawful permanent residence in the United States if they make the necessary investment in a commercial enterprise in the United States and create or, in certain circumstances, preserve 10 permanent full-time jobs for qualified U.S. workers. This rule sought public comment on a number of proposed changes to the EB-5 program regulations. Such proposed changes included: Raising the minimum investment amount; allowing certain EB-5 petitioners to retain their original priority date; changing the designation process for targeted employment areas; and other miscellaneous changes to filing and interview processes. On July 25, 2019, DHS issued a final rule. This final rule changes certain aspects of the EB-5 program that are in need of reform and updates the regulations to reflect statutory changes and codify existing policies. This final rule makes five major categories of revisions to the existing EB-5 program regulations. Three of these categories, which involve (i) priority date retention; (ii) increasing the investment amounts; and (iii) reforming the TEA designations, are substantive. The two other major categories, focused on (iv) the removal of conditions; and (v) miscellaneous changes, involve generally technical adjustments to the EB-5 program.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/13/17	82 FR 4738
NPRM Comment Period End.	04/11/17	
Final Rule .....	07/24/19	84 FR 35750
Final Rule Effective.	11/21/19	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Edie Pearson, Division Chief, Policy and Strategic Learning, Department of Homeland Security, U.S. Citizenship and Immigration Services, Immigrant Investor Program Office, 131 M Street NE, Washington, DC 20529-2200, Phone: 202 272-8377, Fax: 202 272-1480, Email: edie.c.pearson@uscis.dhs.gov.

RIN: 1615-AC07

## DEPARTMENT OF HOMELAND SECURITY (DHS)

### U.S. Coast Guard (USCG)

#### Proposed Rule Stage

#### 275. Financial Responsibility—Vessels; Superseded Pollution Funds (USCG-2017-0788)

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 33 U.S.C. 2704; 33 U.S.C. 2716 and 2716a; 42 U.S.C. 9607 to 9609; 6 U.S.C. 552; E.O. 12580; sec. 7(b), 3 CFR, 1987; Comp., p. 193; E.O. 12777, secs. 4 and 5, 3 CFR, 1991 Comp., p. 351, as amended by E.O. 13286, sec. 89, 3; 3 CFR, 2004 Comp., p. 166, and by E.O. 13638, sec. 1, 3 CFR, 2014 Comp., p. 227; Department of Homeland Security Delegation Nos. 0170.1 and 5110, Revision 01

*Abstract:* The Coast Guard proposes to amend its rule on vessel financial responsibility to include tank vessels greater than 100 gross tons, to clarify and strengthen the rule's reporting requirements, to conform its rule to current practice, and to remove two superseded regulations. This rulemaking will ensure the Coast Guard has current information when there are significant changes in a vessel's operation, ownership, or evidence of financial responsibility, and reflect current best practices in the Coast Guard's management of the Certificate of Financial Responsibility Program. This rulemaking will also promote the Coast Guard's missions of maritime stewardship, maritime security, and maritime safety.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/00/19	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Benjamin White, Project Manager, National Pollution Funds Center, Department of Homeland Security, U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE, STOP 7605, Washington, DC 20593-7605, Phone: 202 795-6066, Email: benjamin.h.white@uscg.mil.

RIN: 1625-AC39

## DEPARTMENT OF HOMELAND SECURITY (DHS)

### U.S. Coast Guard (USCG)

#### Long-Term Actions

#### 276. Commercial Fishing Vessels—Implementation of 2010 and 2012 Legislation

*E.O. 13771 Designation:* Other.  
*Legal Authority:* Pub. L. 111-281  
*Abstract:* The Coast Guard proposes to implement those requirements of 2010 and 2012 legislation that pertain to uninspected commercial fishing industry vessels and that took effect upon enactment of the legislation but that, to be implemented, require amendments to Coast Guard regulations affecting those vessels. The applicability of the regulations is being changed, and new requirements are being added to safety training, equipment, vessel examinations, vessel safety standards, the documentation of maintenance, and the termination of unsafe operations. This rulemaking promotes the Coast Guard's maritime safety mission.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/21/16	81 FR 40437
NPRM Comment Period Extended.	08/15/16	81 FR 53986
NPRM Comment Period End.	10/19/16	
Second NPRM Comment Period End.	12/18/16	
Final Rule .....	To Be Determined	

*Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Joseph Myers, Project Manager, Department of Homeland Security, U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE, STOP 7501, Washington, DC 20593-7501, Phone: 202 372-1249, Email: joseph.d.myers@uscg.mil.

RIN: 1625-AB85

## DEPARTMENT OF HOMELAND SECURITY (DHS)

### U.S. Customs and Border Protection (USCBP)

#### Long-Term Actions

#### 277. Importer Security Filing and Additional Carrier Requirements (Section 610 Review)

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* Pub. L. 109-347, sec. 203; 5 U.S.C. 301; 19 U.S.C. 66; 19 U.S.C. 1431; 19 U.S.C. 1433 and 1434;



19 U.S.C. 1624; 19 U.S.C. 2071 (note); 46 U.S.C. 60105

**Abstract:** This final rule implements the provisions of section 203 of the Security and Accountability for Every Port Act of 2006. On November 25, 2008, Customs and Border Protection (CBP) published an interim final rule (CBP Dec. 08–46) in the **Federal Register** (73 FR 71730), that finalized most of the provisions proposed in the Notice of Proposed Rulemaking. It requires carrier and importers to provide to CBP, via a CBP approved electronic data interchange system, certain advance information pertaining to cargo brought into the United States by vessel to enable CBP to identify high-risk shipments to prevent smuggling and ensure cargo safety and security. The interim final rule did not finalize six data elements that were identified as areas of potential concern for industry during the rulemaking process and, for which, CBP provided some type of flexibility for compliance with those data elements. CBP solicited public comment on these six data elements and also invited comments on the revised Regulatory Assessment and Final Regulatory Flexibility Analysis. (See 73 FR 71782–85 for regulatory text and 73 CFR 71733–34 for general discussion.) The remaining requirements of the rule were adopted as final.

**Timetable:**

Action	Date	FR Cite
NPRM .....	01/02/08	73 FR 90
NPRM Comment Period End.	03/03/08	
NPRM Comment Period Extended.	02/01/08	73 FR 6061
NPRM Comment Period End.	03/18/08	
Interim Final Rule Effective.	11/25/08	73 FR 71730
Interim Final Rule Comment Period End.	01/26/09	
Correction .....	06/01/09	
Correction .....	07/14/09	74 FR 33920
	12/24/09	74 FR 68376
Final Action .....	To Be Determined	

**Regulatory Flexibility Analysis Required:** Yes.

**Agency Contact:** Craig Clark, Branch Chief, Advance Data Programs and Cargo Initiatives, Department of Homeland Security, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Washington, DC 20229, Phone: 202 344–3052, Email: [craig.clark@cbp.dhs.gov](mailto:craig.clark@cbp.dhs.gov).

RIN: 1651–AA70

## 278. Implementation of the Guam-CNMI Visa Waiver Program (Section 610 Review)

**E.O. 13771 Designation:** Fully or Partially Exempt.

**Legal Authority:** Pub. L. 110–229, sec. 702

**Abstract:** The interim final rule amends Department of Homeland Security (DHS) regulations to implement section 702 of the Consolidated Natural Resources Act of 2008 (CNRA). This law extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI) and provides for a joint visa waiver program for travel to Guam and the CNMI. This rule implements section 702 of the CNRA by amending the regulations to replace the current Guam Visa Waiver Program with a new Guam-CNMI Visa Waiver Program. The amended regulations set forth the requirements for nonimmigrant visitors who seek admission for business or pleasure and solely for entry into and stay on Guam or the CNMI without a visa. This rule also establishes six ports of entry in the CNMI for purposes of administering and enforcing the Guam-CNMI Visa Waiver Program. Section 702 of the Consolidated Natural Resources Act of 2008 (CNRA), subject to a transition period, extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI) and provides for a visa waiver program for travel to Guam and/or the CNMI. On January 16, 2009, the Department of Homeland Security (DHS), Customs and Border Protection (CBP), issued an interim final rule in the **Federal Register** replacing the then-existing Guam Visa Waiver Program with the Guam-CNMI Visa Waiver Program and setting forth the requirements for nonimmigrant visitors seeking admission into Guam and/or the CNMI under the Guam-CNMI Visa Waiver Program. As of November 28, 2009, the Guam-CNMI Visa Waiver Program is operational. This program allows nonimmigrant visitors from eligible countries to seek admission for business or pleasure for entry into Guam and/or the CNMI without a visa for a period of authorized stay not to exceed 45 days. This rulemaking would finalize the January 2009 interim final rule.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule Effective.	01/16/09	74 FR 2824
Interim Final Rule Comment Period End.	01/16/09	
	03/17/09	

Action	Date	FR Cite
Technical Amendment; Change of Implementation Date.	05/28/09	74 FR 25387
Final Action .....	12/00/20	

**Regulatory Flexibility Analysis Required:** No.

**Agency Contact:** Cheryl C. Peters, Program Manager, Office of Field Operations, Department of Homeland Security, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, 3.3C–12, Washington, DC 20229, Phone: 202 344–1707, Email: [cheryl.c.peters@cbp.dhs.gov](mailto:cheryl.c.peters@cbp.dhs.gov).

RIN: 1651–AA77

## DEPARTMENT OF HOMELAND SECURITY (DHS)

**Transportation Security Administration (TSA)**

Final Rule Stage

### 279. Security Training for Surface Transportation Employees

**Regulatory Plan:** This entry is Seq. No. 85 in part II of this issue of the **Federal Register**.

RIN: 1652–AA55

## DEPARTMENT OF HOMELAND SECURITY (DHS)

**U.S. Immigration and Customs Enforcement (USICE)**

Proposed Rule Stage

### 280. Visa Security Program Fee

**Regulatory Plan:** This entry is Seq. No. 86 in part II of this issue of the **Federal Register**.

RIN: 1653–AA77

## DEPARTMENT OF HOMELAND SECURITY (DHS)

**U.S. Immigration and Customs Enforcement (USICE)**

Final Rule Stage

### 281. Procedures and Standards for Declining Surety Immigration Bonds and Administrative Appeal Requirement for Breaches

**E.O. 13771 Designation:** Not subject to, not significant.

**Legal Authority:** 8 U.S.C. 1103

**Abstract:** U.S. Immigration and Customs Enforcement (ICE) proposes to set forth standards and procedures ICE will follow before making a

determination to stop accepting immigration bonds posted by a surety company that has been certified to issue bonds by the Department of the Treasury when the company does not cure deficient performance. Treasury administers the Federal corporate surety program and, in its current regulations, allows agencies to prescribe “for cause” standards and procedures for declining to accept new bonds from Treasury-certified sureties. ICE would also require surety companies seeking to overturn a breach determination to file an administrative appeal raising all legal and factual defenses.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/05/18	83 FR 25951
NPRM Comment Period End.	08/06/18	
Final Action .....	12/00/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Mark Lawyer, Chief, Regulations, Department of Homeland Security, U.S. Immigration and Customs Enforcement, 500 12th Street SW, Mail Stop 5006, Washington, DC 20536, *Phone:* 202 732-5683, *Email:* mark.lawyer@ice.dhs.gov.

*RIN:* 1653-AA67

## DEPARTMENT OF HOMELAND SECURITY (DHS)

*U.S. Immigration and Customs Enforcement (USICE)*

### Completed Actions

#### 282. Adjusting Program Fees for the Student and Exchange Visitor Program

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 8 U.S.C. 1372; 8 U.S.C. 1762; 8 U.S.C. 1101; 8 U.S.C. 1356; 31 U.S.C 901 to 903; 31 U.S.C. 902; . . .

*Abstract:* This final rule adjusted fees that the Student and Exchange Visitor Program (SEVP) charges individuals and organizations. In 2017, SEVP conducted a comprehensive fee study and determined that current fees do not recover the full costs of the services provided. ICE determined that adjusting fees was necessary to fully recover the increased costs of SEVP operations, program requirements, and to provide the necessary funding to sustain initiatives critical to supporting national security. The SEVP fee schedule was last adjusted in a rule published on September 26, 2008.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/17/18	83 FR 33762
NPRM Comment Period End.	09/17/18	
Final Action .....	05/23/19	84 FR 23930
Final Action Effective.	06/24/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Sharon Snyder, Unit Chief, Policy and Response Unit, Department of Homeland Security, U.S. Immigration and Customs Enforcement, Potomac Center North STOP 5600, 500 12th Street SW, Washington, DC 20536-5600, *Phone:* 703 603-5600.

*RIN:* 1653-AA74

#### 283. Apprehension, Processing, Care and Custody of Alien Minors and Unaccompanied Alien Children

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 8 U.S.C. 1103; 8 U.S.C. 1182; 8 U.S.C. 1225 to 1227; 8 U.S.C. 1362

*Abstract:* In 1985, a class-action suit challenged the policies of the former Immigration and Naturalization Service (INS) relating to the detention, processing, and release of alien children; the case eventually reached the U.S. Supreme Court. The Court upheld the constitutionality of the challenged INS regulations on their face and remanded the case for further proceedings consistent with its opinion. In January 1997, the parties reached a comprehensive settlement agreement, referred to as the Flores Settlement Agreement (FSA). The FSA was to terminate five years after the date of final court approval; however, the termination provisions were modified in 2001, such that the FSA does not terminate until 45 days after publication of regulations implementing the agreement.

Since 1997, intervening statutory changes, including passage of the Homeland Security Act (HSA) and the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPPRA), have significantly changed the applicability of certain provisions of the FSA. The rule codifies the relevant and substantive terms of the FSA and enables the U.S. Government to seek termination of the FSA and litigation concerning its enforcement. Through this rule, DHS and HHS have created a pathway to ensure the humane detention of family units while satisfying the goals of the FSA. The rule also implements related provisions of the TVPPRA.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/07/18	83 FR 45486
NPRM Comment Period End.	11/06/18	
Final Rule .....	08/23/19	84 FR 44392
Final Rule Effective.	10/22/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Mark Lawyer, Chief, Regulations, Department of Homeland Security, U.S. Immigration and Customs Enforcement, 500 12th Street SW, Mail Stop 5006, Washington, DC 20536, *Phone:* 202 732-5683, *Email:* mark.lawyer@ice.dhs.gov.

*RIN:* 1653-AA75

## DEPARTMENT OF HOMELAND SECURITY (DHS)

*Cybersecurity and Infrastructure Security Agency (CISA)*

### Long-Term Actions

#### 284. Ammonium Nitrate Security Program

*E.O. 13771 Designation:* Other.

*Legal Authority:* 6 U.S.C. 488 *et seq.*

*Abstract:* This rulemaking will implement the December 2007 amendment to the Homeland Security Act titled “Secure Handling of Ammonium Nitrate.” The amendment requires the Department of Homeland Security to “regulate the sale and transfer of ammonium nitrate by an ammonium nitrate facility . . . to prevent the misappropriation or use of ammonium nitrate in an act of terrorism.” In June 2019, DHS published a notice announcing the availability of a redacted version of a technical report titled Ammonium Nitrate Security Program Technical Assessment. Sandia National Laboratories developed the report. DHS requested public comments on the report and its application to the proposed definition of ammonium nitrate. DHS will review and consider all the comments received and then determine the next appropriate steps for this rulemaking.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	10/29/08	73 FR 64280
ANPRM Correction.	11/05/08	73 FR 65783
ANPRM Comment Period End.	12/29/08	
NPRM .....	08/03/11	76 FR 46908
Notice of Public Meetings.	10/07/11	76 FR 62311
Notice of Public Meetings.	11/14/11	76 FR 70366

Action	Date	FR Cite
NPRM Comment Period End.	12/01/11	84 FR 25495
Notice of Availability.	06/03/19	
Notice of Availability Comment Period End.	09/03/19	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jon MacLaren, Group Leader, Strategic Policy and Rulemaking, Department of Homeland Security, Cybersecurity and Infrastructure Security Agency, Infrastructure Security Compliance Division, 245 Murray Lane SW, Mail Stop 0610, Arlington, VA 20528–0610, *Phone:* 703 235–5263, *Fax:* 703 603–4935, *Email:* jon.m.maclaren@hq.dhs.gov.

*RIN:* 1670–AA00

## **285. Chemical Facility Anti-Terrorism Standards (CFATS)**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 6 U.S.C. 621 to 629  
*Abstract:* The Department of Homeland Security (DHS) previously invited public comment on an advance notice of proposed rulemaking (ANPRM) for potential revisions to the Chemical Facility Anti-Terrorism Standards (CFATS) regulations. The ANPRM provided an opportunity for the public to provide recommendations for possible program changes. DHS is reviewing the public comments received in response to the ANPRM, after which DHS intends to publish a Notice of Proposed Rulemaking. In addition, DHS intends to publish a notice announcing the availability of a retrospective analysis of the data, assumptions, and methodology that were used to support the 2007 CFATS interim final rule. The intent of the retrospective analysis is to determine the most accurate assessment of the costs and burdens of the program and to update or confirm previous cost estimates based on observed data from

the operation of the CFATS program since 2007.

### *Timetable:*

Action	Date	FR Cite
ANPRM ..... ANPRM Comment Period End.	08/18/14 10/17/14	79 FR 48693
NPRM .....	To Be Determined	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jon MacLaren, Group Leader, Strategic Policy and Rulemaking, Department of Homeland Security, Cybersecurity and Infrastructure Security Agency, Infrastructure Security Compliance Division, 245 Murray Lane SW, Mail Stop 0610, Arlington, VA 20528–0610, *Phone:* 703 235–5263, *Fax:* 703 603–4935, *Email:* jon.m.maclaren@hq.dhs.gov.

*RIN:* 1670–AA01

[FR Doc. 2019–26540 Filed 12–23–19; 8:45 am]

**BILLING CODE 9110–9B–P**





# FEDERAL REGISTER

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Vol. 84

Thursday,

No. 247

December 26, 2019

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Part IX

Department of the Interior

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Semiannual Regulatory Agenda

**DEPARTMENT OF THE INTERIOR****Office of the Secretary****25 CFR Ch. I****30 CFR Chs. II and VII****36 CFR Ch. I****43 CFR Subtitle A, Chs. I and II****48 CFR Ch. 14****50 CFR Chs. I and IV**[167D0102DM; DS6CS00000;  
DLSN00000.00000; DX6CS25]**Semiannual Regulatory Agenda****AGENCY:** Office of the Secretary, Interior.**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** This notice provides the semiannual agenda of rules scheduled for review or development between fall 2019 and fall 2020. The Regulatory Flexibility Act and Executive Order 12866 require publication of the agenda.

**ADDRESSES:** Unless otherwise indicated, all agency contacts are located at the

Department of the Interior, 1849 C Street NW, Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** You should direct all comments and inquiries about these rules to the appropriate agency contact. You should direct general comments relating to the agenda to the Office of Executive Secretariat and Regulatory Affairs, Department of the Interior, at the address above or at 202–208–3181.

**SUPPLEMENTARY INFORMATION:** With this publication, the Department satisfies the requirement of Executive Order 12866 that the Department publish an agenda of rules that we have issued or expect to issue and of currently effective rules that we have scheduled for review.

Simultaneously, the Department meets the requirement of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) to publish an agenda in April and October of each year identifying rules that will have significant economic effects on a substantial number of small entities. We have specifically identified in the agenda rules that will have such effects.

This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan,

which appears in both the online Unified Agenda and in part II of the **Federal Register** that includes the Unified Agenda. The Department's Statement of Regulatory Priorities is included in the Plan.

In some cases, the Department has withdrawn rules that were placed on previous agendas for which there has been no publication activity or for which a proposed or interim rule was published. There is no legal significance to the omission of an item from this agenda. Withdrawal of a rule does not necessarily mean that the Department will not proceed with the rulemaking. Withdrawal allows the Department to assess the action further and determine whether rulemaking is appropriate. Following such an assessment, the Department may determine that certain rules listed as withdrawn under this agenda are appropriate for promulgation. If that determination is made, such rules will comply with Executive Order 13771.

**Bivan R. Patnaik,**

*Deputy Director of Regulatory Affairs,  
Executive Secretariat and Regulatory Affairs.*

**BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
286 .....	Revisions to the Blowout Preventer Systems and Well Control Rule .....	1014-AA39

**ASSISTANT SECRETARY FOR LAND AND MINERALS MANAGEMENT—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
287 .....	Revisions to the Requirements for Exploratory Drilling on the Arctic Outer Continental Shelf ( <b>Reg Plan Seq No. 92</b> ).	1082-AA01
288 .....	Risk Management, Financial Assurance and Loss Prevention ( <b>Reg Plan Seq No. 93</b> ) .....	1082-AA02

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

**UNITED STATES FISH AND WILDLIFE SERVICE—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
289 .....	Migratory Bird Hunting; 2020–2021 Migratory Game Bird Hunting Regulations .....	1018-BD89

**UNITED STATES FISH AND WILDLIFE SERVICE—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
290 .....	Migratory Bird Hunting; 2019–2020 Migratory Game Bird Hunting Regulations .....	1018-BD10

**BUREAU OF OCEAN ENERGY MANAGEMENT—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
291 .....	Risk Management, Financial Assurance and Loss Prevention .....	1010-AE00

**DEPARTMENT OF THE INTERIOR (DOI)**

*Bureau of Safety and Environmental Enforcement (BSEE)*

## Completed Actions

**286. Revisions to the Blowout Preventer Systems and Well Control Rule**

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 43 U.S.C. 1331 to 1356a

*Abstract:* This rulemaking would revise the Bureau of Safety and Environmental Enforcement (BSEE) regulations published in the 2016 final rule entitled “Blowout Preventer Systems and Well Control,” 81 FR 25888 (April 29, 2016), for drilling, workover, completion and decommissioning operations. In accordance with section 4 of Secretary’s Order 3350 (America-First Offshore Energy Strategy), Executive Order (E.O.) 13783 (Promoting Energy Independence and Economic Growth), and section 7 of E.O. 13795 (Implementing an America-First Offshore Energy Strategy), BSEE reviewed the 2016 final rule, considered stakeholder input on that rule, and has proposed revisions to reduce unnecessary burdens while ensuring that operations are conducted safely and in an environmentally responsible manner.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/11/18	83 FR 22128
NPRM Comment Period Extended.	07/05/18	83 FR 31343
NPRM Comment Period End.	07/10/18	
NPRM Comment Period Extended End.	08/06/18	
Final Action .....	05/15/19	84 FR 21908
Final Action Effective.	07/15/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Lakeisha Harrison, Chief, Regulations and Standards Branch, Department of the Interior, Bureau of Safety and Environmental Enforcement, 45600 Woodland Road, Sterling, VA 20166, *Phone:* 703 787-1552, *Fax:* 703 787-1555, *Email:* lakeisha.harrison@bsee.gov.

*RIN:* 1014-AA39

**DEPARTMENT OF THE INTERIOR (DOI)**

*Assistant Secretary for Land and Minerals Management (ASLM)*

## Proposed Rule Stage

**287. Revisions to the Requirements for Exploratory Drilling on the Arctic Outer Continental Shelf**

*Regulatory Plan:* This entry is Seq. No. 92 in part II of this issue of the **Federal Register**.

*RIN:* 1082-AA01

**288. Risk Management, Financial Assurance and Loss Prevention**

*Regulatory Plan:* This entry is Seq. No. 93 in part II of this issue of the **Federal Register**.

*RIN:* 1082-AA02

**DEPARTMENT OF THE INTERIOR (DOI)**

*United States Fish and Wildlife Service (FWS)*

## Proposed Rule Stage

**289. Migratory Bird Hunting; 2020–2021 Migratory Game Bird Hunting Regulations**

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 16 U.S.C. 703 to 712; 16 U.S.C. 742a–j

*Abstract:* We propose to establish annual hunting regulations for certain migratory game birds for the 2020–2021 hunting season. We annually prescribe outside limits (frameworks), within which States may select hunting seasons. This proposed rule provides the regulatory schedule, describes the proposed regulatory alternatives for the 2020–2021 duck hunting seasons, and requests proposals from Indian tribes that wish to establish special migratory game bird hunting regulations on Federal Indian reservations and ceded lands. Migratory game bird hunting seasons provide opportunities for recreation and sustenance; aid Federal, State, and Tribal governments in the management of migratory game birds; and permit harvests at levels compatible with migratory game bird population status and habitat conditions. We rely on a regulatory impact analysis developed in 2013 to quantify the costs and benefits of different regulatory alternatives in these annual hunting regulations. We will incorporate the most recent available data in this analysis to inform the final rule and subsequent rulemakings.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/15/19	84 FR 55120
NPRM Comment Period End.	11/15/19	
NPRM—Proposed Frameworks.	12/00/19	
NPRM—Proposed Tribal Regs.	01/00/20	
Final Frameworks	02/00/20	
Season Selections.	05/00/20	
Final Tribal Regulations.	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Dr. Eric L. Kershner, Chief, Branch of Conservation, Permits, and Regulations, Department of the Interior, United States Fish and Wildlife Service, 5275 Leesburg Pike, MS: MB, Falls Church, VA 22041, *Phone:* 703 358-2376, *Fax:* 703 358-2217, *Email:* eric\_kershner@fws.gov.

*RIN:* 1018-BD89

**DEPARTMENT OF THE INTERIOR (DOI)**

*United States Fish and Wildlife Service (FWS)*

## Completed Actions

**290. Migratory Bird Hunting; 2019–2020 Migratory Game Bird Hunting Regulations**

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 16 U.S.C. 703 to 712; 16 U.S.C. 742a–j

*Abstract:* We have established annual hunting regulations for certain migratory game birds for the 2019–2020 hunting season. We annually prescribe outside limits (frameworks), within which States may select hunting seasons. Migratory game bird hunting seasons provide opportunities for recreation and sustenance; aid Federal, State, and Tribal governments in the management of migratory game birds; and permit harvests at levels compatible with migratory game bird population status and habitat conditions.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/14/18	83 FR 27836
NPRM Comment Period End.	07/18/18	
NPRM Supplemental.	09/21/18	83 FR 47868
NPRM Supplemental Comment Period End.	01/15/19	
NPRM; Proposed Frameworks.	04/17/19	84 FR 16152

Action	Date	FR Cite	Action	Date	FR Cite
NPRM Comment Period End—Proposed Frameworks.	05/17/19		Final Action Effective; Tribal Regulations.	08/27/19	
NPRM; Proposed Tribal Regulations.	07/08/19	84 FR 32385	Final Rule; Final Season Selections.	08/28/19	84 FR 45077
NPRM Comment Period End—Proposed Tribal Regulations.	08/08/19		Final Action Effective; Season Selections.	08/28/19	
Final Action; Final Frameworks.	08/19/19	84 FR 42996	<i>Regulatory Flexibility Analysis Required: Yes.</i>		
Final Action Effective; Frameworks.	08/19/19		<i>Agency Contact:</i> Dr. Eric L. Kershner, Chief, Branch of Conservation, Permits, and Regulations, Department of the Interior, United States Fish and Wildlife Service, 5275 Leesburg Pike, MS: MB, Falls Church, VA 22041, <i>Phone:</i> 703 358–2376, <i>Fax:</i> 703 358–2217, <i>Email:</i> <i>eric_kershner@fws.gov</i> .		
Final Rule; Final Tribal Regulations.	08/27/19	84 FR 44760			

RIN: 1018–BD10

**DEPARTMENT OF THE INTERIOR (DOI)***Bureau of Ocean Energy Management (BOEM)*

Completed Actions

**291. Risk Management, Financial Assurance and Loss Prevention***Timetable:*

Action	Date	FR Cite
Transferred to RIN 1082–AA02.	10/31/19	

RIN: 1010–AE00

[FR Doc. 2019–26541 Filed 12–23–19; 8:45 am]

**BILLING CODE 4334–63–P**





# FEDERAL REGISTER

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Vol. 84

Thursday,

No. 247

December 26, 2019

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Part X

Department of Labor

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Semiannual Regulatory Agenda

**DEPARTMENT OF LABOR****Office of the Secretary****20 CFR Chs. I, IV, V, VI, VII, and IX****29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV****30 CFR Ch. I****41 CFR Ch. 60****48 CFR Ch. 29****Semiannual Agenda of Regulations****AGENCY:** Office of the Secretary, Labor.**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** The internet has become the means for disseminating the entirety of the Department of Labor's semiannual regulatory agenda. However, the Regulatory Flexibility Act requires publication of a regulatory flexibility agenda in the **Federal Register**. This

**Federal Register** Notice contains the regulatory flexibility agenda.

**FOR FURTHER INFORMATION CONTACT:**

Laura M. Dawkins, Director, Office of Regulatory and Programmatic Policy, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue NW, Room S-2312, Washington, DC 20210; (202) 693-5959.

*Note:* Information pertaining to a specific regulation can be obtained from the agency contact listed for that particular regulation.

**SUPPLEMENTARY INFORMATION:** Executive Order 12866 requires the semiannual publication of an agenda of regulations that contains a listing of all the regulations the Department of Labor expects to have under active consideration for promulgation, proposal, or review during the coming one-year period. The entirety of the Department's semiannual agenda is available online at [www.reginfo.gov](http://www.reginfo.gov).

The Regulatory Flexibility Act (5 U.S.C. 602) requires DOL to publish in

the **Federal Register** a regulatory flexibility agenda. The Department's Regulatory Flexibility Agenda, published with this notice, includes only those rules on its semiannual agenda that are likely to have a significant economic impact on a substantial number of small entities; and those rules identified for periodic review in keeping with the requirements of section 610 of the Regulatory Flexibility Act. Thus, the regulatory flexibility agenda is a subset of the Department's semiannual regulatory agenda. The Department's Regulatory Flexibility Agenda does not include section 610 items at this time.

All interested members of the public are invited and encouraged to let departmental officials know how our regulatory efforts can be improved, and are invited to participate in and comment on the review or development of the regulations listed on the Department's agenda.

**Eugene Scalia,**  
*Secretary of Labor.*

**WAGE AND HOUR DIVISION—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
292 .....	Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees.	1235-AA20

**EMPLOYMENT AND TRAINING ADMINISTRATION—LONG-TERM ACTIONS**

Sequence No.	Title	Regulation Identifier No.
293 .....	Temporary Employment of H-2B Foreign Workers in Certain Itinerant Occupations in the United States ...	1205-AB93

**EMPLOYMENT AND TRAINING ADMINISTRATION—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
294 .....	Modernizing Recruitment Requirements Under the H-2A Program .....	1205-AB90

**EMPLOYEE BENEFITS SECURITY ADMINISTRATION—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
295 .....	Revision of the Form 5500 Series and Implementing Related Regulations Under the Employee Retirement Income Security Act of 1974 (ERISA).	1210-AB63
296 .....	Definition of an "Employer" Under Section 3(5) of ERISA—Association Retirement Plans and Other Multiple Employer Plans.	1210-AB88

**OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PRERULE STAGE**

Sequence No.	Title	Regulation Identifier No.
297 .....	Emergency Response .....	1218-AC91
298 .....	Tree Care Standard .....	1218-AD04
299 .....	Prevention of Workplace Violence in Health Care and Social Assistance .....	1218-AD08

## OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
300 .....	Communication Tower Safety .....	1218-AC90

## OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
301 .....	Infectious Diseases .....	1218-AC46
302 .....	Process Safety Management and Prevention of Major Chemical Accidents .....	1218-AC82

**DEPARTMENT OF LABOR (DOL)***Wage and Hour Division (WHD)*

Completed Actions

**292. Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 29 U.S.C. 201 *et seq.*;  
 29 U.S.C.213(a)(1)

*Abstract:* The Department issued a Notice of Proposed Rulemaking (NPRM) to determine the appropriate salary level for exemption of executive, administrative and professional employees. The Department also proposed to increase the highly compensated employees (HCE) total compensation level, allow the inclusion of up to 10 percent of the standard salary level to include nondiscretionary bonus and incentive payments as long as paid at least annually, and special salary levels for the U.S. territories and the motion picture industry. In developing the final rule, the Department will be informed by the comments received in response to its NPRM.

*Timetable:*

Action	Date	FR Cite
Request for Information (RFI).	07/26/17	82 FR 34616
RFI Comment Period End.	09/25/17	
NPRM .....	03/22/19	84 FR 10840
NPRM Comment Period End.	05/21/19	
Final Rule .....	09/27/19	84 FR 51230
Final Rule Effective.	01/01/20	

*Regulatory Flexibility Analysis*

Required: Yes.

*Agency Contact:* Amy DeBisschop, Director of the Division of Regulations, Legislation and Interpretation, Department of Labor, Wage and Hour

Division, 200 Constitution Avenue NW, FP Building, Room S-2502, Washington, DC 20210, *Phone:* 202 693-0406.

*RIN:* 1235-AA20**DEPARTMENT OF LABOR (DOL)***Employment and Training Administration (ETA)*

Long-Term Actions

**293. Temporary Employment of H-2B Foreign Workers in Certain Itinerant Occupations in the United States**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 8 U.S.C. 1184; 8 U.S.C. 1103

*Abstract:* The United States Department of Labor's (DOL) Employment and Training Administration and Wage and Hour Division, and the United States Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services, are jointly amending regulations regarding the H-2B non-immigrant visa program at 20 CFR part 655, subpart A. The Notice of Proposed Rulemaking (NPRM) will establish standards and procedures for employers seeking to hire foreign temporary nonagricultural workers for certain itinerant job opportunities, including entertainers and carnivals and utility vegetation management.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/00/20	

*Regulatory Flexibility Analysis*

Required: Yes.

*Agency Contact:* Thomas M. Dowd, Deputy Assistant Secretary, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, FP Building, Washington, DC 20210, *Phone:* 202 513-7350.

*RIN:* 1205-AB93**DEPARTMENT OF LABOR (DOL)***Employment and Training Administration (ETA)*

Completed Actions

**294. Modernizing Recruitment Requirements Under the H-2A Program**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 8 U.S.C. 1188

*Abstract:* The United States Department of Labor's (DOL) Employment and Training Administration is amending regulations regarding the H-2A non-immigrant visa program at 20 CFR part 655, subpart B. The final rule includes necessary technical improvements, which eliminates print newspaper advertisements and modernizes the requirements employers must meet for advertising job opportunities to U.S. workers.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/09/18	83 FR 55985
NPRM Comment Period End.	12/10/18	
NPRM Comment Period End Extended to 12/28/2018.	12/10/18	83 FR 63456
Final Rule .....	09/20/19	84 FR 49439
Final Rule Effective.	10/21/19	

*Regulatory Flexibility Analysis*

Required: Yes.

*Agency Contact:* Thomas M. Dowd, Deputy Assistant Secretary, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, FP Building, Washington, DC 20210, *Phone:* 202 513-7350.

*RIN:* 1205-AB90

**DEPARTMENT OF LABOR (DOL)***Employee Benefits Security Administration (EBSA)*

## Completed Actions

**295. Revision of the Form 5500 Series and Implementing Related Regulations Under the Employee Retirement Income Security Act of 1974 (ERISA)***E.O. 13771 Designation:* Regulatory.*Legal Authority:* 29 U.S.C. 1021 to 1025; 29 U.S.C. 1027; 29 U.S.C. 1029 and 1030; 29 U.S.C. 1134 and 1135; 29 U.S.C. 1059; 29 U.S.C. 1204

*Abstract:* This regulatory action is part of a long-term strategic project with the Internal Revenue Service and the Pension Benefit Guaranty Corporation (collectively “Agencies”) to modernize and improve the Form 5500 Annual Return/Report of Employee Benefit Plan. The Agencies published proposals in 2016 that included a range of proposed changes in the reporting forms and implementing regulations. Those proposals were never finalized. The Employee Benefits Security Administration is withdrawing this entry from the agenda at this time, due to agency reprioritization.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/21/16	81 FR 47496
NPRM Comment Period End.	10/04/16	
Notice of Proposed Forms Revision.	07/21/16	81 FR 47534
Notice of Proposed Forms Revision Comment Period End.	10/04/16	
NPRM Comment Period Extended.	09/23/16	81 FR 65594
NPRM Comment Period Extended End.	12/05/16	
Withdrawn .....	09/30/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Mara S. Blumenthal, Employee Benefits Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW, FP Building, Room N-5655, Washington, DC 20210, *Phone:* 202 693-8500.

*RIN:* 1210-AB63**296. Definition of an “Employer” Under Section 3(5) of ERISA—Association Retirement Plans and Other Multiple Employer Plans***E.O. 13771 Designation:* Deregulatory.*Legal Authority:* 29 U.S.C. 1002(2), 1002(5) and 1135

*Abstract:* This regulatory action would establish criteria under section 3(5) of the Employee Retirement Income Security Act (ERISA) for purposes of being an “employer” able to establish and maintain an employee pension benefit plan (as defined in section 3(2) of ERISA) that is a multiple employer retirement savings plan (other than a multiemployer plan defined in section 3(37) of ERISA).

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/23/18	83 FR 53534
NPRM Comment Period End.	12/24/18	
Final Rule .....	07/31/19	84 FR 37508
Final Rule Effective.	09/30/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jeffrey J. Turner, Deputy Director, Office of Regulations and Interpretations, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW, FP Building, Room N-5655, Washington, DC 20210, *Phone:* 202 693-8500.

*RIN:* 1210-AB88**DEPARTMENT OF LABOR (DOL)***Occupational Safety and Health Administration (OSHA)*

## Prerule Stage

**297. Emergency Response***E.O. 13771 Designation:* Regulatory.*Legal Authority:* 29 U.S.C. 655(b); 29 U.S.C. 657; 5 U.S.C. 609

*Abstract:* OSHA currently regulates aspects of emergency response and preparedness; some of these standards were promulgated decades ago, and none were designed as comprehensive emergency response standards. Consequently, they do not address the full range of hazards or concerns currently facing emergency responders, and other workers providing skilled support, nor do they reflect major changes in performance specifications for protective clothing and equipment. The Agency acknowledged that current OSHA standards also do not reflect all the major developments in safety and health practices that have already been accepted by the emergency response community and incorporated into industry consensus standards. OSHA is considering updating these standards

with information gathered through an RFI and public meetings.

*Timetable:*

Action	Date	FR Cite
Stakeholder Meetings.	07/30/14	
Convene NACOSH Workgroup.	09/09/15	
NACOSH Review of Workgroup Report.	12/14/16	
Initiate SBREFA ..	08/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N-3718, Washington, DC 20210, *Phone:* 202 693-1950, *Fax:* 202 693-1678, *Email:* perry.bill@dol.gov.

*RIN:* 1218-AC91**298. Tree Care Standard***E.O. 13771 Designation:* Regulatory.*Legal Authority:* Not Yet Determined

*Abstract:* There is no OSHA standard for tree care operations; the agency currently applies a patchwork of standards to address the serious hazards in this industry. The tree care industry previously petitioned the agency for rulemaking and OSHA issued an ANPRM (September 2008). Tree care continues to be a high-hazard industry.

*Timetable:*

Action	Date	FR Cite
Stakeholder Meeting.	07/13/16	
Initiate SBREFA ..	11/00/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N-3718, Washington, DC 20210, *Phone:* 202 693-1950, *Fax:* 202 693-1678, *Email:* perry.bill@dol.gov.

*RIN:* 1218-AD04**299. Prevention of Workplace Violence in Health Care and Social Assistance***E.O. 13771 Designation:* Regulatory.*Legal Authority:* 29 U.S.C. 655(b); 5 U.S.C. 609

*Abstract:* The Request for Information (RFI) (published on December 7, 2016 81 FR 88147)) provides OSHA’s history with the issue of workplace violence in

health care and social assistance, including a discussion of the Guidelines that were initially published in 1996, a 2014 update to the Guidelines, the Agency's use of 5(a)(1) in enforcement cases in health care. The RFI solicited information primarily from health care employers, workers and other subject matter experts on impacts of violence, prevention strategies, and other information that will be useful to the Agency. OSHA was petitioned for a standard preventing workplace violence in health care by a broad coalition of labor unions, and in a separate petition by the National Nurses United. On January 10, 2017, OSHA granted the petitions.

*Timetable:*

Action	Date	FR Cite
Request for Information (RFI).	12/07/16	81 FR 88147
RFI Comment Period End.	04/06/17	
Initiate SBREFA ..	01/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N-3718, Washington, DC 20210, Phone: 202 693-1950, Fax: 202 693-1678, Email: perry.bill@dol.gov.

RIN: 1218-AD08

## DEPARTMENT OF LABOR (DOL)

### Occupational Safety and Health Administration (OSHA)

Proposed Rule Stage

#### 300. Communication Tower Safety

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 29 U.S.C. 655(b); 5 U.S.C. 609

*Abstract:* While the number of employees engaged in the communication tower industry remains small, the fatality rate is very high. Over the past 20 years, this industry has experienced an average fatality rate that greatly exceeds that of the construction industry. Due to recent FCC spectrum auctions and innovations in cellular technology, there will be a very high level of construction activity taking place on communication towers over the next few years. A similar increase in the number of construction projects needed to support cellular phone coverage triggered a spike in fatality and injury rates years ago. Based on

information collected from an April 2016 Request for Information (RFI), OSHA concluded that current OSHA requirements such as those for fall protection and personnel hoisting, may not adequately cover all hazards of communication tower construction and maintenance activities. OSHA will use information collected from a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel to identify effective work practices and advances in engineering technology that would best address industry safety and health concerns. The Panel carefully considered the issue of the expansion of the rule beyond just communication towers. OSHA will continue to consider also covering structures that have telecommunications equipment on or attached to them (e.g., buildings, rooftops, water towers, billboards, etc.).

*Timetable:*

Action	Date	FR Cite
Request for Information (RFI).	04/15/15	80 FR 20185
RFI Comment Period End.	06/15/15	
Initiate SBREFA ..	01/04/17	
Initiate SBREFA ..	05/31/18	
Complete SBREFA.	10/11/18	
NPRM .....	09/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Scott Ketcham, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, Room N-3468, FP Building, Washington, DC 20210, Phone: 202 693-2020, Fax: 202 693-1689, Email: ketcham.scott@dol.gov.

RIN: 1218-AC90

## DEPARTMENT OF LABOR (DOL)

### Occupational Safety and Health Administration (OSHA)

Long-Term Actions

#### 301. Infectious Diseases

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 5 U.S.C. 533; 29 U.S.C. 657 and 658; 29 U.S.C. 660; 29 U.S.C. 666; 29 U.S.C. 669; 29 U.S.C. 673

*Abstract:* Employees in health care and other high-risk environments face long-standing infectious disease hazards such as tuberculosis (TB), varicella disease (chickenpox, shingles), and measles (rubella), as well as new and emerging infectious disease threats, such as Severe Acute Respiratory

Syndrome (SARS) and pandemic influenza. Health care workers and workers in related occupations, or who are exposed in other high-risk environments, are at increased risk of contracting TB, SARS, Methicillin-Resistant Staphylococcus Aureus (MRSA), and other infectious diseases that can be transmitted through a variety of exposure routes. OSHA is examining regulatory alternatives for control measures to protect employees from infectious disease exposures to pathogens that can cause significant disease. Workplaces where such control measures might be necessary include: health care, emergency response, correctional facilities, homeless shelters, drug treatment programs, and other occupational settings where employees can be at increased risk of exposure to potentially infectious people. A standard could also apply to laboratories, which handle materials that may be a source of pathogens, and to pathologists, coroners' offices, medical examiners, and mortuaries.

*Timetable:*

Action	Date	FR Cite
Request for Information (RFI).	05/06/10	75 FR 24835
RFI Comment Period End.	08/04/10	
Analyze Comments.	12/30/10	
Stakeholder Meetings.	07/05/11	76 FR 39041
Initiate SBREFA ..	06/04/14	
Complete SBREFA.	12/22/14	
NPRM .....	To Be Determined	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N-3718, Washington, DC 20210, Phone: 202 693-1950, Fax: 202 693-1678, Email: perry.bill@dol.gov.

RIN: 1218-AC46

#### 302. Process Safety Management and Prevention of Major Chemical Accidents

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 29 U.S.C. 655; 29 U.S.C. 657

*Abstract:* The Occupational Safety and Health Administration (OSHA) issued a Request for Information (RFI) on December 9, 2013 (78 FR 73756). The RFI identified issues related to modernization of the Process Safety

Management standard and related standards necessary to meet the goal of preventing major chemical accidents.

*Timetable:*

Action	Date	FR Cite
Request for Information (RFI).	12/09/13	78 FR 73756
RFI Comment Period Extended.	03/07/14	79 FR 13006

Action	Date	FR Cite
RFI Comment Period Extended End.	03/31/14	
Initiate SBREFA .. SBREFA Report Completed.	06/08/15 08/01/16	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N-3718, Washington, DC 20210, *Phone:* 202 693-1950, *Fax:* 202 693-1678, *Email:* perry.bill@dol.gov.

*RIN:* 1218-AC82

[FR Doc. 2019-26582 Filed 12-23-19; 8:45 am]

**BILLING CODE 4510-04-P**



# FEDERAL REGISTER

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Vol. 84

Thursday,

No. 247

December 26, 2019

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Part XI

Department of Transportation

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Seminannual Regulatory Agenda

**DEPARTMENT OF TRANSPORTATION****Office of the Secretary****14 CFR Chs. I–III****23 CFR Chs. I–III****33 CFR Chs. I and IV****46 CFR Chs. I–III****48 CFR Ch. 12****49 CFR Subtitle A, Chs. I–VI, and Chs. X–XII****[DOT–OST–1999–5129]****Department Regulatory and Deregulatory Agenda; Semiannual Summary****AGENCY:** Office of the Secretary, DOT.**ACTION:** Unified Agenda of Federal Regulatory and Deregulatory Actions (Regulatory Agenda).

**SUMMARY:** The Regulatory and Deregulatory Agenda is a semiannual summary of all current and projected rulemakings, reviews of existing regulations, and completed actions of the Department. The intent of the Agenda is to provide the public with information about the Department of Transportation's regulatory activity planned for the next 12 months. It is expected that this information will enable the public to more effectively participate in the Department's regulatory process. The public is also invited to submit comments on any aspect of this Agenda.

**FOR FURTHER INFORMATION CONTACT:****General**

You should direct all comments and inquiries on the Agenda in general to Jonathan Moss, Assistant General Counsel for Regulation, Office of General Counsel, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590; (202) 366–4723.

**Specific**

You should direct all comments and inquiries on particular items in the Agenda to the individual listed for the regulation or the general rulemaking contact person for the operating administration in appendix B.

**Table of Contents****Supplementary Information:**

Background  
Significant/Priority Rulemakings  
Explanation of Information on the Agenda

Request for Comments

Purpose

Appendix A—Instructions for Obtaining Copies of Regulatory Documents

Appendix B—General Rulemaking Contact Persons

Appendix C—Public Rulemaking Dockets

Appendix D—Review Plans for Section 610 and Other Requirements

**SUPPLEMENTARY INFORMATION:****Background**

A primary goal of the Department of Transportation (Department or DOT) is to allow the public to understand how we make decisions, which necessarily includes being transparent in the way we measure the risks, costs, and benefits of engaging in—or deciding not to engage in—a particular regulatory action. As such, it is our policy to provide an opportunity for public comment on such actions to all interested stakeholders. Above all, transparency and meaningful engagement mandate that regulations should be straightforward, clear, and accessible to any interested stakeholder. The Department also embraces the notion that there should be no more regulations than necessary. We emphasize consideration of non-regulatory solutions and have rigorous processes in place for continual reassessment of existing regulations. These processes provide that regulations and other agency actions are periodically reviewed and, if appropriate, are revised to ensure that they continue to meet the needs for which they were originally designed, and that they remain cost-effective and cost-justified.

To help the Department achieve its goals and in accordance with Executive Order (E.O.) 12866, “Regulatory Planning and Review,” (58 FR 51735; Oct. 4, 1993) and the Department's Regulatory Policies and Procedures (44 FR 11034; Feb. 26, 1979), the Department prepares a semiannual regulatory and deregulatory agenda. It summarizes all current and projected rulemakings, reviews of existing regulations, and completed actions of the Department. These are matters on which action has begun or is projected during the next 12 months or for which action has been completed since the last Agenda.

In addition, this Agenda was prepared in accordance with three Executive orders issued by President Trump, which directed agencies to further scrutinize their regulations and other

agency actions. On January 30, 2017, President Trump signed Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs. Under section 2(a) of the Executive order, unless prohibited by law, whenever an executive department or agency publicly proposes for notice and comment or otherwise promulgates a new regulation, it must identify at least two existing regulations to be repealed. On February 24, 2017, President Trump signed Executive Order 13777, Enforcing the Regulatory Reform Agenda. Under this Executive order, each agency must establish a Regulatory Reform Task Force (RRTF) to evaluate existing regulations, and make recommendations for their repeal, replacement, or modification. On March 28, 2017, President Trump signed Executive Order 13783, Promoting Energy Independence and Economic Growth, requiring agencies to review all existing regulations, orders, guidance documents, policies, and other similar agency actions that potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy resources.

In response to the mandate in Executive Order 13777, the Department formed an RRTF consisting of senior career and non-career leaders, which has already conducted extensive reviews of existing regulations, and identified a number of rules to be repealed, replaced, or modified. As a result of the RRTF's work, since January 2017, the Department has issued deregulatory actions that reduce regulatory costs on the public by over \$3.2 billion (in net present value cost savings). Even when the costs of significant regulatory actions are factored in, the Department's deregulatory actions still result in over \$2.9 billion in net cost savings (in net present value). With the RRTF's assistance, the Department has achieved these cost savings in a manner that is fully consistent with enhancing safety. For example, in March 2019, FMCSA promulgated a rule titled ELDT Class B to Class A Upgrade, which will save truck drivers more than \$250 million by making it easier (and cheaper) for a driver who already holds a Class B CDL to upgrade to a Class A CDL, without having to take the same training again. This reduces waste without affecting safety.

The Department has also significantly increased the number of deregulatory actions it is pursuing. Today, DOT is pursuing over 130 deregulatory rulemakings, up from just 16 in the fall of 2016.



While each regulatory and deregulatory action is evaluated on its own merits, the RRTF augments the Department's consideration of prospective rulemakings by conducting monthly reviews across all OAs to identify appropriate deregulatory actions. The RRTF also works to ensure that any new regulatory action is rigorously vetted and non-regulatory alternatives are considered. Further information on the RRTF can be found online at: <https://www.transportation.gov/regulations/regulatory-reform-task-force-report>.

The Department's ongoing regulatory effort is guided by four fundamental principles—safety, innovation, enabling investment in infrastructure, and reducing unnecessary regulatory burdens. These priorities are grounded in our national interest in maintaining U.S. global leadership in safety, innovation, and economic growth. To accomplish our regulatory goals, we must create a regulatory environment that fosters growth in new and innovative industries without burdening them with unnecessary restrictions. At the same time, safety remains our highest priority; we must remain focused on managing safety risks and being sure that we do not regress from the successes already achieved. Our planned regulatory actions reflect a careful balance that emphasizes the Department's priority in fostering innovation while at the same time meeting the challenges of maintaining a safe, reliable, and sustainable transportation system.

For example, the National Highway Traffic Safety Administration (NHTSA) is working on reducing regulatory barriers to technology innovation, including the integration of automated vehicles, while continuing to focus on safety. Automated vehicles are expected to increase safety significantly by reducing the likelihood of human error when driving, which today accounts for the overwhelming majority of accidents on our nation's roadways. NHTSA plans to issue regulatory actions that: (1) allow for permanent updates to current FMVSS reflecting new technology; and (2) allow for updates to NHTSA's regulations outlining the administrative processes for petitioning the agency for exemptions, rulemakings, and reconsiderations. Similarly, the Federal Aviation Administration (FAA) is working to enable, safely and efficiently, the integration of unmanned aircraft systems (UAS) into the National Airspace System. UAS are expected to continue to drive innovation and increase safety as operators and manufacturers find new and inventive

uses for UAS. For instance, UAS are poised to assist human operators with a number of different mission sets such as inspection of critical infrastructure and search and rescue, enabling beneficial and lifesaving activities that would otherwise be difficult or even impossible for a human to accomplish unassisted. The Department has regulatory efforts underway to further integrate UAS safely and efficiently.

The Department is working on several rulemakings to facilitate a major transformation of our national space program from one in which the federal government has a primary role to one in which private industry drives growth in innovation and launches. The FAA has proposed a rule that will fundamentally change how FAA licenses launches and reentries of commercial space vehicles moving from prescriptive requirements to a performance based approach.

### Explanation of Information in the Agenda

An Office of Management and Budget memorandum, dated June 26, 2019, establishes the format for this Agenda.

First, the Agenda is divided by initiating offices. Then the Agenda is divided into five categories: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; (4) long-term actions; and (5) completed actions. For each entry, the Agenda provides the following information: (1) Its "significance"; (2) a short, descriptive title; (3) its legal basis; (4) the related regulatory citation in the Code of Federal Regulations; (5) any legal deadline and, if so, for what action (e.g., NPRM, final rule); (6) an abstract; (7) a timetable, including the earliest expected date for when a rulemaking document may publish; (8) whether the rulemaking will affect small entities and/or levels of Government and, if so, which categories; (9) whether a Regulatory Flexibility Act (RFA) analysis is required (for rules that would have a significant economic impact on a substantial number of small entities); (10) a listing of any analyses an office will prepare or has prepared for the action (with minor exceptions, DOT requires an economic analysis for all its rulemakings); (11) an agency contact office or official who can provide further information; (12) a Regulation Identifier Number (RIN) assigned to identify an individual rulemaking in the Agenda and facilitate tracing further action on the issue; (13) whether the action is subject to the Unfunded Mandates Reform Act; (14) whether the action is subject to the Energy Act; (15) the action's designation under Executive Order 13771 explaining whether the action will have a regulatory or

deregulatory effect; and (16) whether the action is major under the congressional review provisions of the Small Business Regulatory Enforcement Fairness Act.

For nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules), to keep those requirements operationally current, we only include the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations; we do not list individual regulations.

In the "Timetable" column, we use abbreviations to indicate the particular documents being considered. ANPRM stands for Advance Notice of Proposed Rulemaking, SNPRM for Supplemental Notice of Proposed Rulemaking, and NPRM for Notice of Proposed Rulemaking. Listing a future date in this column does not mean we have made a decision to issue a document; it is the earliest date on which a rulemaking document may publish. In addition, these dates are based on current schedules. Information received after the issuance of this Agenda could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

Finally, a dot (•) preceding an entry indicates that the entry appears in the Agenda for the first time.

The internet is the basic means for disseminating the Unified Agenda. The complete Unified Agenda is available online at [www.reginfo.gov](http://www.reginfo.gov) in a format that offers users a greatly enhanced ability to obtain information from the Agenda database. A portion of the Agenda is published in the **Federal Register**, however, because the Regulatory Flexibility Act (5 U.S.C. 602) mandates publication for the regulatory flexibility agenda. Accordingly, DOT's printed Agenda entries include only:

1. The agency's Agenda preamble;
2. Rules that are in the agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and
3. Any rules that the agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's

Agenda requirements. These elements are: Sequence Number; Title; Section 610 Review, if applicable; Legal Authority; Abstract; Timetable; Regulatory Flexibility Analysis Required; Agency Contact; and Regulation Identifier Number (RIN). Additional information (for detailed list, see section heading “Explanation of Information on the Agenda”) on these entries is available in the Unified Agenda published on the internet.

## **Request for Comments**

### *General*

Our Agenda is intended primarily for the use of the public. Since its inception, we have made modifications and refinements that we believe provide the public with more helpful information, as well as making the Agenda easier to use. We would like you, the public, to make suggestions or comments on how the Agenda could be further improved.

### *Reviews*

We also seek your suggestions on which of our existing regulations you believe need to be reviewed to determine whether they should be revised or revoked. We particularly draw your attention to the Department’s review plan in appendix D.

### *Regulatory Flexibility Act*

The Department is especially interested in obtaining information on requirements that have a “significant economic impact on a substantial number of small entities” and, therefore, must be reviewed under the Regulatory Flexibility Act. If you have any suggested regulations, please submit them to us, along with your explanation of why they should be reviewed.

In accordance with the Regulatory Flexibility Act, comments are specifically invited on regulations that we have targeted for review under section 610 of the Act. The phrase (sec. 610 Review) appears at the end of the title for these reviews. Please see appendix D for the Department’s section 610 review plans.

### *Consultation With State, Local, and Tribal Governments*

Executive Orders 13132 and 13175 require us to develop an account process to ensure “meaningful and timely input” by State, local, and tribal officials in the development of regulatory policies that have federalism or tribal implications. These policies are defined in the Executive orders to include regulations that have “substantial direct effects” on States or Indian tribes, on the relationship

between the Federal Government and them, or on the distribution of power and responsibilities between the Federal Government and various levels of Government or Indian tribes. Therefore, we encourage State and local Governments or Indian tribes to provide us with information about how the Department’s rulemakings impact them.

## **Purpose**

The Department is publishing this regulatory Agenda in the **Federal Register** to share with interested members of the public the Department’s preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department’s regulatory activity and should result in more effective public participation. This publication in the **Federal Register** does not impose any binding obligation on the Department or any of the offices within the Department with regard to any specific item on the Agenda. Regulatory action, in addition to the items listed, is not precluded.

**Elaine L. Chao,**

*Secretary of Transportation.*

## **Appendix A—Instructions for Obtaining Copies of Regulatory Documents**

To obtain a copy of a specific regulatory document in the Agenda, you should communicate directly with the contact person listed with the regulation at the address below. We note that most, if not all, such documents, including the Semiannual Regulatory Agenda, are available through the internet at <http://www.regulations.gov>. See appendix C for more information.

## **Appendix B—General Rulemaking Contact Persons**

The following is a list of persons who can be contacted within the Department for general information concerning the rulemaking process within the various operating administrations.

FAA—Brandon Roberts, Acting Executive Director, Office of Rulemaking, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–9677.

FHWA—Jennifer Outhouse, Office of Chief Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–0761.

FMCSA—Steven J. LaFreniere, Regulatory Ombudsman, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–0596.

NHTSA—Steve Wood, Office of Chief Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–2992.

FRA—Amanda Maizel, Office of Chief Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 493–8014.

FTA—Chaya Koffman, Office of Chief Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–3101.

SLSDC—Carrie Mann Lavigne, Chief Counsel, 180 Andrews Street, Massena, NY 13662; telephone (315) 764–3200.

PHMSA—Stephen Gordon, Office of Chief Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–1101.

MARAD—Gabriel Chavez, Office of Chief Counsel, Maritime Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–2621.

OST—Jonathan Moss, Assistant General Counsel for Regulation, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–4723.

## **Appendix C—Public Rulemaking Dockets**

All comments via the internet are submitted through the Federal Docket Management System (FDMS) at the following address: <http://www.regulations.gov>. The FDMS allows the public to search, view, download, and comment on all Federal agency rulemaking documents in one central online system. The above referenced internet address also allows the public to sign up to receive notification when certain documents are placed in the dockets.

The public also may review regulatory dockets at or deliver comments on proposed rulemakings to the Dockets Office at 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, 1–800–647–5527. Working Hours: 9:00 a.m. to 5:00 p.m.

## **Appendix D—Review Plans for Section 610 and Other Requirements**

### **Part I—The Plan**

#### *General*

The Department of Transportation has long recognized the importance of regularly reviewing its existing regulations to determine whether they need to be revised or revoked. Our Regulatory Policies and Procedures require such reviews. We also have responsibilities under Executive Order 12866, “Regulatory Planning and Review,” Executive Order 13563, “Improving Regulation and Regulatory Review,” 76 FR 3821 (January 18, 2011), Executive Order 13771 “Reducing Regulation and Controlling Regulatory Costs,” Executive Order 13777, “Enforcing the Regulatory Agenda,” and

section 610 of the Regulatory Flexibility Act to conduct such reviews. This includes the designation of a Regulatory Reform Officer, the establishment of a Regulatory Reform Task Force, and the use of plain language techniques in new rules and considering its use in existing rules when we have the opportunity and resources to revise them. We are committed to continuing our reviews of existing rules and, if it is needed, will initiate rulemaking actions based on these reviews. The Department will begin a new 10-year review cycle with the Fall 2018 Agenda.

#### *Section 610 Review Plan*

Section 610 requires that we conduct reviews of rules that: (1) Have been published within the last 10 years; and (2) have a “significant economic impact on a substantial number of small entities” (SEISNOSE). It also requires that we publish in the **Federal Register** each year a list of any such rules that we will review during the next year. The Office of the Secretary and each of the Department’s Operating Administrations have a 10-year review plan. These reviews comply with section 610 of the Regulatory Flexibility Act.

#### *Changes to the Review Plan*

Some reviews may be conducted earlier than scheduled. For example, to the extent resources permit, the plain language reviews will be conducted more quickly. Other events, such as accidents, may result in the need to conduct earlier reviews of some rules. Other factors may also result in the need to make changes; for example, we may make changes in response to public comment on this plan or in response to a presidentially mandated review. If there is any change to the review plan, we will note the change in the following Agenda. For any section 610 review, we will provide the required notice prior to the review.

### **Part II—The Review Process**

#### *The Analysis*

Generally, the agencies have divided their rules into 10 different groups and

plan to analyze one group each year. For purposes of these reviews, a year will coincide with the fall-to-fall schedule for publication of the Agenda. Most agencies provide historical information about the reviews that have occurred over the past 10 years. Thus, Year 1 (2018) begins in the fall of 2018 and ends in the fall of 2019; Year 2 (2019) begins in the fall of 2019 and ends in the fall of 2020, and so on. The exception to this general rule is the FAA, which provides information about the reviews it completed for this year and prospective information about the reviews it intends to complete in the next 10 years. Thus, for FAA Year 1 (2017) begins in the fall of 2017 and ends in the fall of 2018; Year 2 (2018) begins in the fall of 2018 and ends in the fall of 2019, and so on. We request public comment on the timing of the reviews. For example, is there a reason for scheduling an analysis and review for a particular rule earlier than we have? Any comments concerning the plan or analyses should be submitted to the regulatory contacts listed in appendix B, General Rulemaking Contact Persons.

#### *Section 610 Review*

The agency will analyze each of the rules in a given year’s group to determine whether any rule has a SEISNOSE and, thus, requires review in accordance with section 610 of the Regulatory Flexibility Act. The level of analysis will, of course, depend on the nature of the rule and its applicability. Publication of agencies’ section 610 analyses listed each fall in this Agenda provides the public with notice and an opportunity to comment consistent with the requirements of the Regulatory Flexibility Act. We request that public comments be submitted to us early in the analysis year concerning the small entity impact of the rules to help us in making our determinations.

In each Fall Agenda, the agency will publish the results of the analyses it has completed during the previous year. For rules that had a negative finding on SEISNOSE, we will give a short explanation (e.g., “these rules only

establish petition processes that have no cost impact” or “these rules do not apply to any small entities”). For parts, subparts, or other discrete sections of rules that do have a SEISNOSE, we will announce that we will be conducting a formal section 610 review during the following 12 months. At this stage, we will add an entry to the Agenda in the pre-rulemaking section describing the review in more detail. We also will seek public comment on how best to lessen the impact of these rules and provide a name or docket to which public comments can be submitted. In some cases, the section 610 review may be part of another unrelated review of the rule. In such a case, we plan to clearly indicate which parts of the review are being conducted under section 610.

#### *Other Reviews*

The agency will also examine the specified rules to determine whether any other reasons exist for revising or revoking the rule or for rewriting the rule in plain language. In each Fall Agenda, the agency will also publish information on the results of the examinations completed during the previous year.

### **Part III—List of Pending Section 610 Reviews**

The Agenda identifies the pending DOT section 610 Reviews by inserting “(Section 610 Review)” after the title for the specific entry. For further information on the pending reviews, see the Agenda entries at [www.reginfo.gov](http://www.reginfo.gov). For example, to obtain a list of all entries that are in section 610 Reviews under the Regulatory Flexibility Act, a user would select the desired responses on the search screen (by selecting “advanced search”) and, in effect, generate the desired “index” of reviews.

#### *Office of the Secretary*

Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1 .....	49 CFR parts 91 through 99 ..... 14 CFR parts 200 through 212 48 CFR parts 1201 through 1224	2018	2019
2 .....	48 CFR parts 1227 through 1253 and new parts and subparts .....	2019	2020
3 .....	14 CFR parts 213 through 232 .....	2020	2021
4 .....	14 CFR parts 234 through 254 .....	2021	2022
5 .....	14 CFR parts 255 through 298 and 49 CFR part 40 .....	2022	2023
6 .....	14 CFR parts 300 through 373 .....	2023	2024
7 .....	14 CFR parts 374 through 398 .....	2024	2025
8 .....	14 CFR part 399 and 49 CFR parts 1 through 15 .....	2025	2026
9 .....	49 CFR parts 17 through 28 .....	2026	2027

Year	Regulations to be reviewed	Analysis year	Review year
10 .....	49 CFR parts 29 through 39 and parts 41 through 89 .....	2027	2028

Year 1 (Fall 2018) List of Rules That Are Under Ongoing Analysis

49 CFR part 91—International Air Transportation Fair Competitive Practices

49 CFR part 92—Recovering Debts to the United States by Salary Offset

- *Section 610:* OST conducted a Section 610 review of this part and found no SEISNOSE.

- *General:* The agency is aware of several outdated references to operating administrations within the Department that need to be updated. OST's plain language review of these rules indicates no need for substantial revision.

49 CFR part 93—Aircraft Allocation

49 CFR part 98—Enforcement of Restrictions on Post-Employment Activities

49 CFR part 99—Employee Responsibilities and Conduct

14 CFR part 200—Definitions and Instructions

14 CFR part 201—Air Carrier Authority Under Subtitle VII of Title 49 of the United States Code [Amended]

14 CFR part 203—Waiver of Warsaw Convention Liability Limits and Defenses

14 CFR part 204—Data To Support Fitness Determinations

14 CFR part 205—Aircraft Accident Liability Insurance

14 CFR part 206—Certificates of Public Convenience and Necessity: Special Authorizations and Exemptions

14 CFR part 207—Charter Trips by U.S. Scheduled Air Carriers

14 CFR part 208—Charter Trips by U.S. Charter Air Carriers

14 CFR part 211—Applications for Permits to Foreign Air Carriers

14 CFR part 212—Charter Rules for U.S. and Foreign Direct Air Carriers

48 CFR part 1201—Federal Acquisition Regulations System

48 CFR part 1202—Definitions of Words and Terms

48 CFR part 1203—Improper Business Practices and Personal Conflicts of Interest

48 CFR part 1204—Administrative Matters

48 CFR part 1205—Publicizing Contract Actions

48 CFR part 1206—Competition Requirements

48 CFR part 1207—Acquisition Planning

48 CFR part 1208—1210—[Reserved]

48 CFR part 1211—Describing Agency Needs

48 CFR part 1212—[Reserved]

48 CFR part 1213—Simplified Acquisition Procedures

48 CFR part 1214—Sealed Bidding

48 CFR part 1215—Contracting by Negotiation

48 CFR part 1216—Types of Contracts

48 CFR part 1217—Special Contracting Methods

48 CFR part 1218—[Reserved]

48 CFR part 1219—Small Business Programs

48 CFR part 1220—1221—[Reserved]

48 CFR part 1222—Application of Labor Laws to Government Acquisitions

48 CFR part 1223—Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace

48 CFR part 1224—Protection of Privacy and Freedom of Information

Year 2 (Fall 2019) List of Rules That Will Be Analyzed During the Next Year

48 CFR parts 1227 through 1253 and new parts and subparts

48 CFR part 1227—Patents, Data, and Copyrights

48 CFR part 1228—Bonds and Insurance

48 CFR part 1231—Contract Costs Principles and Procedures

48 CFR part 1232—Contract Financing

48 CFR part 1233—Protests, Disputes, and Appeals

48 CFR part 1235—Research and Development Contracting

48 CFR part 1236—Construction and Architect-Engineer Contracts

48 CFR part 1237—Service Contracting

48 CFR part 1239—Acquisition of Information Technology

48 CFR part 1242—Contract Administration and Audit Services

48 CFR part 1245—Government Contracting

48 CFR part 1246—Quality Assurance

48 CFR part 1247—Transportation

48 CFR part 1252—Solicitation Provisions and Contract Clauses

48 CFR part 1253—Forms

Federal Aviation Administration

Section 610 and Other Reviews

The Federal Aviation Administration (FAA) has elected to use the two-step, two-year process used by most Department of Transportation (DOT) modes in past plans. As such, the FAA has divided its rules into 10 groups as displayed in the table below. During the first year (the “analysis year”), all rules published during the previous 10 years within a 10% block of the regulations will be *analyzed* to identify those with a significant economic impact on a substantial number of small entities (SEISNOSE). During the second year (the “review year”), each rule identified in the analysis year as having a SEISNOSE will be *reviewed* in accordance with Section 610(b) to determine if it should be continued without change or changed to minimize impact on small entities. Results of those reviews will be published in the DOT Semiannual Regulatory Agenda.

Year	Regulations to be reviewed	Analysis year	Review year
1 .....	14 CFR parts 133 through 139 and parts 157 through 169 .....	2019	2020
2 .....	14 CFR parts 141 through 147 and parts 170 through 187 .....	2020	2021
3 .....	14 CFR parts 189 through 198 and parts 1 through 16 .....	2021	2022
4 .....	14 CFR parts 17 through 33 .....	2022	2023
5 .....	14 CFR parts 34 through 39 and parts 400 through 405 .....	2023	2024
6 .....	14 CFR parts 43 through 49 and parts 406 through 415 .....	2024	2025
7 .....	14 CFR parts 60 through 77 .....	2025	2026
8 .....	14 CFR parts 91 through 105 .....	2026	2027
9 .....	14 CFR parts 417 through 460 .....	2027	2028
10 .....	14 CFR parts 119 through 129 and parts 150 through 156 .....	2028	2029

## Defining SEISNOSE for FAA Regulations

The RFA does not define “significant economic impact.” Therefore, there is no clear rule or number to determine when a significant economic impact occurs. However, the Small Business Administration (SBA) states that significance should be determined by considering the size of the business, the size of the competitor’s business, and the impact the same regulation has on larger competitors.

Likewise, the RFA does not define “substantial number.” However, the legislative history of the RFA suggests that a substantial number must be at least one but does not need to be an overwhelming percentage such as more than half. The SBA states that the substantiality of the number of small businesses affected should be determined on an industry-specific basis.

This analysis consisted of the following three steps:

1. Review of the number of small entities affected by the amendments to parts 133 through 139 and parts 157 through 169.

2. Identification and analysis of all amendments to parts 133 through 139 and parts 157 through 169 since 2009 to determine whether any still have or now have a SEISNOSE.

3. Review of the FAA’s regulatory flexibility assessment of each amendment performed as required by the RFA.

## Year 2 (2020) List of Rules To Be Analyzed the Next Year

- 14 CFR part 141—Pilot Schools
- 14 CFR part 142—Training Centers
- 14 CFR part 143—Reserved
- 14 CFR part 145—Repair Stations
- 14 CFR part 147—Aviation Maintenance Technician Schools
- 14 CFR part 170—Establishment and Discontinuance Criteria for Air Traffic Control Services and Navigational Facilities
- 14 CFR part 171—Non-Federal Navigation Facilities
- 14 CFR part 183—Representatives of the Administrator
- 14 CFR part 185—Testimony by Employees and Production of Records in Legal Proceedings, and Service of Legal Process and Pleadings
- 14 CFR part 187—Fees

## Year 2 (2019) List of Rules To Be Analyzed the Next Year

- 14 CFR part 133—Rotorcraft External-Load Operations
- 14 CFR part 135—Operating Requirements: Commuter and On Demand Operations and Rules Governing Persons on Board Such Aircraft
- 14 CFR part 136—Commercial Air Tours and National Parks Air Tour Management
- 14 CFR part 137—Agricultural Aircraft Operations
- 14 CFR part 139—Certification of Airports
- 14 CFR part 157—Notice of Construction, Alteration, Activation, and Deactivation of Airports
- 14 CFR part 158—Passenger Facility Charges
- 14 CFR part 161—Notice and Approval of Airport Noise and Access Restrictions
- 14 CFR part 169—Expenditure of Federal Funds for Nonmilitary Airports or Air Navigation Facilities Thereon

## Year 1 (2018) List of Rules Analyzed and Summary of Results

- 14 CFR part 133—Rotorcraft External-Load Operations
  - *Section 610:* The agency conducted a Section 610 review of this part and found no SEISNOSE.
  - *General:* No changes are needed. These regulations are cost effective and impose the least burden.
- 14 CFR part 135—Operating Requirements: Commuter and On Demand Operations and Rules Governing Persons on Board Such Aircraft
  - *Section 610:* The agency conducted a Section 610 review of this part and found *Amendment 135–129, 79 FR 9973, Feb. 21, 2014* section 135.117 Briefing of passengers before flight in 14 CFR 135 promulgated since January 2009 has a SEISNOSE within the meaning of the RFA.
  - *General:* The FAA has considered a number of alternatives and has taken steps to minimize the impact on small entities in attempts to lower compliance costs for small entities, but could not go forward without compromising the safety for the industry. No revisions are needed.
- 14 CFR part 136—Commercial Air Tours and National Parks Air Tour Management

- *Section 610:* The agency conducted a Section 610 review of this part and determined no amendments to 14 CFR part 136 published since 2009. Thus, no SEISNOSE exists in this part.

- *General:* No changes are needed.

## 14 CFR part 137—Agricultural Aircraft Operations

- *Section 610:* The agency conducted a Section 610 review of this part and found no SEISNOSE.

- *General:* No changes are needed. These regulations are cost effective and impose the least burden.

## 14 CFR part 139—Certification of Airports

- *Section 610:* The agency conducted a Section 610 review of this part and found no SEISNOSE.

- *General:* No changes are needed.

These regulations are cost effective and impose the least burden

## 14 CFR part 157—Notice of Construction, Alteration, Activation, and Deactivation of Airports

- *Section 610:* The agency conducted a Section 610 review of this part and determined no amendments to 14 CFR part 136 published since 2009. Thus, no SEISNOSE exists in this part.

- *General:* No changes are needed.

## 14 CFR part 158—Passenger Facility Charges

- *Section 610:* The agency conducted a Section 610 review of this part and determined no amendments to 14 CFR part 136 published since 2009. Thus, no SEISNOSE exists in this part.

- *General:* No changes are needed.

## 14 CFR part 161—Notice and Approval of Airport Noise and Access Restrictions

- *Section 610:* The agency conducted a Section 610 review of this part and determined no amendments to 14 CFR part 136 published since 2009. Thus, no SEISNOSE exists in this part.

- *General:* No changes are needed.

## 14 CFR part 169—Expenditure of Federal Funds for Nonmilitary Airports or Air Navigation Facilities Thereon

- *Section 610:* The agency conducted a Section 610 review of this part and determined no amendments to 14 CFR part 136 published since 2009. Thus, no SEISNOSE exists in this part.

- *General:* No changes are needed.

## Federal Highway Administration

## Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1 .....	None .....	2018	2019

Year	Regulations to be reviewed	Analysis year	Review year
2 .....	23 CFR parts 1 to 260 .....	2019	2020
3 .....	23 CFR parts 420 to 470 .....	2020	2021
4 .....	23 CFR part 500 .....	2021	2022
5 .....	23 CFR parts 620 to 637 .....	2022	2023
6 .....	23 CFR parts 645 to 669 .....	2023	2024
7 .....	23 CFR parts 710 to 924 .....	2024	2025
8 .....	23 CFR parts 940 to 973 .....	2025	2026
9 .....	23 CFR parts 1200 to 1252 .....	2026	2027
10 .....	New parts and subparts .....	2027	2028

#### Federal-Aid Highway Program

The Federal Highway Administration (FHWA) has adopted regulations in title 23 of the CFR, chapter I, related to the Federal-Aid Highway Program. These regulations implement and carry out the provisions of Federal law relating to the administration of Federal aid for highways. The primary law authorizing Federal aid for highways is chapter I of title 23 of the U.S.C. 145, which expressly provides for a federally assisted State program. For this reason, the regulations adopted by the FHWA in title 23 of the CFR primarily relate to the requirements that States must meet to receive Federal funds for construction and other work related to highways. Because the regulations in title 23

primarily relate to States, which are not defined as small entities under the Regulatory Flexibility Act, the FHWA believes that its regulations in title 23 do not have a significant economic impact on a substantial number of small entities. The FHWA solicits public comment on this preliminary conclusion.

#### Year 1 (Fall 2018) List of Rules Analyzed and a Summary of Results

None

#### Year 2 (Fall 2019) List of Rules That Will Be Analyzed During the Next Year

23 CFR part 1—General  
23 CFR part 140—Reimbursement  
23 CFR part 172—Procurement, management, and administration of

engineering and design related services

23 CFR part 180—Credit assistance for surface transportation projects

23 CFR part 190—Incentive payments for controlling outdoor advertising on the interstate system

23 CFR part 192—Drug offender's driver's license suspension

23 CFR part 200—Title VI program and related statutes—implementation and review procedures

23 CFR part 230—External programs

23 CFR part 260—Education and training programs

*Federal Motor Carrier Safety Administration*

Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1 .....	49 CFR parts 386 .....	2018	2019
2 .....	49 CFR part 385 .....	2019	2020
3 .....	49 CFR part 383 and 384 .....	2020	2021
4 .....	49 CFR parts 382 .....	2021	2022
5 .....	49 CFR part 387 .....	2022	2023
6 .....	49 CFR part 398 .....	2023	2024
7 .....	49 CFR part 392 .....	2024	2025
8 .....	49 CFR part 375 .....	2025	2026
9 .....	49 CFR part 367 .....	2026	2027
10 .....	49 CFR part 395 .....	2027	2028

#### Year 10 (Fall 2018) List of Rules With Ongoing Analysis

##### 49 CFR part 395—Hours of Service (HOS) of Drivers

*Section 610:* FMCSA conducted a review of 49 CFR part 395, and found there was a significant economic impact on a substantial number of small entities (SEIOSNOSE). The rule restricts the number of hours that a commercial driver can operate a commercial motor vehicle (CMV). The SEIOSNOSE is driven by the potential loss of revenue that drivers and motor carriers could experience if they could operate without restriction. The Federal HOS regulations promote safe driving of CMV's by limiting on-duty driving time; thereby improving the likelihood that drivers have adequate time for restorative rest. Tangible benefits to small businesses include; streamlined operations,

reduced operational cost, maximized productivity, lowered insurance, improved vehicle diagnostics, reduced administrative burden, and increased profits.

*General:* FMCSA currently is engaged in rulemakings that would: (1) Add flexibilities to the HOS regulations; and (2) clarify the meaning of "agricultural commodities" whose transport is exempt from the HOS regulations if certain requirements are met. Aside from the issues being addressed in these rulemakings, FMCSA has determined that the regulatory value of the HOS regulations is significant and that it should be retained. The rule reduces fatigue related crashes, fatalities, and injuries. These regulations are written consistent with plain language guidelines, and uses clear and unambiguous language. The cost burden

imposed on a small business is reasonable when compared to the benefits.

#### Year 1 (2019) List of Rules With Ongoing Analysis

49 CFR part 386 Rules of Practice for Motor Carrier, Intermodal Equipment Provider, Broker, Freight Forwarder, and Hazardous Materials Proceedings

*Section 610:* FMCSA conducted a review of 49 CFR part 386, and found no SEIOSNOSE. 49 CFR part 386 is a permissive set of rules that establish procedures and proceedings for respondents, petitioners, and others seeking relief from a determination of non-compliance with Federal Motor Carrier Safety Regulations or Hazardous Materials Regulations. The rule also provides a recourse for commercial

drivers to report harassment or coercion. Although not required by the rule, a small business could elect to incur significant attorney and court fees to challenge an unfavorable decision.

*General:* There is no need for substantial revision. These regulations provide necessary/clear guidance to

industry and drivers. The regulations are written consistent with plain language guidelines, are cost effective, and impose the least economic burden to industry.

Year 2 (2020) List of Rules That Will Be Analyzed During the Next Year

49 CFR part 385—Safety Fitness Procedures

*National Highway Traffic Safety Administration*

Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1 .....	49 CFR parts 571.223 through 571.500, and parts 575 and 579 .....	2018	2019
2 .....	23 CFR parts 1200 and 1300 .....	2019	2020
3 .....	49 CFR parts 501 through 526 and 571.213 .....	2020	2021
4 .....	49 CFR parts 571.131, 571.217, 571.220, 571.221, and 571.222 .....	2021	2022
5 .....	49 CFR parts 571.101 through 571.110, and 571.135, 571.136, 571.138 and 571.139 .....	2022	2023
6 .....	49 CFR parts 571.141, 529 through 578, except parts 571 and 575 .....	2023	2024
7 .....	49 CFR parts 571.111 through 571.129 and 580 through 588 .....	2024	2025
8 .....	49 parts CFR 571.201 through 571.212 .....	2025	2026
9 .....	49 parts CFR 571.214 through 571.219, except 571.217 .....	2026	2027
10 .....	49 CFR parts 591 through 595 and new parts and subparts .....	2027	2028

Year 1 (Fall 2019) List of Rules With Ongoing Analysis

49 CFR part 571.223—Rear Impact Guards

49 CFR part 571.224—Rear Impact Protection

49 CFR part 571.225—Child Restraint Anchorage Systems

49 CFR part 571.226—Ejection Mitigation

49 CFR part 571.301—Fuel System Integrity

49 CFR part 571.302—Flammability of Interior Materials

49 CFR part 571.303—Fuel System Integrity of Compressed Natural Gas Vehicles

49 CFR part 571.304—Compressed Natural Gas Fuel Container Integrity

49 CFR part 571.305—Electric-Powered Vehicles: Electrolyte Spillage and Electrical Shock Protection

49 CFR part 571.401—Interior Trunk Release

49 CFR part 571.403—Platform Lift Systems for Motor Vehicles

49 CFR part 571.404—Platform Lift Installations in Motor Vehicles

49 CFR part 571.500—Low-Speed Vehicles

49 CFR part 575—Consumer Information

49 CFR part 579—Reporting of Information and Communications About Potential Defects

23 CFR part 1200 Uniform Procedures for State Highway Safety Grant Programs

23 CFR part 1300 Uniform Procedures for State Highway Safety Grant Programs

*Federal Railroad Administration*

Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1 .....	49 CFR parts 200, 207, 209, and 210 .....	2018	2019
2 .....	49 CFR parts 211, 212, 213, 214, and 215 .....	2019	2020
3 .....	49 CFR parts 216, 217, 218, 219, and 220 .....	2020	2021
4 .....	49 CFR parts 221, 222, 223, 224, and 225 .....	2021	2022
5 .....	49 CFR parts 227, 228, 229, 230, and 231 .....	2022	2023
6 .....	49 CFR parts 232, 233, 234, 235, and 236 .....	2023	2024
7 .....	49 CFR parts 237, 238, 249, 240, and 241 .....	2024	2025
8 .....	49 CFR parts 242, 243, 244, 250, and 256 .....	2025	2026
9 .....	49 CFR parts 261, 262, 264, 266, and 268 .....	2026	2027
10 .....	49 CFR parts 269, 270, and 272 .....	2027	2028

Year 1 (Fall 2018) List of Rules Analyzed and a Summary of Results

49 CFR part 200—Informal Rules of Practice for Passenger Service

■ *Section 610:* There is no SEIOSNOSE.

■ *General:* The rule prescribes procedures under which applications are received and heard and by which rules and orders are issued primarily affecting the Class I railroads and Amtrak, none of which are small entities. FRA's plain language review of this rule indicates no need for substantial revision.

49 CFR part 207—Railroad Police Officers

■ *Section 610:* There is no SEIOSNOSE.

■ *General:* No changes are needed.

These regulations are cost effective and impose the least burden. FRA's plain language review of this rule indicates no need for substantial revision.

49 CFR part 209—Railroad Safety Enforcement Procedures

■ *Section 610:* There is no SEIOSNOSE.

■ *General:* No changes are needed.

These regulations are cost effective and impose the least burden. FRA's plain

language review of this rule indicates no need for substantial revision.

49 CFR part 210—Railroad Noise Emission Compliance Regulations

■ *Section 610:* There is no SEIOSNOSE.

■ *General:* To support high-speed rail operations, FRA has identified substantive changes to the regulations.

Year 2 (Fall 2019) List of Rules(s) That Will Be Analyzed During Next Year

49 CFR part 211—Rules of Practice

49 CFR part 212—State Safety Participation Regulations

49 CFR part 213—Track Safety Standards  
 49 CFR part 214—Railroad Workplace Safety  
 49 CFR part 215—Railroad Freight Car Safety Standards

#### *Federal Transit Administration*

#### Section 610 and Other Reviews

The Regulatory Flexibility Act of 1980 (RFA), as amended (sections 601 through 612 of title 5, United States Code), requires Federal regulatory

agencies to analyze all proposed and final rules to determine their economic impact on small entities, which include small businesses, organizations, and governmental jurisdictions. Section 610 requires government agencies to periodically review all regulations that will have a significant economic impact on a substantial number of small entities (SEISNOSE).

In complying with this section, the Federal Transit Administration (FTA) has elected to use the two-step, two-year

process used by most Department of Transportation (DOT) modes. As such, FTA has divided its rules into 10 groups as displayed in the table below. During the analysis year, the listed rules will be analyzed to identify those with a SEISNOSE. During the review year, each rule identified in the analysis year as having a SEISNOSE will be reviewed in accordance with Section 610(b) to determine if it should be continued without change or changed to minimize the impact on small entities.

Year	Regulations to be reviewed	Analysis year	Review year
1 .....	49 CFR parts 604, 605, and 624 .....	2018	2019
2 .....	49 CFR parts 609 and 640 .....	2019	2020
3 .....	49 CFR part 633 .....	2020	2021
4 .....	49 CFR part 611 .....	2021	2022
5 .....	49 CFR part 655 .....	2022	2023
6 .....	49 CFR parts 602 and 614 .....	2023	2024
7 .....	49 CFR parts 661 and 663 .....	2024	2025
8 .....	49 CFR parts 625, 630, and 665 .....	2025	2026
9 .....	49 CFR parts 613, 622, 670 and 674 .....	2026	2027
10 .....	49 CFR parts 650, 672 and 673 .....	2027	2028

#### Year 1 (2018) List of Rules Analyzed and Summary of Results

##### 49 CFR part 604—Charter Service

- *Section 610:* FTA conducted a Section 610 review of 49 CFR part 604, and determined that it would not result in a SEISNOSE within the meaning of the RFA. The Charter Service rule ensures that transit agencies, subsidized with federal funds, do not unfairly compete with privately-owned charter bus companies. The rule also provides an exception that allows public transportation agencies to provide charter service to qualified organizations for the purpose of serving persons with mobility limitations related to advanced age, persons with disabilities, or persons with low income. As such, the rule is in place to protect small entities.

- *General:* No changes are needed. The regulation implements the requirements of 49 U.S.C. 5323(d), FTA estimated the costs and projected benefits of the rule and believes it is cost-effective and imposes the least burden for statutory compliance. FTA's

plain language review of this rule indicates no need for substantial revision.

##### 49 CFR part 605—School Bus Operations

- *Section 610:* FTA conducted a Section 610 review of 49 CFR part 605 and determined that it would not result in a SEISNOSE within the meaning of the RFA. The School Bus Operations regulation ensures that transit agencies, subsidized with federal funds, do not engage in operations exclusively for the transportation of students and school personnel. This type of exclusive service is not public transportation and would unfairly compete with private school bus operators. As such, the rule is in place to protect small entities.

- *General:* No changes are needed. The regulation implements the requirements of 49 U.S.C. 5323(f). FTA estimated the costs and projected benefits of the rule and believes it is cost-effective and imposes the least burden for statutory compliance. FTA's plain language review of this rule indicates no need for substantial revision.

##### 49 CFR part 624—Clean Fuels Grant Program

- *Section 610:* FTA conducted a Section 610 review of 49 CFR part 624 and determined that it would not result in a SEISNOSE within the meaning of the RFA. However, the Clean Fuels Grant Program was repealed by Section 20002 of the Moving Ahead for Progress in the 21st Century (MAP-21) Act (Pub. L. 112–141), and therefore, part 624 implements a program no longer authorized by law.

- *General:* FTA will rescind 49 CFR part 624, because the requirements set forth in the rule were rendered obsolete by statute.

#### Year 2 (2019) List of Rules To Be Analyzed the Next Year

49 CFR part 609—Transportation for Elderly and Handicapped Persons  
 49 CFR part 640—Credit Assistance for Surface Transportation Project

#### *Maritime Administration*

#### Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1 .....	46 CFR parts 201 through 205, 46 CFR parts 315 through 340, 46 CFR part 345 through 347, and 46 CFR parts 381 and 382. ....	2018	2019
2 .....	46 CFR parts 221 through 232 .....	2019	2020
3 .....	46 CFR parts 249 through 296 .....	2020	2021
4 .....	46 CFR parts 221, 298, 308, and 309 .....	2021	2022
5 .....	46 CFR parts 307 through 309 .....	2022	2023
6 .....	46 CFR part 310 .....	2023	2024
7 .....	46 CFR parts 315 through 340 .....	2024	2025
8 .....	46 CFR parts 345 through 381 .....	2025	2026
9 .....	46 CFR parts 382 through 389 .....	2026	2027



Year	Regulations to be reviewed	Analysis year	Review year
10 .....	46 CFR parts 390 through 393 .....	2027	2028

Year 1 (2018) List of Rules With Ongoing Analysis

46 CFR part 201—Rules of Practice and Procedure  
 46 CFR part 202—Procedures relating to review by Secretary of Transportation of actions by Maritime Subsidy Board  
 46 CFR part 203—Procedures relating to conduct of certain hearings under the Merchant Marine Act, 1936, as amended  
 46 CFR part 204—Claims against the Maritime Administration under the Federal Tort Claims Act  
 46 CFR part 205—Audit Appeals; Policy and Procedure  
 46 CFR part 315—Agency Agreements and Appointment of Agents  
 46 CFR part 317—Bonding of Ship's Personnel  
 46 CFR part 324—Procedural Rules for Financial Transactions Under Agency Agreements  
 46 CFR part 325—Procedure to Be Followed by General Agents in Preparation of Invoices and Payment of Compensation Pursuant to Provisions of NSA Order No. 47  
 46 CFR part 326—Marine Protection and Indemnity Insurance Under Agreements with Agents

46 CFR part 327—Seamen's Claims; Administrative Action and Litigation  
 46 CFR part 328—Slop Chests  
 46 CFR part 329—Voyage Data  
 46 CFR part 330—Launch Services  
 46 CFR part 332—Repatriation of Seamen  
 46 CFR part 335—Authority and Responsibility of General Agents to Undertake Emergency Repairs in Foreign Ports  
 46 CFR part 336—Authority and Responsibility of General Agents to Undertake in Continental United States Ports Voyage Repairs and Service Equipment of Vessels Operated for the Account of The National Shipping Authority Under General Agency Agreement  
 46 CFR part 337—General Agent's Responsibility in Connection with Foreign Repair Custom's Entries  
 46 CFR part 338—Procedure for Accomplishment of Vessel Repairs Under National Shipping Authority Master Lump Sum Repair Contract—NSA-Lumpsumrep  
 46 CFR part 339—Procedure for Accomplishment of Ship Repairs Under National Shipping Authority Individual Contract for Minor Repairs—NSA-Worksmalrep

46 CFR part 340—Priority Use and Allocation of Shipping Services, Containers and Chassis, and Port Facilities and Services for National Security and National Defense Related Operations  
 46 CFR part 345—Restrictions Upon the Transfer or Change in Use or In Terms Governing Utilization of Port Facilities  
 46 CFR part 346—Federal Port Controllers  
 46 CFR part 347—Operating Contract  
 46 CFR part 381—Cargo Preference—U.S.-Flag Vessels  
 46 CFR part 382—Determination of Fair and Reasonable Rates for the Carriage of Bulk and Packaged Preference Cargoes on U.S.-Flag Commercial Vessels

Year 2 (Fall 2019) List of Rules That Will Be Analyzed During the Next Year

46 CFR parts 221 and 232  
 46 CFR part 221 Regulated Transactions Involving Documented Vessels and Other Maritime Interests  
 46 CFR 232 Uniform Financial Reporting Requirements

*Pipeline and Hazardous Materials Safety Administration (PHMSA)*

Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1 .....	49 CFR part 178 .....	2018	2019
2 .....	49 CFR parts 178 through 180 .....	2019	2020
3 .....	49 CFR parts 172 and 175 .....	2020	2021
4 .....	49 CFR part 171, sections 171.15 and 171.16 .....	2021	2022
5 .....	49 CFR parts 106, 107, 171, 190, and 195 .....	2022	2023
6 .....	49 CFR parts 174, 177, and 199 .....	2023	2024
7 .....	49 CFR parts 176, 191 and 192 .....	2024	2025
8 .....	49 CFR parts 172 and 178 .....	2025	2026
9 .....	49 CFR parts 172, 173, 174, 176, 177, and 193 .....	2026	2027
10 .....	49 CFR parts 173 and 194 .....	2027	2028

Year 1 (Fall 2019) List of Rules Analyzed and a Summary of Results

49 CFR part 178—Specifications for Packaging Section 610: PHMSA conducted a review of this part and found no SEISNOSE.

- *General:* PHMSA has reviewed this part and found that while the part does not have a SEISNOSE, it could be streamlined to reflect new technologies and harmonize with certain international references. Therefore, even though the review indicated that the economic impact on small entities is not significant, PHMSA has initiated

multiple new deregulatory rulemakings to reduce the compliance burdens of part 178. Further, PHMSA's plain language review of this part indicates no need for substantial revision. Where confusing or wordy language has been identified, PHMSA plans to propose or finalize revisions in the upcoming biennial international harmonization rulemaking or other deregulatory rulemakings.

For example, the Harmonization of International Standards, 2137–AF32, rulemaking action is part of PHMSA's ongoing biennial process to harmonize the HMR with international regulations

and standards. Federal law and policy strongly favor the harmonization of domestic and international standards for hazardous materials transportation. The Federal hazardous materials transportation law (Federal hazmat law; 49 U.S.C. 5101 *et seq.*) directs PHMSA to participate in relevant international standard-setting bodies and promotes consistency of the HMR with international transport standards to the extent practicable. Federal hazmat law permits PHMSA to depart from international standards where appropriate, including to promote safety or other overriding public interests.

However, Federal hazmat law otherwise encourages domestic and international harmonization (see 49 U.S.C. 5120).

Harmonization facilitates international trade by minimizing the costs and other burdens of complying with multiple or inconsistent safety requirements for transportation of hazardous materials. Safety is enhanced by creating a uniform framework for compliance, and as the volume of hazardous materials transported in international commerce continues to grow, harmonization becomes increasingly important.

The impact that the 2137-AF32 rulemaking will have on small entities is not expected to be significant. The rulemaking will clarify provisions based on PHMSA's initiatives and correspondence with the regulated

community and domestic and international stakeholders. The changes are generally intended to provide relief and, as a result, positive economic benefits to shippers, carriers, and packaging manufacturers and testers, including small entities.

In conclusion, many companies will realize economic benefits, because of the amendments in the 2137-AF32 rulemaking. The amendments are expected to result in an overall net cost savings and ease the regulatory compliance burden for shippers engaged in domestic and international commerce, including trans-border shipments within North America. Additionally, the effective changes of this rulemaking will relieve U.S. companies, including small entities competing in foreign markets, from the

burden of complying with a dual system of regulations. This rulemaking is one example of PHMSA's review of rulemakings which ensures that our rules do not have a significant economic impact on a substantial number of small entities.

Year 2 (Fall 2020) List of Rules That Will Be Analyzed During the Next Year

49 CFR part 178—Specifications of Packagings  
49 CFR part 179—Specifications for Tank Cars  
49 CFR part 180—Continuing Qualification and Maintenance of Packagings

*Saint Lawrence Seaway Development Corporation*

Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1 .....	*33 CFR parts 401 through 403 .....	2018	2019

\*The review for these regulations is recurring each year of the 10-year review cycle (currently 2018 through 2027).

Year 1 (Fall 2018) List of Rules That Will Be Analyzed During the Next Year  
33 CFR part 401—Seaway Regulations and Rules

33 CFR part 402—Tariff of Tolls  
33 CFR part 403—Rules of Procedure of the Joint Tolls Review Board

#### OFFICE OF THE SECRETARY—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
303 .....	+Defining Unfair or Deceptive Practices .....	2105-AE72
304 .....	+Accessible Lavatories on Single-Aisle Aircraft: Part I ( <b>Rulemaking Resulting From a Section 610 Review</b> ).	2105-AE88

+ DOT-designated significant regulation.

#### FEDERAL AVIATION ADMINISTRATION—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
305 .....	+Applying the Flight, Duty, and Rest Requirements to Ferry Flights That Follow Domestic, Flag, or Supplemental All-Cargo Operations (Reauthorization).	2120-AK22
306 .....	+Applying the Flight, Duty, and Rest Rules of 14 CFR Part 135 to Tail-End Ferry Operations (FAA Reauthorization).	2120-AK26

+ DOT-designated significant regulation.

#### FEDERAL AVIATION ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
307 .....	+Pilot Records Database (HR 5900) .....	2120-AK31
308 .....	+Requirements to File Notice of Construction of Meteorological Evaluation Towers and Other Renewable Energy Projects ( <b>Section 610 Review</b> ).	2120-AK77
309 .....	+Operations of Small Unmanned Aircraft Over People .....	2120-AK85

+ DOT-designated significant regulation.

## FEDERAL AVIATION ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
310 .....	+Airport Safety Management System .....	2120-AJ38
311 .....	+Regulation Of Flight Operations Conducted By Alaska Guide Pilots .....	2120-AJ78
312 .....	+Drug and Alcohol Testing of Certain Maintenance Provider Employees Located Outside of the United States.	2120-AK09
313 .....	+Aircraft Registration and Airmen Certification Fees .....	2120-AK37
314 .....	+Helicopter Air Ambulance Pilot Training and Operational Requirements (HAA II) (FAA Reauthorization) ..	2120-AK57
315 .....	+Registration and Marking Requirements for Small Unmanned Aircraft .....	2120-AK82

+ DOT-designated significant regulation.

## FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
316 .....	+Controlled Substances and Alcohol Testing: State Driver's Licensing Agency Downgrade of Commercial Driver's License <b>(Section 610 Review)</b> .	2126-AC11

+ DOT-designated significant regulation.

## FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
317 .....	+Safety Monitoring System and Compliance Initiative for Mexico-Domiciled Motor Carriers Operating in the United States.	2126-AA35

+ DOT-designated significant regulation.

## FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
318 .....	Incorporation by Reference; North American Standard Out-of-Service Criteria; Hazardous Materials Safety Permits <b>(Section 610 Review)</b> .	2126-AC01

## FEDERAL RAILROAD ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
319 .....	+Train Crew Staffing and Location .....	2130-AC48

+ DOT-designated significant regulation.

## SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
320 .....	Tariff of Tolls <b>(Section 610 Review)</b> .....	2135-AA47

## SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
321 .....	Seaway Regulations and Rules: Periodic Update, Various Categories <b>(Rulemaking Resulting From a Section 610 Review)</b> .	2135-AA48

## PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
322 .....	+Pipeline Safety: Amendments to Parts 192 and 195 to Require Valve Installation and Minimum Rupture Detection Standards.	2137-AF06

+ DOT-designated significant regulation.

## PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
323 .....	+Pipeline Safety: Safety of Hazardous Liquid Pipelines .....	2137-AE66

+ DOT-designated significant regulation.

**DEPARTMENT OF TRANSPORTATION (DOT)***Office of the Secretary (OST)*

Proposed Rule Stage

**303. +Defining Unfair or Deceptive Practices***E.O. 13771 Designation:* Deregulatory.*Legal Authority:* 49 U.S.C. 41712

*Abstract:* This rulemaking would define the phrase “unfair or deceptive practice” found in the Department’s aviation consumer protection statute. The Department’s statute is modeled after a similar statute granting the Federal Trade Commission (FTC) the authority to regulate unfair or deceptive practices. Using the FTC’s policy statements as a guide, the Department has found a practice to be unfair if it causes or is likely to cause substantial harm, the harm cannot reasonably be avoided, and the harm is not outweighed by any countervailing benefits to consumers or to competition. Likewise, the Department has found a practice to be deceptive if it misleads or is likely to mislead a consumer acting reasonably under the circumstances with respect to a material issue (one that is likely to affect the consumer’s decision with regard to a product or service). This rulemaking would codify the Department’s existing interpretation of “unfair or deceptive practice,” and seek comment on whether any changes are needed. The rulemaking is not expected to impose monetary costs on regulated entities, and will benefit regulated entities by providing a clearer understanding of the Department’s interpretation of the statute.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/00/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Blane A. Workie, Assistant General Counsel, Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue SE, Washington, DC 20590, *Phone:* 202–366–9342, *Fax:* 202–366–7153, *Email:* blane.workie@ost.dot.gov.

RIN: 2105-AE72

**304. +Accessible Lavatories On Single-Aisle Aircraft: Part I (Rulemaking Resulting From a Section 610 Review)***E.O. 13771 Designation:* Regulatory.

*Legal Authority:* Air Carrier Access Act, 49 U.S.C. 41705; FAA Reauthorization Act of 2016, sec. 2108

*Abstract:* This rulemaking would require airlines to take steps to improve the accessibility of lavatories on single-aisle aircraft short of increasing the size of the lavatories. The rulemaking would ensure the accessibility of features within an aircraft lavatory, including but not limited to toilet seat, assist handles, faucets, flush control, attendant call buttons, lavatory controls and dispensers, lavatory door sill, and door locks. The rulemaking would also consider standards for the on-board wheelchair to improve its safety/maneuverability and easily permit its entry into the aircraft lavatory.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/00/19	

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Blaine A. Workie, Assistant General Counsel, Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue SE, Washington, DC 20590, *Phone:* 202 366–9342, *Fax:* 202 366–7153, *Email:* blane.workie@dot.gov.

RIN: 2105-AE88

BILLING CODE 4910-9X-P

**DEPARTMENT OF TRANSPORTATION (DOT)***Federal Aviation Administration (FAA)*

Prerule Stage

**305. +Applying the Flight, Duty, and Rest Requirements to Ferry Flights That Follow Domestic, Flag, or Supplemental All-Cargo Operations (Reauthorization)***E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 49 U.S.C. 106(g); 49 U.S.C. 40113; 49 U.S.C. 40119; 49 U.S.C. 41706; 49 U.S.C. 44101; 49 U.S.C. 44701; 49 U.S.C. 44702; 49 U.S.C. 44705; 49 U.S.C. 44709 to 44711; 49 U.S.C. 44713; 49 U.S.C. 44716; 49 U.S.C. 44717

*Abstract:* This rulemaking would apply the flight, duty, and rest requirements for domestic, flag and supplemental operations to ferry flights that follow domestic, flag or supplemental all-cargo operations. A ferry flight that follows a domestic, flag or supplemental all-cargo operation would be subject to the same flight, duty, and rest rules as the all-cargo operation it follows. This rule is necessary as it would make part 121 flight, duty, and rest limits applicable to tail-end ferry flights that follow an all-cargo operation.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	05/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Dale E. Roberts, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, *Phone:* 202 267–5749, *Email:* dale.e.roberts@faa.gov.

RIN: 2120-AK22

**306. +Applying the Flight, Duty, and Rest Rules of 14 CFR Part 135 to Tail-End Ferry Operations (FAA Reauthorization)**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 49 U.S.C. 106(g); 49 U.S.C. 1153; 49 U.S.C. 40101; 49 U.S.C. 40102; 49 U.S.C. 40103; 49 U.S.C. 40113; 49 U.S.C. 41706; 49 U.S.C. 44105; 49 U.S.C. 44106; 49 U.S.C. 44111; 49 U.S.C. 44701 to 44717; 49 U.S.C. 44722; 49 U.S.C. 44901; 49 U.S.C. 44903; 49 U.S.C. 44904; 49 U.S.C. 44906; 49 U.S.C. 44912; 49 U.S.C. 44914; 49 U.S.C. 44936; 49 U.S.C. 44938; 49 U.S.C. 45101 to 45105; 49 U.S.C. 46103

*Abstract:* This rulemaking would require a flightcrew member who is employed by an air carrier conducting operations under part 135, and who accepts an additional assignment for flying under part 91 from the air carrier or from any other air carrier conducting operations under part 121 or 135, to apply the period of the additional assignment toward any limitation applicable to the flightcrew member relating to duty periods or flight times under part 135.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	05/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Dale E. Roberts, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, *Phone:* 202 267-5749, *Email:* dale.e.roberts@faa.gov.

*RIN:* 2120-AK26

**DEPARTMENT OF TRANSPORTATION (DOT)**

*Federal Aviation Administration (FAA)*

Proposed Rule Stage

**307. +Pilot Records Database (HR 5900)**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 49 U.S.C. 106(g); 49 U.S.C. 1155; 49 U.S.C. 40103; 49 U.S.C. 40113; 49 U.S.C. 40119; 49 U.S.C. 40120; 49 U.S.C. 41706; 49 U.S.C. 44101; 49 U.S.C. 44111; 49 U.S.C. 44701 to 44705; 49 U.S.C. 44709 to 44713; 49 U.S.C. 44715 to 44717; 49 U.S.C. 44722; 49 U.S.C. 45101 to 45105; 49 U.S.C. 46105; 49 U.S.C. 46306; 49 U.S.C. 46315; 49 U.S.C. 46316; 49 U.S.C. 46504; 49 U.S.C. 46507; 49 U.S.C. 47122; 49 U.S.C. 47508; 49 U.S.C. 47528 to 47531

*Abstract:* This rulemaking would implement a Pilot Records Database as required by Public Law 111-216 (August 1, 2010). Section 203 amends the Pilot Records Improvement Act by requiring the FAA to create a pilot records database that contains various types of pilot records. These records would be provided by the FAA, air carriers, and other persons who employ pilots. The FAA must maintain these records until it receives notice that a pilot is deceased. Air carriers would use this database to perform a record check on a pilot prior to making a hiring decision.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/00/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Christopher Morris, Department of Transportation, Federal Aviation Administration, 6500 South MacArthur Boulevard, Oklahoma City, OK 73169, *Phone:* 405 954-4646, *Email:* christopher.morris@faa.gov.

*RIN:* 2120-AK31

**308. +Requirements to File Notice of Construction of Meteorological Evaluation Towers and Other Renewable Energy Projects (Section 610 Review)**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 49 U.S.C. 40103  
*Abstract:* This rulemaking would add specific requirements for proponents who wish to construct meteorological evaluation towers at a height of 50 feet above ground level (AGL) up to 200 feet AGL to file notice of construction with the FAA. This rule also requires sponsors of wind turbines to provide certain specific data when filing notice of construction with the FAA. This rulemaking is a statutory mandate under section 2110 of the FAA Extension, Safety, and Security Act of 2016 (Pub. L. 114-190).

*Timetable:*

Action	Date	FR Cite
NPRM .....	04/00/20	

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Sheri Edgett-Baron, Air Traffic Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, *Phone:* 202 267-9354.

*RIN:* 2120-AK77

**309. +Operations of Small Unmanned Aircraft Over People**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 49 U.S.C. 106(f); 49 U.S.C. 40101; 49 U.S.C. 40103(b); 49 U.S.C. 44701(a)(5); Pub. L. 112-95, sec. 333

*Abstract:* This rulemaking would address the performance-based standards and means-of-compliance for operation of small unmanned aircraft systems (sUAS) over people not directly participating in the operation or not under a covered structure or inside a stationary vehicle that can provide reasonable protection from a falling small unmanned aircraft. This rule would provide relief from certain operational restrictions implemented in the Operation and Certification of Small Unmanned Aircraft Systems final rule (RIN 2120-AJ60).

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/13/19	84 FR 3856
NPRM Comment Period End.	04/15/19	
Analyzing Comments.	12/00/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Guido Hassig, Department of Transportation, Federal Aviation Administration, 1 Airport Way, Rochester, NY 14624, *Phone:* 585-436-3880, *Email:* guido.hassig@faa.gov.

*RIN:* 2120-AK85

**DEPARTMENT OF TRANSPORTATION (DOT)**

*Federal Aviation Administration (FAA)*

Long-Term Actions

**310. +Airport Safety Management System**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 49 U.S.C. 44706; 49 U.S.C. 106(g); 49 U.S.C. 40113; 49 U.S.C. 44701 to 44706; 49 U.S.C. 44709; 49 U.S.C. 44719

*Abstract:* This rulemaking would require certain airport certificate holders to develop, implement, maintain, and adhere to a safety management system (SMS) for their aviation related activities. An SMS is a formalized approach to managing safety by developing an organization-wide safety policy, developing formal methods of identifying hazards, analyzing and mitigating risk, developing methods for ensuring continuous safety improvement, and creating

organization-wide safety promotion strategies.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/07/10	75 FR 62008
NPRM Comment Period Extended.	12/10/10	75 FR 76928
NPRM Comment Period End.	01/05/11	
End of Extended Comment Period.	03/07/11	
Second Extension of Comment Period.	03/07/11	76 FR 12300
End of Second Extended Comment Period.	07/05/11	
Second NPRM ....	07/14/16	81 FR 45871
Second NPRM Comment Period End.	09/12/16	
Final Rule .....	11/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Dale Williams, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, Washington, DC 20591, Phone: 202 267-4179, *Email:* dale.williams@faa.gov.  
*RIN:* 2120-AJ38

### 311. +Regulation of Flight Operations Conducted by Alaska Guide Pilots

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 49 U.S.C. 106(g); 49 U.S.C. 1153; 49 U.S.C. 1155; 49 U.S.C. 40101 to 40103; 49 U.S.C. 40113; 49 U.S.C. 40120; 49 U.S.C. 44101; 49 U.S.C. 44105 to 44016; 49 U.S.C. 44111; 49 U.S.C. 44701 to 44717; 49 U.S.C. 44722; 49 U.S.C. 44901; 49 U.S.C. 44903 and 44904; 49 U.S.C. 44906; 49 U.S.C. 44912; 49 U.S.C. 44914; 49 U.S.C. 44936; 49 U.S.C. 44938; 49 U.S.C. 46103; 49 U.S.C. 46105; 49 U.S.C. 46306; 49 U.S.C. 46315 and 46316; 49 U.S.C. 46504; 49 U.S.C. 46506 and 46507; 49 U.S.C. 47122; 49 U.S.C. 47508; 49 U.S.C. 47528 to 47531; Articles 12 and 29 of 61 Stat. 1180; Pub. L. 106-181, sec. 732

*Abstract:* The rulemaking would establish regulations concerning Alaska guide pilot operations. The rulemaking would implement Congressional legislation and establish additional safety requirements for the conduct of these operations. The intended effect of this rulemaking is to enhance the level of safety for persons and property transported in Alaska guide pilot operations. In addition, the rulemaking would add a general provision applicable to pilots operating under the general operating and flight rules

concerning falsification, reproduction, and alteration of applications, logbooks, reports, or records. This rulemaking is a statutory mandate under section 732 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, (Pub. L. 106-181).

*Timetable:* Next Action Undetermined.

#### *Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Jeff Smith, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20785, Phone: 202 385-9615, *Email:* jeffrey.smith@faa.gov.  
*RIN:* 2120-AJ78

### 312. +Drug and Alcohol Testing of Certain Maintenance Provider Employees Located Outside of the United States

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 49 U.S.C. 106(g); 49 U.S.C. 40113; 49 U.S.C. 44701; 49 U.S.C. 44702; 49 U.S.C. 44707; 49 U.S.C. 44709; 49 U.S.C. 44717

*Abstract:* This rulemaking would require controlled substance testing of some employees working in repair stations located outside of the United States. The intended effect is to increase participation by companies outside of the United States in testing of employees who perform safety critical functions and testing standards similar to those used in the repair stations located in the United States. This action is necessary to increase the level of safety of the flying public. This rulemaking is a statutory mandate under section 308(d) of the FAA Modernization and Reform Act of 2012 (Pub. L. 112-95).

#### *Timetable:*

Action	Date	FR Cite
ANPRM .....	03/17/14	79 FR 14621
ANPRM Comment Period Extended.	05/01/14	79 FR 24631
ANPRM Comment Period End.	05/16/14	
ANPRM Comment Period Extended End.	07/17/14	
NPRM .....	11/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Vicky Dunne, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, Phone: 202 267-8522, *Email:* vicky.dunne@faa.gov.  
*RIN:* 2120-AK09

### 313. +Aircraft Registration and Airmen Certification Fees

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 31 U.S.C. 9701; 4 U.S.C. 1830; 49 U.S.C. 106(f); 49 U.S.C. 106(g); 49 U.S.C. 106(l)(6); 49 U.S.C. 40104; 49 U.S.C. 40105; 49 U.S.C. 40109; 49 U.S.C. 40113; 49 U.S.C. 40114; 49 U.S.C. 44101 to 44108; 49 U.S.C. 44110 to 44113; 49 U.S.C. 44701 to 44704; 49 U.S.C. 44707; 49 U.S.C. 44709 to 44711; 49 U.S.C. 44713; 49 U.S.C. 45102; 49 U.S.C. 45103; 49 U.S.C. 45301; 49 U.S.C. 45302; 49 U.S.C. 45305; 49 U.S.C. 46104; 49 U.S.C. 46301; Pub. L. 108-297, 118 Stat. 1095

*Abstract:* This rulemaking would establish fees for airman certificates, medical certificates, and provision of legal opinions pertaining to aircraft registration or recordation. This rulemaking also would revise existing fees for aircraft registration, recording of security interests in aircraft or aircraft parts, and replacement of an airman certificate. This rulemaking addresses provisions of the FAA Modernization and Reform Act of 2012. This rulemaking is intended to recover the estimated costs of the various services and activities for which fees would be established or revised.

#### *Timetable:*

Action	Date	FR Cite
NPRM .....	12/00/20	

*Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Isra Raza, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, Phone: 202 267-8994, *Email:* isra.raza@faa.gov.  
*RIN:* 2120-AK37

### 314. +Helicopter Air Ambulance Pilot Training and Operational Requirements (HAA II) (FAA Reauthorization)

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 49 U.S.C. 106(f); 49 U.S.C. 106(g); 49 U.S.C. 40113; 49 U.S.C. 41706; 49 U.S.C. 44701; 49 U.S.C. 44702; 49 U.S.C. 44705; 49 U.S.C. 44709; 49 U.S.C. 44711 to 44713; 49 U.S.C. 44715 to 44717; 49 U.S.C. 44722; 49 U.S.C. 44730; 49 U.S.C. 45101 to 45105

*Abstract:* This rulemaking would develop training requirements for crew resource management, flight risk evaluation, and operational control of the pilot in command, as well as develop standards for the use of flight simulation training devices and line-

oriented flight training. Additionally, it would establish requirements for the use of safety equipment for flight crewmembers and flight nurses. These changes will aid in the increase in aviation safety and increase survivability in the event of an accident. Without these changes, the Helicopter Air Ambulance industry may continue to see an unacceptable high rate of aircraft accidents. This rulemaking is a statutory mandate under section 306(e) of the FAA Modernization and Reform Act of 2012 (Pub. L. 112–95).

*Timetable:* Next Action

Undetermined.

#### *Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Chris Holliday, Department of Transportation, Federal Aviation Administration, 801 Pennsylvania Avenue NW, Washington, DC 20024, *Phone:* 202 267–4552, *Email:* [chris.holliday@faa.gov](mailto:chris.holliday@faa.gov).

*RIN:* 2120–AK57

### **315. +Registration and Marking Requirements for Small Unmanned Aircraft**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 49 U.S.C. 106(f); 49 U.S.C. 41703; 49 U.S.C. 44101 to 44106; 49 U.S.C. 44110 to 44113; 49 U.S.C. 44701

*Abstract:* This rulemaking would provide an alternative, streamlined and simple, web-based aircraft registration process for the registration of small unmanned aircraft, including small unmanned aircraft operated as model aircraft, to facilitate compliance with the statutory requirement that all aircraft register prior to operation. It would also provide a simpler method for marking small unmanned aircraft that is more appropriate for these aircraft. This action responds to public comments received regarding the proposed registration process in the Operation and Certification of Small Unmanned Aircraft notice of proposed rulemaking, the request for information regarding unmanned aircraft system registration, and the recommendations from the Unmanned Aircraft System Registration Task Force.

*Timetable:*

Action	Date	FR Cite
Interim Final Rule	12/16/15	80 FR 78593
Interim Final Rule Effective.	12/21/15	
OMB Approval of Information Collection.	12/21/15	80 FR 79255
Interim Final Rule Comment Period End.	01/15/16	
Final Rule .....	12/00/20	

#### *Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Bonnie Lefko, Department of Transportation, Federal Aviation Administration, 6500 South MacArthur Boulevard, Registry Building 26, Room 118, Oklahoma City, OK 73169, *Phone:* 405 954–7461, *Email:* [bonnie.lefko@faa.gov](mailto:bonnie.lefko@faa.gov).

*RIN:* 2120–AK82.

**BILLING CODE 4910–13–P**

### **DEPARTMENT OF TRANSPORTATION (DOT)**

*Federal Motor Carrier Safety, Administration (FMCSA)*

Proposed Rule Stage

### **316. +Controlled Substances and Alcohol Testing: State Driver's Licensing Agency Downgrade of Commercial Driver's License (Section 610 Review)**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 49 U.S.C. 31136 (a); 49 U.S.C. 31305 (a); 49 U.S.C. 31306a; U.S.C. 31311(a)

*Abstract:* The Commercial Driver's License Drug and Alcohol Clearinghouse (Clearinghouse) final rule (81 FR 87686 (Dec. 5, 2016), requires State Driver Licensing Agencies (SDLAs) to check the Clearinghouse before issuing, renewing, transferring, or upgrading a Commercial Driver's License (CDL) to determine whether the driver is qualified to operate a commercial motor vehicle (CMV). Drivers who commit drug or alcohol testing violations are prohibited from operating a CMV until complying with return-to-duty requirements. FMCSA plans to propose requirements on SDLAs to take specific actions for individuals' subject to the CMV driving prohibition. FMCSA also looks to propose alternate additional actions SDLAs may be required to take after receiving notice that a driver licensed in their State is subject to the driving ban. The NPRM would also revise how reports of actual knowledge violations, based on a citation for Driving Under the Influence (DUI) in a CMV, would be maintained in the Clearinghouse. These proposed changes would improve highway safety by increasing compliance with existing drug and alcohol program requirements.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/00/20	

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Juan Moya, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave SE, Washington, DC 20590, *Phone:* 202–366–4844, *Email:* [Juan.Moya@dot.gov](mailto:Juan.Moya@dot.gov).  
*RIN:* 2126–AC11

### **DEPARTMENT OF TRANSPORTATION (DOT)**

*Federal Motor Carrier Safety Administration (FMCSA)*

Long-Term Actions

### **317. +Safety Monitoring System and Compliance Initiative for Mexico-Domiciled Motor Carriers Operating in the United States**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* Pub. L. 107–87, sec. 350; 49 U.S.C. 113; 49 U.S.C. 31136; 49 U.S.C. 31144; 49 U.S.C. 31502; 49 U.S.C. 504; 49 U.S.C. 5113; 49 U.S.C. 521(b)(5)(A)

*Abstract:* This rule would implement a safety monitoring system and compliance initiative designed to evaluate the continuing safety fitness of all Mexico-domiciled carriers within 18 months after receiving a provisional Certificate of Registration or provisional authority to operate in the United States. It also would establish suspension and revocation procedures for provisional Certificates of Registration and operating authority, and incorporate criteria to be used by FMCSA in evaluating whether Mexico-domiciled carriers exercise basic safety management controls. The interim rule included requirements that were not proposed in the NPRM, but which are necessary to comply with the FY–2002 DOT Appropriations Act. On January 16, 2003, the Ninth Circuit Court of Appeals remanded this rule, along with two other NAFTA-related rules, to the Agency, requiring a full environmental impact statement and an analysis required by the Clean Air Act. On June 7, 2004, the Supreme Court reversed the Ninth Circuit and remanded the case, holding that FMCSA is not required to prepare the environmental documents. FMCSA originally planned to publish a final rule by November 28, 2003.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/03/01	66 FR 22415
NPRM Comment Period End.	07/02/01	
Interim Final Rule	03/19/02	67 FR 12758
Interim Final Rule Comment Period End.	04/18/02	

Action	Date	FR Cite
Interim Final Rule Effective.	05/03/02	
Notice of Intent To Prepare an EIS.	08/26/03	68 FR 51322
EIS Public Scoping Meetings.	10/08/03	68 FR 58162
Next Action Undetermined.		

*Regulatory Flexibility Analysis*  
Required: Yes.

*Agency Contact:* Dolores Macias, Acting Division Chief, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, *Phone:* 202 366-2995, *Email:* dolores.macias@dot.gov.

*RIN:* 2126-AA35

## DEPARTMENT OF TRANSPORTATION (DOT)

*Federal Motor Carrier Safety Administration (FMCSA)*

### Completed Actions

### 318. Incorporation by Reference; North American Standard Out-of-Service Criteria; Hazardous Materials Safety Permits (Section 610 Review)

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 49 U.S.C. 5105; 49 U.S.C. 5109

*Abstract:* This action will update an existing Incorporation by Reference (by the Commercial Vehicle Safety Alliance) of the North American Standard Out-of-Service Criteria and Level VI Inspection Procedures and Out-of-Service for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials as defined in 49 CFR part 173.403.

#### *Timetable:*

Action	Date	FR Cite
NPRM .....	12/31/18	83 FR 67705
NPRM Comment Period End.	01/30/19	
Final Rule .....	07/08/19	84 FR 32323
Final Rule Effective.	07/08/19	

*Regulatory Flexibility Analysis*  
Required: No.

*Agency Contact:* Stephanie Dunlap, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, *Phone:* 202 366-3536, *Email:* stephanie.dunlap@dot.gov.

*RIN:* 2126-AC01

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION (DOT)

*Federal Railroad Administration (FRA)*

### Long-Term Actions

### 319. +Train Crew Staffing and Location

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 28 U.S.C. 2461, note; 49 CFR 1.89; 49 U.S.C. 20103; 49 U.S.C. 20107; 49 U.S.C. 21301 and 21302; 49 U.S.C. 21304

*Abstract:* This rule would establish requirements to appropriately address known safety risks posed by train operations that use fewer than two crewmembers. FRA is considering options based on public comments on the proposed rule and other information.

#### *Timetable:*

Action	Date	FR Cite
NPRM .....	03/15/16	81 FR 13918
NPRM Comment Period End.	05/16/16	
Next Action Undetermined.		

*Regulatory Flexibility Analysis*  
Required: Yes.

*Agency Contact:* Amanda Maizel, Attorney Adviser, Department of Transportation, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, *Phone:* 202 493-8014, *Email:* amanda.maizel@dot.gov.

*RIN:* 2130-AC48

**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION (DOT)

*Saint Lawrence Seaway Development Corporation (SLSDC)*

### Proposed Rule Stage

### 320. • Tariff of Tolls (Section 610 Review)

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 33 U.S.C. 981 *et seq.*  
*Abstract:* The Saint Lawrence Seaway Development corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Tariff of Tolls in their respective jurisdictions. The Tariff sets forth the level of tolls assessed on all

commodities and vessels transiting the facilities operated by the SLSDC and the SLSMC.

#### *Timetable:*

Action	Date	FR Cite
NPRM .....	03/00/20	

*Regulatory Flexibility Analysis*  
Required: Undetermined.

*Agency Contact:* Carrie Lynn Lavigne, Chief Counsel, Department of Transportation, Saint Lawrence Seaway Development Corporation, 180 Andrews Street, Massena, NY 13662, *Phone:* 315 764-3231, *Email:* carrie.lavigne@dot.gov.

*RIN:* 2135-AA47

## DEPARTMENT OF TRANSPORTATION (DOT)

*Saint Lawrence Seaway Development Corporation (SLSDC)*

### Final Rule Stage

### 321. • Seaway Regulations and Rules: Periodic Update, Various Categories (Rulemaking Resulting From a Section 610 Review)

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 33 U.S.C. 981 *et seq.*

*Abstract:* The Saint Lawrence Seaway Development Corporation (SLSDC), the Saint Lawrence Seaway Management Corporation, and the Saint Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the Saint Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is amending the joint regulations by updating the Seaway Regulations and Rules in various categories.

#### *Timetable:*

Action	Date	FR Cite
Final Rule .....	03/00/20	

*Regulatory Flexibility Analysis*  
Required: No.

*Agency Contact:* Carrie Lynn Lavigne, Chief Counsel, Department of Transportation, Saint Lawrence Seaway Development Corporation, 180 Andrews Street, Massena, NY 13662, *Phone:* 315 764-3231, *Email:* carrie.lavigne@dot.gov.

*RIN:* 2135-AA48

**BILLING CODE 4910-61-P**



**DEPARTMENT OF TRANSPORTATION (DOT)***Pipeline and Hazardous Materials Safety Administration (PHMSA)*

Proposed Rule Stage

**322. +Pipeline Safety: Amendments to Parts 192 and 195 To Require Valve Installation and Minimum Rupture Detection Standards***E.O. 13771 Designation: Regulatory. Legal Authority: 49 U.S.C. 60101 et seq.*

*Abstract:* PHMSA is proposing to revise the Pipeline Safety Regulations applicable to newly constructed or entirely replaced natural gas transmission and hazardous liquid pipelines to improve rupture mitigation and shorten pipeline segment isolation times in high consequence and select non-high consequence areas. The proposed rule defines certain pipeline events as “ruptures” and outlines certain performance standards related to rupture identification and pipeline segment isolation. PHMSA also proposes specific valve maintenance and inspection requirements, and 9–1–1 notification requirements to help operators achieve better rupture response and mitigation. The rule addresses Congressional mandates, incorporates recommendations from the National Transportation Safety Board, and is necessary to reduce the serious

consequences of large-volume, uncontrolled releases of natural gas and hazardous liquids.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/00/19	

*Regulatory Flexibility Analysis**Required: Yes.*

*Agency Contact:* Robert Jagger, Technical Writer, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, *Phone:* 202 366–4595, *Email:* robert.jagger@dot.gov.

*RIN:* 2137–AF06**DEPARTMENT OF TRANSPORTATION (DOT)***Pipeline and Hazardous Materials Safety Administration (PHMSA)*

Completed Actions

**323. +Pipeline Safety: Safety of Hazardous Liquid Pipelines***E.O. 13771 Designation: Regulatory. Legal Authority: 49 U.S.C. 60101 et seq.*

*Abstract:* This rulemaking amends the Pipeline Safety Regulations to improve protection of the public, property, and the environment by closing regulatory

gaps where appropriate, and ensuring that operators are increasing the detection and remediation of unsafe conditions and mitigating the adverse effects of hazardous liquid pipeline failures.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	10/18/10	75 FR 63774
Comment Period Extended.	01/04/11	76 FR 303
ANPRM Comment Period End.	01/18/11	
Extended Comment Period End.	02/18/11	
NPRM .....	10/13/15	80 FR 61610
NPRM Comment Period End.	01/08/16	
Final Rule .....	10/01/19	84 FR 52260
Final Rule Effective.	07/01/20	

*Regulatory Flexibility Analysis**Required: Yes.*

*Agency Contact:* Cameron H. Satterthwaite, Transportation Regulations Specialist, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, *Phone:* 202–366–8553, *Email:* cameron.satterthwaite@dot.gov.

*RIN:* 2137–AE66

[FR Doc. 2019–26583 Filed 12–23–19; 8:45 am]

**BILLING CODE 4910–60–P**





# FEDERAL REGISTER

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Vol. 84

Thursday,

No. 247

December 26, 2019

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Part XII

Department of the Treasury

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Semiannual Regulatory Agenda

**DEPARTMENT OF THE TREASURY****31 CFR Subtitles A and B****Semiannual Agenda and Regulatory Plan****AGENCY:** Department of the Treasury.**ACTION:** Semiannual regulatory agenda and annual regulatory plan.

**SUMMARY:** This notice is given pursuant to the requirements of the Regulatory Flexibility Act and Executive Order (E.O.) 12866 (“Regulatory Planning and Review”), which require the publication by the Department of a semiannual agenda of regulations. E.O. 12866 also requires the publication by the Department of a regulatory plan for the upcoming fiscal year. The purpose of the agenda is to provide advance information about pending regulatory activities and encourage public participation in the regulatory process.

**FOR FURTHER INFORMATION CONTACT:** The Agency contact identified in the item relating to that regulation.

**SUPPLEMENTARY INFORMATION:** The semiannual regulatory agenda includes regulations that the Department has issued or expects to issue and rules currently in effect that are under departmental or bureau review. For this edition of the regulatory agenda, the most important significant regulatory actions and a Statement of Regulatory

Priorities are included in the Regulatory Plan, which appears in both the online Unified Agenda and in part II of the **Federal Register** publication that includes the Unified Agenda.

The complete Unified Agenda will be available online at [www.reginfo.gov](http://www.reginfo.gov) and [www.regulations.gov](http://www.regulations.gov) in a format that offers users an enhanced ability to obtain information from the Agenda database. Because publication in the **Federal Register** is mandated for the regulatory flexibility agenda required by the Regulatory Flexibility Act (5 U.S.C. 602), Treasury’s printed agenda entries include only:

(1) Rules that are in the regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules that have been identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act’s Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the internet. In addition, for fall editions of the Agenda, the entire Regulatory Plan will continue to be printed in the **Federal Register**, as in past years.

The Department has listed in this agenda all regulations and regulatory

reviews pending at the time of publication, except for technical, minor, and routine actions. On occasion, a regulatory matter may be inadvertently left off of the agenda or an emergency may arise that requires the Department to initiate a regulatory action not yet on the agenda. There is no legal significance to the omission of an item from this agenda. For most entries, Treasury includes a projected date for the next rulemaking action; however, the date is an estimate and is not a commitment to publish on the projected date. In addition, some agenda entries are marked as “withdrawn” when there has been no publication activity. Withdrawal of a rule from the agenda does not necessarily mean that a rule will not be included in a future agenda but may mean that further consideration is warranted and that the regulatory action is unlikely in the next 12 months.

Public participation in the rulemaking process is the foundation of effective regulations. For this reason, the Department invites comments on all regulatory and deregulatory items included in the agenda and invites input on items that should be included in the semiannual agenda.

Name: Michael Briskin,  
Deputy Assistant General Counsel for General Law and Regulation.

**CUSTOMS REVENUE FUNCTION—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
324 .....	Enforcement of Copyrights and the Digital Millennium Copyright Act .....	1515-AE26

**INTERNAL REVENUE SERVICE—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
325 .....	Section 42 Average Income Test .....	1545-BO92
326 .....	MEPs and the Unified Plan Rule .....	1545-BO97

**DEPARTMENT OF THE TREASURY (TREAS)***Customs Revenue Function (CUSTOMS)*

## Proposed Rule Stage

**324. Enforcement of Copyrights and the Digital Millennium Copyright Act**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* Not Yet Determined

*Abstract:* This rule amends the U.S. Customs and Border Protection (CBP) regulations pertaining to importations of merchandise that violate or are

suspected of violating the copyright laws in accordance with title III of the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) and certain provisions of the Digital Millennium Copyright Act (DMCA).

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/00/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Charles Steuart, Chief, Intellectual Property Rights

Branch, Department of the Treasury, Customs Revenue Function, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, *Phone:* 202 325-0093, *Fax:* 202 325-0120, *Email:* [charles.r.steuart@cbp.dhs.gov](mailto:charles.r.steuart@cbp.dhs.gov).

*RIN:* 1515-AE26

**BILLING CODE 9111-14-P**

**DEPARTMENT OF THE TREASURY  
(TREAS)***Internal Revenue Service (IRS)*

Proposed Rule Stage

**325. Section 42 Average Income Test***E.O. 13771 Designation:* Not subject to, not significant.*Legal Authority:* 26 U.S.C. 7805; 26 U.S.C. 42*Abstract:* The Consolidated Appropriations Act of 2018 added a new applicable minimum set-aside test under section 42(g) of the Internal Revenue Code known as the average income test. This proposed regulation will implement requirements related to the average income test.*Timetable:*

Action	Date	FR Cite
NPRM .....	07/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Dillon J. Taylor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Room 5107, Washington, DC 20224, *Phone:* 202 317-4137, *Fax:* 855 591-7867, *Email:* dillon.j.taylor@irs.counsel.treas.gov  
*RIN:* 1545-BO92

**326. MEPS and the Unified Plan Rule***E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 26 U.S.C. 7805; 26 U.S.C. 413*Abstract:* These are final regulations relating to the tax qualification of plans maintained by more than one employer pursuant to section 413(c) of the Internal Revenue Code, often referred to as multiple employer plans or MEPs. The regulations provide limited relief to a defined contribution MEP in the event of a failure by one employer maintaining the plan to satisfy an applicable qualification requirement or to provide information needed to ensure compliance with a qualification

requirement. The regulations affect participants in MEPs, MEP sponsors and administrators, and employers maintaining MEPs.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/03/19	84 FR 31777
NPRM Comment Period End.	10/01/19	
Final Action .....	06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jamie Dvoretzky, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, *Phone:* 202 317-4102, *Fax:* 855 604-6087, *Email:* jamie.l.dvoretzky@irs.counsel.treas.gov.

*RIN:* 1545-BO97

[FR Doc. 2019-26586 Filed 12-23-19; 8:45 am]

**BILLING CODE 4810-01-P**





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Part XIII

Department of Veterans Affairs

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Semiannual Regulatory Agenda

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Ch. 1

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of Veterans Affairs.  
ACTION: Semiannual regulatory agenda.

SUMMARY: This Agenda announces the regulations that the Department of Veterans Affairs (VA) will have under development or review during the 12-month period beginning fall 2019. The purpose in publishing the Department's regulatory agenda is to allow all

interested persons the opportunity to participate in VA's regulatory planning.  
ADDRESSES: Interested persons are invited to comment on the entries listed in the agenda by contacting the individual agency contact listed for each entry or by writing to: Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420.  
FOR FURTHER INFORMATION CONTACT: Michael Shores at (202) 461-4921 or Consuela Benjamin at (202) 461-5952.  
SUPPLEMENTARY INFORMATION: This document is issued pursuant to Executive Order 12866 "Regulatory Planning and Review" (and

implementing guidance) and the Regulatory Flexibility Act, which require that executive agencies semiannually publish in the **Federal Register** an agenda of regulations that they have under development or review. This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in both the online Unified Agenda and in part II of the **Federal Register** that includes the Unified Agenda. VA's Statement of Regulatory Priorities is included in the Plan.  
Michael P. Shores,  
Director, Office of Regulation Policy and Management.

DEPARTMENT OF VETERANS AFFAIRS—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
327 .....	Change in Rates VA Pays for Special Modes of Transportation .....	2900-AP89

DEPARTMENT OF VETERANS AFFAIRS (VA)

Veterans Health Administration  
Proposed Rule Stage

327. Change in Rates VA Pays for Special Modes of Transportation

E.O. 13771 Designation: Fully or Partially Exempt.  
Legal Authority: 38 U.S.C. 101; 38 U.S.C. 111; 38 U.S.C. 111A; E.O. 11302; E.O. 13520  
Abstract: VA proposes to amend the implementing regulations at 38 CFR part 70 to implement the discretionary authority in 38 U.S.C. 111(b)(3)(C), as amended by Public Law 112-56, 112-154, and 114-58, which permits VA to

pay the lesser of the actual charge for ambulance transportation or the amount determined by the fee schedule established under section 1834(l) of the Social Security Act (42 U.S.C. 1395m(l)), unless VA has entered into a contract for that transportation. Stated more plainly, VA would be able to pay the lesser of the actual charge for ambulance transportation or the amount determined by Centers for Medicaid and Medicare Services (CMS) fee schedules, unless VA has entered into a contract for ambulance transportation. Additionally, VA proposes to codify how it will pay vendors for two forms of non-emergent special mode of transportation services offered to

veterans: wheelchair and stretcher van services.  
Timetable:  

Action	Date	FR Cite
NPRM .....	01/00/20	

  
Regulatory Flexibility Analysis Required: Yes.  
Agency Contact: Mike Davis, Director Member Services (10NF), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, Phone: 404 828-5691, Email: mike.davis2@va.gov.  
RIN: 2900-AP89  
[FR Doc. 2019-26587 Filed 12-23-19; 8:45 am]  
BILLING CODE 8320-01-P





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Part XIV

Architectural and Transportation Barriers  
Compliance Board

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Semiannual Regulatory Agenda

ARCHITECTURAL AND  
TRANSPORTATION BARRIERS  
COMPLIANCE BOARD

36 CFR Ch. XI

Unified Agenda of Federal Regulatory  
and Deregulatory Actions

AGENCY: Architectural and  
Transportation Barriers Compliance  
Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Architectural and  
Transportation Barriers Compliance  
Board submits the following agenda of  
proposed regulatory activities which  
may be conducted by the agency during  
the next 12 months. This regulatory  
agenda may be revised by the agency  
during the coming months as a result of  
action taken by the Board.

ADDRESSES: Architectural and  
Transportation Barriers Compliance

Board, 1331 F Street NW, Suite 1000,  
Washington, DC 20004–1111.

FOR FURTHER INFORMATION CONTACT: For  
information concerning Board  
regulations and proposed actions,  
contact Gretchen Jacobs, General  
Counsel, (202) 272–0040 (voice) or (202)  
272–0062 (TTY).

David M. Capozzi,  
Executive Director.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
328 .....	Americans With Disabilities Act (ADA) Accessibility Guidelines for Transportation Vehicles; Rail Vehicles	3014–AA42

ARCHITECTURAL AND  
TRANSPORTATION BARRIERS  
COMPLIANCE BOARD (ATBCB)

Prerule Stage

328. Americans With Disabilities Act  
(ADA) Accessibility Guidelines for  
Transportation Vehicles; Rail Vehicles

E.O. 13771 Designation: Other.  
Legal Authority: 42 U.S.C. 12204  
Abstract: This rulemaking would  
update the Access Board’s existing  
accessibility guidelines for  
transportation vehicles that operate on  
fixed guideway systems (e.g., rapid rail,  
light rail, commuter rail, and intercity  
rail) and are covered by the Americans  
with Disabilities Act. The existing “rail  
vehicles” guidelines, which are located  
at 36 CFR part 1192, subparts C to F and  
H, were initially promulgated in 1991,  
and are in need of an update to, among  
other things, keep pace with newer

accessibility-related technologies,  
harmonize with recently-developed  
national and international consensus  
standards, and incorporate  
recommendations from the Board’s Rail  
Vehicles Access Advisory Committee’s  
2015 Report. Revisions or updates to the  
rail vehicles guidelines would be  
intended to ensure that ADA-covered  
rail vehicles are readily accessible to  
and usable by individuals with  
disabilities. Compliance with any  
revised rail vehicles guidelines would  
not be required until these guidelines  
are adopted by the U.S. Department of  
Transportation in a separate rulemaking.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish Advi- sory Committee.	02/14/13	78 FR 10581

Action	Date	FR Cite
Notice of Estab- lishment of Ad- visory Com- mittee; Appoint- ment of Mem- bers.	05/23/13	78 FR 30828
ANPRM .....	12/00/19	

Regulatory Flexibility Analysis  
Required: Undetermined.

Agency Contact: Gretchen Jacobs,  
General Counsel, Architectural and  
Transportation Barriers Compliance  
Board, 1331 F Street NW, Suite 1000,  
Washington, DC 20004–1111, Phone:  
202 272–0040, TDD Phone: 202 272–  
0062, Fax: 202 272–0081, Email:  
jacobs@access-board.gov.

RIN: 3014–AA42

[FR Doc. 2019–26577 Filed 12–23–19; 8:45 am]

BILLING CODE 8150–01–P



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Part XV

Environmental Protection Agency

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Semiannual Regulatory Agenda

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Ch. I**

[FRL 9998-47-OP; EPA-HQ-OAR-2019-0168]

**Fall 2019 Unified Agenda of Regulatory and Deregulatory Actions****AGENCY:** Environmental Protection Agency.**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** The Environmental Protection Agency (EPA) publishes the Semiannual Agenda of Regulatory and Deregulatory Actions online at <https://www.reginfo.gov> and at <https://www.regulations.gov> to update the public. This document contains information about:

- Regulations in the Semiannual Agenda that are under development, completed, or canceled since the last agenda; and
- Reviews of regulations with small business impacts under Section 610 of the Regulatory Flexibility Act.

**FOR FURTHER INFORMATION CONTACT:** If you have questions or comments about a particular action, please get in touch with the agency contact listed in each agenda entry. If you have general questions about the Semiannual Agenda, please contact: Darryl Adams ([adams.darryl@epa.gov](mailto:adams.darryl@epa.gov); 202-564-6569) or Caryn Muellerleile ([muellerleile.caryn@epa.gov](mailto:muellerleile.caryn@epa.gov); 202-564-2855).

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**I. Introduction**

EPA is committed to a regulatory strategy that effectively achieves the Agency's mission of protecting the environment and the health, welfare, and safety of Americans while also supporting economic growth, job creation, competitiveness, and innovation. EPA publishes the Semiannual Agenda of Regulatory and Deregulatory Actions to update the public about regulatory activity undertaken in support of this mission. In the Semiannual Agenda, EPA provides notice of our plans to review, propose, and issue regulations.

Additionally, EPA's Semiannual Agenda includes information about rules that may have a significant economic impact on a substantial number of small entities, and review of those regulations under the Regulatory Flexibility Act, as amended.

In this document, EPA explains in greater detail the types of actions and information available in the Semiannual Agenda and actions that are currently undergoing review specifically for impacts on small entities.

**A. EPA's Regulatory Information**

"E-Agenda," "online regulatory agenda," and "semiannual regulatory agenda" all refer to the same comprehensive collection of information that, until 2007, was published in the **Federal Register**. Currently, this information is only available through an online database, at both <https://www.reginfo.gov/> and <https://www.regulations.gov>.

"Regulatory Flexibility Agenda" refers to a document that contains information about regulations that may have a significant impact on a substantial number of small entities. We continue to publish this document in the **Federal Register** pursuant to the Regulatory Flexibility Act of 1980. This document is available at <https://www.govinfo.gov/app/collection/fr>.

"Unified Regulatory Agenda" refers to the collection of all agencies' agendas with an introduction prepared by the Regulatory Information Service Center facilitated by the General Service Administration.

"Regulatory Agenda Preamble" refers to the document you are reading now. It appears as part of the Regulatory Flexibility Agenda and introduces both EPA's Regulatory Flexibility Agenda and the e-Agenda.

"610 Review" as required by the Regulatory Flexibility Act means a periodic review within ten years of promulgating a final rule that has or may have a significant economic impact

on a substantial number of small entities. EPA maintains a list of these actions at <https://www.epa.gov/reg-flex/regulatory-flexibility-act-section-610-reviews>. EPA has one ongoing 610 review in fall 2019.

**B. What key statutes and Executive Orders guide EPA's rule and policymaking process?**

A number of environmental laws authorize EPA's actions, including but not limited to:

- Clean Air Act (CAA),
- Clean Water Act (CWA),
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, or Superfund),
- Emergency Planning and Community Right-to-Know Act (EPCRA),
- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA),
- Oil Pollution Act,
- Resource Conservation and Recovery Act (RCRA),
- Safe Drinking Water Act (SDWA), and
- Toxic Substances Control Act (TSCA).

Not only must EPA comply with environmental laws, but also administrative legal requirements that apply to the issuance of regulations, such as: The Administrative Procedure Act (APA), the Regulatory Flexibility Act (RFA) as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), the Unfunded Mandates Reform Act (UMRA), the Paperwork Reduction Act (PRA), the National Technology Transfer and Advancement Act (NTTAA), and the Congressional Review Act (CRA).

EPA also meets a number of requirements contained in numerous Executive Orders: 13771, "Reducing Regulation and Controlling Regulatory Costs" (82 FR 9339, Feb. 3, 2017); 12866, "Regulatory Planning and Review" (58 FR 51735, Oct. 4, 1993), as supplemented by Executive Order 13563, "Improving Regulation and Regulatory Review" (76 FR 3821, Jan. 21, 2011); 12898, "Environmental Justice" (59 FR 7629, Feb. 16, 1994); 13045, "Children's Health Protection" (62 FR 19885, Apr. 23, 1997); 13132, "Federalism" (64 FR 43255, Aug. 10, 1999); 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, Nov. 9, 2000); 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).

**C. How can you be involved in EPA's rule and policymaking process?**

You can make your voice heard by getting in touch with the contact person

provided in each agenda entry. EPA encourages you to participate as early in the process as possible. You may also participate by commenting on proposed rules published in the **Federal Register** (FR).

Instructions on how to submit your comments through <https://www.regulations.gov> are provided in each Notice of Proposed Rulemaking (NPRM). To be most effective, comments should contain information and data that support your position and you also should explain why EPA should incorporate your suggestion in the rule or other type of action. You can be particularly helpful and persuasive if you provide examples to illustrate your concerns and offer specific alternative(s) to that proposed by EPA.

EPA believes its actions will be more cost effective and protective if the development process includes stakeholders working with us to help identify the most practical and effective solutions to environmental problems. EPA encourages you to become involved in its rule and policymaking process. For more information about EPA's efforts to increase transparency, participation and collaboration in EPA activities, please visit <https://www.epa.gov/open>.

## II. Semiannual Agenda of Regulatory and Deregulatory Actions

### A. What actions are included in the E-Agenda and the Regulatory Flexibility Agenda?

EPA includes regulations in the e-Agenda. However, there is no legal significance to the omission of an item from the agenda, and EPA generally does not include the following categories of actions:

- Administrative actions such as delegations of authority, changes of address, or phone numbers;
- *Under the CAA*: Revisions to state implementation plans; equivalent methods for ambient air quality monitoring; deletions from the new source performance standards source categories list; delegations of authority to states; area designations for air quality planning purposes;
- *Under FIFRA*: Registration-related decisions, actions affecting the status of currently registered pesticides, and data call-ins;
- *Under the Federal Food, Drug, and Cosmetic Act*: Actions regarding pesticide tolerances and food additive regulations;
- *Under RCRA*: Authorization of State solid waste management plans; hazardous waste delisting petitions;
- *Under the CWA*: State Water Quality Standards; deletions from the

section 307(a) list of toxic pollutants; suspensions of toxic testing requirements under the National Pollutant Discharge Elimination System (NPDES); delegations of NPDES authority to States;

- *Under SDWA*: Actions on State underground injection control programs.

Meanwhile, the Regulatory Flexibility Agenda includes:

- Actions likely to have a significant economic impact on a substantial number of small entities.
- Rules the Agency has identified for periodic review under section 610 of the RFA.

EPA has one ongoing 610 review in this Agenda.

### B. How is the E-Agenda organized?

Online, you can choose how to sort the agenda entries by specifying the characteristics of the entries of interest in the desired individual data fields for both the [www.reginfo.gov](http://www.reginfo.gov) and [www.regulations.gov](http://www.regulations.gov) versions of the e-Agenda. You can sort based on the following characteristics: EPA subagency (such as Office of Water); stage of rulemaking as described in the following paragraphs; alphabetically by title; or the Regulation Identifier Number (RIN), which is assigned sequentially when an action is added to the agenda.

Each entry in the Agenda is associated with one of five rulemaking stages. The rulemaking stages are:

1. **Prerule Stage**—EPA's prerule actions generally are intended to determine whether the agency should initiate rulemaking. Prerulemakings may include anything that influences or leads to rulemaking; this would include Advance Notices of Proposed Rulemaking (ANPRMs), studies or analyses of the possible need for regulatory action.

2. **Proposed Rule Stage**—Proposed rulemaking actions include EPA's Notice of Proposed Rulemakings (NPRMs); these proposals are scheduled to publish in the **Federal Register** within the next year.

3. **Final Rule Stage**—Final rulemaking actions are those actions that EPA is scheduled to finalize and publish in the **Federal Register** within the next year.

4. **Long-Term Actions**—This section includes rulemakings for which the next scheduled regulatory action (such as publication of a NPRM or final rule) is twelve or more months into the future. We urge you to explore becoming involved even if an action is listed in the Long-Term category.

5. **Completed Actions**—EPA's completed actions are those that have

been promulgated and published in the **Federal Register** since publication of the spring 2019 Agenda. The term "completed actions" also includes actions that EPA is no longer considering and has elected to "withdraw," as well as the results of any RFA section 610 reviews.

### C. What information is in the Regulatory Flexibility Agenda and the E-Agenda?

The Regulatory Flexibility Agenda entries include only the nine categories of information that are required by the Regulatory Flexibility Act of 1980 and by **Federal Register** Agenda printing requirements: Sequence Number, RIN, Title, Description, Statutory Authority, Section 610 Review, if applicable, Regulatory Flexibility Analysis Required, Schedule and Contact Person. Note that the electronic version of the Agenda (E-Agenda) replicates each of these actions with more extensive information, described below.

E-Agenda entries include:

**Title:** a brief description of the subject of the regulation. The notation "Section 610 Review" follows the title if we are reviewing the rule as part of our periodic review of existing rules under section 610 of the RFA (5 U.S.C. 610).

**Priority:** Each entry is placed into one of the five following categories:

a. **Economically Significant:** Under Executive Order 12866, a rulemaking that may have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

b. **Other Significant:** A rulemaking that is not economically significant but is considered significant for other reasons. This category includes rules that may:

1. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

2. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients; or

3. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles in Executive Order 12866.

c. **Substantive, Nonsignificant:** A rulemaking that has substantive impacts but is not Significant, Routine and Frequent, or Informational/Administrative/Other.

d. **Routine and Frequent:** A rulemaking that is a specific case of a recurring application of a regulatory program in the Code of Federal

Regulations (e.g., certain State Implementation Plans, National Priority List updates, Significant New Use Rules, State Hazardous Waste Management Program actions, and Pesticide Tolerances and Tolerance Exemptions). If an action that would normally be classified Routine and Frequent is reviewed by the Office of Management and Budget (OMB) under Executive Order 12866, then we would classify the action as either “Economically Significant” or “Other Significant.”

*e. Informational/Administrative/Other:* An action that is primarily informational or pertains to an action outside the scope of Executive Order 12866.

*E.O. 13771 Designation:* Each entry is placed into one of the following categories:

*a. Deregulatory:* When finalized, an action is expected to have total costs less than zero;

*b. Regulatory:* The action is either:  
(i) A significant regulatory action as defined in section 3(f) of Executive Order 12866, or

(ii) a significant guidance document (e.g., significant interpretive guidance) reviewed by OMB’s Office of Information and Regulatory Affairs (OIRA) under the procedures of Executive Order 12866 that, when finalized, is expected to impose total costs greater than zero;

*c. Fully or Partially Exempt:* The action has been granted, or is expected to be granted, a full or partial waiver under one or more of the following circumstances:

(i) It is expressly exempt by Executive Order 13771 (issued with respect to a “military, national security, or foreign affairs function of the United States”; or related to “agency organization, management, or personnel”); or

(ii) it addresses an emergency such as critical health, safety, financial, or non-exempt national security matters (offset requirements may be exempted or delayed), or

(iii) it is required to meet a statutory or judicial deadline (offset requirements may be exempted or delayed), or

(iv) expected to generate de minimis costs;

*d. Not subject to, not significant:* Is a NPRM or final rule AND is neither an Executive Order 13771 regulatory action nor an Executive Order 13771 deregulatory action;

*e. Other:* At the time of designation, either the available information is too preliminary to determine Executive Order 13771 status or other reasonable circumstances preclude a preliminary Executive Order 13771 designation.

*f. Independent agency:* Is an action an independent agency anticipates issuing and thus is not subject to Executive Order 13771.

*Major:* A rule is “major” under 5 U.S.C. 801 (Pub. L. 104–121) if it has resulted or is likely to result in an annual effect on the economy of \$100 million or more or meets other criteria specified in that Act.

*Unfunded Mandates:* Indicates whether the rule is covered by section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). The Act requires that, before issuing an NPRM likely to result in a mandate that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector of more than \$100 million in 1 year, the agency prepare a written statement on federal mandates addressing costs, benefits, and intergovernmental consultation.

*Legal Authority:* The sections of the United States Code (U.S.C.), Public Law (Pub. L.), Executive Order (E.O.), or common name of the law that authorizes the regulatory action.

*CFR Citation:* The sections of the Code of Federal Regulations that would be affected by the action.

*Legal Deadline:* An indication of whether the rule is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to a Notice of Proposed Rulemaking, a Final Action, or some other action.

*Abstract:* A brief description of the problem the action will address.

*Timetable:* The dates and citations (if available) for all past steps and a projected date for at least the next step for the regulatory action. A date displayed in the form 09/00/20 means the agency is predicting the month and year the action will take place but not the day it will occur. For some entries, the timetable indicates that the date of the next action is “to be determined.”

*Regulatory Flexibility Analysis Required:* Indicates whether EPA has prepared or anticipates preparing a regulatory flexibility analysis under section 603 or 604 of the RFA. Generally, such an analysis is required for proposed or final rules subject to the RFA that EPA believes may have a significant economic impact on a substantial number of small entities.

*Small Entities Affected:* Indicates whether the rule is anticipated to have any effect on small businesses, small governments or small nonprofit organizations.

*Government Levels Affected:* Indicates whether the rule may have any effect on levels of government and, if so, whether

the affected governments are State, local, tribal, or Federal.

*Federalism Implications:* Indicates whether the action is expected to 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.

*Energy Impacts:* Indicates whether the action is a significant energy action under Executive Order 13211.

*Sectors Affected:* Indicates the main economic sectors regulated by the action. The regulated parties are identified by their North American Industry Classification System (NAICS) codes. These codes were created by the Census Bureau for collecting, analyzing, and publishing statistical data on the U.S. economy. There are more than 1,000 NAICS codes for sectors in agriculture, mining, manufacturing, services, and public administration.

*International Trade Impacts:* Indicates whether the action is likely to have international trade or investment effects, or otherwise be of international interest.

*Agency Contact:* The name, address, phone number, and email address, if available, of a person who is knowledgeable about the regulation.

*Additional Information:* Other information about the action including docket information.

*URLs:* For some actions, the internet addresses are included for reading copies of rulemaking documents, submitting comments on proposals, and getting more information about the rulemaking and the program of which it is a part. (*Note:* To submit comments on proposals, you can go to the associated electronic docket, which is housed at <https://www.regulations.gov>. Once there, follow the online instructions to access the docket in question and submit comments. A docket identification [ID] number will assist in the search for materials.)

*RIN:* The Regulation Identifier Number is used by OMB to identify and track rulemakings. The first four digits of the RIN identify the EPA office with lead responsibility for developing the action.

*D. What tools are available for mining Regulatory Agenda data and for finding more about EPA rules and policies?*

#### 1. Federal Regulatory Dashboard

The <https://www.reginfo.gov/> searchable database, maintained by the Regulatory Information Service Center and OIRA, allows users to view the Regulatory Agenda database (<https://www.reginfo.gov/public/do/>

eAgendaMain), which includes search, display, and data transmission options.

## 2. Subject Matter EPA Websites

Some actions listed in the Agenda include a URL for an EPA-maintained website that provides additional information about the action.

## 3. Deregulatory Actions and Regulatory Reform

EPA maintains a list of its deregulatory actions under development, as well as those that are completed, at <https://www.epa.gov/laws-regulations/epa-deregulatory-actions>. Additional information about EPA's regulatory reform activity is available to the public at <https://www.epa.gov/laws-regulations/regulatory-reform>.

## 4. Public Dockets

When EPA publishes either an Advance Notice of Proposed Rulemaking (ANPRM) or a Notice of Proposed Rulemaking (NPRM) in the **Federal Register**, the Agency typically establishes a docket to accumulate materials developed throughout the development process for that rulemaking. The docket serves as the repository for the collection of documents or information related to that particular Agency action or activity. EPA most commonly uses dockets for rulemaking actions, but dockets may also be used for RFA section 610 reviews of rules with significant economic impacts on a substantial number of small entities and for various non-rulemaking activities, such as **Federal Register** documents seeking

public comments on draft guidance, policy statements, information collection requests under the PRA, and other non-rule activities. Docket information should be in that action's agenda entry. All of EPA's public dockets can be located at <https://www.regulations.gov>.

## III. Review of Regulations Under 610 of the Regulatory Flexibility Act

### A. Reviews of Rules With Significant Impacts on a Substantial Number of Small Entities

Section 610 of the RFA requires that an agency review, within 10 years of promulgation, each rule that has or will have a significant economic impact on a substantial number of small entities. At this time, EPA has one ongoing 610 review.

Review title	RIN	Docket ID No.	Status
Section 610 Review of Renewable Fuels Standard Program .....	2060-AU44	EPA-HQ-OAR-2019-0168	Ongoing.

EPA has established an official public docket for this 610 review. While comments for this review are no longer being accepted, they can continue to be accessed at <https://www.regulations.gov> with docket identification number EPA-HQ-OAR-2019-0168.

### B. What other special attention does EPA give to the impacts of rules on small businesses, small governments, and small nonprofit organizations?

For each of EPA's rulemakings, consideration is given to whether there will be any adverse impact on any small entity. EPA attempts to fit the regulatory requirements, to the extent feasible, to

the scale of the businesses, organizations, and governmental jurisdictions subject to the regulation.

Under the RFA as amended by SBREFA, the Agency must prepare a formal analysis of the potential negative impacts on small entities, convene a Small Business Advocacy Review Panel (proposed rule stage), and prepare a Small Entity Compliance Guide (final rule stage) unless the Agency certifies a rule will not have a significant economic impact on a substantial number of small entities. For more detailed information about the Agency's policy and practice with respect to implementing the RFA/SBREFA, please

visit EPA's RFA/SBREFA website at [www.epa.gov/reg-flex](http://www.epa.gov/reg-flex).

## IV. Thank You for Collaborating With Us

Finally, we would like to thank those of you who choose to join with us in making progress on the complex issues involved in protecting human health and the environment. Collaborative efforts such as EPA's open rulemaking process are a valuable tool for addressing the problems we face, and the regulatory agenda is an important part of that process.

Dated: August 9, 2019.  
**Brittany Bolen,**  
 Associate Administrator, Office of Policy.

## 10—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
329 .....	Section 610 Review of Renewable Fuels Standard Program ( <b>Section 610 Review</b> ) .....	2060-AU44

## 35—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
330 .....	Trichloroethylene (TCE); Rulemaking Under TSCA Section 6(a); Vapor Degreasing .....	2070-AK11
331 .....	N-Methylpyrrolidone; Regulation of Certain Uses Under TSCA Section 6(a) .....	2070-AK46

## 72—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
332 .....	National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions ( <b>Reg Plan Seq No. 130</b> ).	2040–AF15

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

## ENVIRONMENTAL PROTECTION AGENCY (EPA)

10

Prerule Stage

### 329. Section 610 Review of Renewable Fuels Standard Program (Section 610 Review)

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 5 U.S.C. 610

*Abstract:* The rulemaking “Regulation of Fuels and Fuel Additives: Changes to Renewable Fuel Standard Program” was finalized by EPA in March 2010 (75 FR 14669, March 26, 2010). The final regulations made a number of changes to the existing Renewable Fuel Standard program while retaining many elements of the compliance and trading system already in place. The final rule also implemented the revised statutory definitions and criteria, most notably the greenhouse gas emission thresholds for renewable fuels and new limits on renewable biomass feedstocks. This entry in the regulatory agenda describes EPA’s review of this action pursuant to section 610 of the Regulatory Flexibility Act (5 U.S.C. 610). As part of this review, EPA is considering comments on the following factors: (1) The continued need for the rule; (2) the nature of complaints or comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal, State, or local government rules; and (5) the degree to which the technology, economic conditions, or other factors have changed in the area affected by the rule. The results of EPA’s review will be summarized in a report and placed in the rulemaking docket at the conclusion of this review. This review’s Docket ID number is EPA–HQ–OAR–2019–0168; the docket can be accessed at [www.regulations.gov](http://www.regulations.gov).

*Timetable:*

Action	Date	FR Cite
Final Rule .....	03/26/10	75 FR 14669
Begin Review .....	06/24/19	84 FR 29689
Review Extension Notice.	08/27/19	84 FR 44804
End Review .....	04/00/20	

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Jessica Mroz, Environmental Protection Agency, Office of Air and Radiation, 1200 Pennsylvania Avenue NW, Washington, DC 20460, *Phone:* 202 564–1094, *Email:* [mroz.jessica@epa.gov](mailto:mroz.jessica@epa.gov).

Julia Burch, Environmental Protection Agency, Office of Air and Radiation, 1200 Pennsylvania Ave. NW, Washington, DC 20460, *Phone:* 202 564–0961, *Email:* [burch.julia@epa.gov](mailto:burch.julia@epa.gov).  
*RIN:* 2060–AU44

## ENVIRONMENTAL PROTECTION AGENCY (EPA)

35

Long-Term Actions

### 330. Trichloroethylene (TCE); Rulemaking Under TSCA Section 6(a); Vapor Degreasing

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 15 U.S.C. 2605 Toxic Substances Control Act

*Abstract:* Section 6(a) of the Toxic Substances Control Act (TSCA) provides authority for EPA to ban or restrict the manufacture (including import), processing, distribution in commerce, and use of chemical substances, as well as any manner or method of disposal. Section 26(l)(4) of TSCA authorizes EPA to issue rules under TSCA section 6 for chemicals listed in the 2014 update to the TSCA Work Plan for Chemical Assessments for which EPA published completed risk assessments prior to June 22, 2016, consistent with the scope of the completed risk assessment. In the June 2014 TSCA Work Plan Chemical Risk Assessment for TCE, EPA characterized risks from the use of TCE in commercial degreasing and in some consumer uses. EPA has preliminarily determined that these risks are unreasonable risks. On January 19, 2017, EPA proposed to prohibit the manufacture, processing, distribution in commerce, or commercial use of TCE in vapor degreasing. A separate action (RIN 2070–AK03), published on December 16, 2016, proposed to address the unreasonable risks from TCE when used as a spotting agent in dry cleaning and in commercial and consumer aerosol

spray degreasers. The uses identified in the proposed rules are being considered as part of the risk evaluation currently being conducted for TCE under TSCA section 6(b).

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/19/17	82 FR 7432
NPRM Comment Period Extended.	02/15/17	82 FR 10732
NPRM Comment Period Extended.	05/01/17	82 FR 20310
Final Rule .....	To Be Determined	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Toni Krasnic, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 1200 Pennsylvania Avenue NW, Mail Code 7405M, Washington, DC 20460, *Phone:* 202 564–0984, *Email:* [krasnic.toni@epa.gov](mailto:krasnic.toni@epa.gov).

Joel Wolf, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 1200 Pennsylvania Avenue NW, Mail Code 7405M, Washington, DC 20460, *Phone:* 202 564–0432, *Email:* [wolf.joel@epa.gov](mailto:wolf.joel@epa.gov).  
*RIN:* 2070–AK11

### 331. N-Methylpyrrolidone; Regulation of Certain Uses Under TSCA Section 6(a)

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 15 U.S.C. 2605, Toxic Substances Control Act

*Abstract:* Section 6(a) of the Toxic Substances Control Act provides authority for EPA to ban or restrict the manufacture (including import), processing, distribution in commerce, and use of chemical substances, as well as any manner or method of disposal. Section 26(l)(4) of TSCA authorizes EPA to issue rules under TSCA section 6 for chemicals listed in the 2014 update to the TSCA Work Plan for Chemical Assessments for which EPA published completed risk assessments prior to June 22, 2016, consistent with the scope of the completed risk assessment and other applicable requirements of section 6. N-methylpyrrolidone (NMP) is used in paint and coating removal in



commercial processes and consumer products. In the March 2015 TSCA Work Plan Chemical Risk Assessment for NMP, EPA characterized risks from use of this chemical in paint and coating removal. On January 19, 2017, EPA preliminarily determined that the use of NMP in paint and coating removal poses an unreasonable risk of injury to health. EPA also co-proposed two options for NMP in paint and coating removal. The first co-proposal would prohibit the manufacture, processing, and distribution in commerce of NMP for all consumer and most commercial paint and coating removal and the use of NMP for most commercial paint and coating removal. The second co-proposal would require commercial users of NMP for paint and coating removal to establish a worker protection program and not use paint and coating removal products that contain greater than 3 percent NMP by weight, with certain exceptions; and require processors of products containing NMP for paint and coating removal to reformulate products such that they do not exceed 35 percent NMP

by weight, to identify gloves that provide effective protection for the formulation, and to provide warnings and instructions on any paint and coating removal products containing NMP. In the final rule for methylene chloride in consumer paint and coating removal (RIN 2070-AK07), EPA explained that the Agency was not finalizing the proposed regulation for NMP as part of that action. NMP use in paint and coating removal was incorporated into the risk evaluation currently being conducted under TSCA section 6(b).

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/17/17	82 FR 7464
Final Rule .....	To Be Determined	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Eileen Sheehan, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, USEPA Region 9, 75

Hawthorne Street, San Francisco, CA 94105, *Phone:* 415 972-3287, *Email:* [sheehan.eileen@epa.gov](mailto:sheehan.eileen@epa.gov).

Joel Wolf, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 1200 Pennsylvania Avenue NW, Mail Code 7405M, Washington, DC 20460, *Phone:* 202 564-0432, *Email:* [wolf.joel@epa.gov](mailto:wolf.joel@epa.gov).

*RIN:* 2070-AK46

## ENVIRONMENTAL PROTECTION AGENCY (EPA)

72

Proposed Rule Stage

### 332. National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions

*Regulatory Plan:* This entry is Seq. No. 130 in part II of this issue of the **Federal Register**.

*RIN:* 2040-AF15

[FR Doc. 2019-26566 Filed 12-23-19; 8:45 am]

**BILLING CODE 6560-50-P**





# FEDERAL REGISTER

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Thursday,

No. 247

December 26, 2019

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Part XVI

General Services Administration

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Semiannual Regulatory Agenda

**GENERAL SERVICES  
ADMINISTRATION****40 CFR 1900****41 CFR Chapters 101, 102, 105, 300,  
301, 302, and 304****48 CFR Chapter 5****48 CFR 6101 and 6102****Unified Agenda of Federal Regulatory  
and Deregulatory Actions**

**AGENCY:** General Services  
Administration (GSA).

**ACTION:** Semiannual regulatory agenda.

This agenda announces the proposed regulatory actions that GSA plans for the next 12 months and those completed since the fall 2018 edition. This agenda was developed under the guidelines of Executive Orders (E.O.) 12866 “Regulatory Planning and Review,” as

amended, Executive Order 13771 “Reducing Regulation and Controlling Regulatory Costs,” and Executive Order 13563 “Improving Regulation and Regulatory Review.” GSA’s purpose in publishing this agenda is to allow interested persons an opportunity to participate in the rulemaking process.

This agenda updates the report published on June 24, 2019, and includes regulations expected to be issued and under review over the next 12 months. The next agenda is scheduled to be published in the spring of 2020.

The complete Unified Agenda will be available online at [www.reginfo.gov](http://www.reginfo.gov).

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), GSA’s printed agenda entries include only:

(1) Rules that are in the Agency’s regulatory flexibility agenda, in

accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Any rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act’s Agenda requirements. Additional information on these entries is in the Unified Agenda available online.

**FOR FURTHER INFORMATION CONTACT:** Lois Mandell, Division Director, Regulatory Secretariat Division, 1800 F Street NW, 2nd Floor, Washington, DC 20405–0001, 202–501–2735.

Dated: July 25, 2019.

**Jessica Salmoiraghi,**  
*Associate Administrator, Office of  
Government-wide Policy.*

**GENERAL SERVICES ADMINISTRATION—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
333 .....	General Services Acquisition Regulation (GSAR); GSAR Case 2016–G511, Contract Requirements for GSA Information Systems.	3090–AJ84
334 .....	General Services Acquisition Regulation (GSAR); GSAR Case 2019–G503, Streamlining GSA Commercial Contract Clause Requirements.	3090–AK09
335 .....	Federal Permitting Improvement Steering Council (FPISC); FPISC Case 2019–001, Adding a New Sector of Covered Projects Under FAST–41 by the Federal Permitting Improvement Steering Council.	3090–AK13

**GENERAL SERVICES ADMINISTRATION—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
336 .....	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2015–G506, Adoption of Construction Project Delivery Method Involving Early Industry Engagement.	3090–AJ64
337 .....	Federal Permitting Improvement Steering Council (FPISC); FPISC Case 2018–001; Fees for Governance, Oversight, and Processing of Environmental Reviews and Authorizations.	3090–AJ88

**GENERAL SERVICES ADMINISTRATION—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
338 .....	GSAR Case 2008–G517, Cooperative Purchasing—Acquisition of Security and Law Enforcement Related Goods and Services (Schedule 84) by State and Local Governments Through Federal Supply Schedules.	3090–AI68
339 .....	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2013–G502, Federal Supply Schedule Contract Administration.	3090–AJ41

**GENERAL SERVICES  
ADMINISTRATION (GSA)***Office of Acquisition Policy*

## Proposed Rule Stage

**333. General Services Acquisition Regulation (GSAR); GSAR Case 2016–G511, Contract Requirements for GSA Information Systems**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 40 U.S.C. 121(c)

*Abstract:* The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to streamline and update requirements for contracts that involve GSA information systems. GSA's unique policies on cybersecurity and other information technology requirements have been previously communicated through other means. By incorporating these requirements into the GSAR, the GSAR will provide centralized guidance to ensure consistent application across the organization. Integrating these requirements into the GSAR will also allow industry to provide public comments through the rulemaking process.

GSA's cybersecurity requirements mandate contractors to protect the confidentiality, integrity, and availability of unclassified GSA information and information systems from cybersecurity vulnerabilities, and threats in accordance with the Federal Information Security Modernization Act of 2014 and associated Federal cybersecurity requirements. This rule will require contracting officers to incorporate applicable GSA cybersecurity requirements within the statement of work to ensure compliance with Federal cybersecurity requirements and implement best practices for preventing cyber incidents. These GSA requirements mandate applicable controls and standards (e.g., U.S. National Institute of Standards and Technology, U.S. National Archive and Records Administration Controlled Unclassified Information standards).

Contract requirements for internal information systems, external contractor systems, cloud systems, and mobile systems will be covered by this rule. This rule will also update existing GSAR provision 552.239–70, Information Technology Security Plan and Security Authorization, and GSAR clause 552.239–71, Security Requirements for Unclassified Information Technology Resources, to only require the provision and clause when the contract will involve information or information systems connected to a GSA network.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/00/19	
NPRM Comment Period End.	02/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael Thompson, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208–1568, *Email:* michael.thompson@gsa.gov.

*RIN:* 3090–AJ84

**334. • General Services Acquisition Regulation (GSAR); GSAR Case 2019–G503, Streamlining GSA Commercial Contract Clause Requirements**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 40 U.S.C. 121(c)

*Abstract:* The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to streamline requirements for GSA commercial contracts. This rule will update GSAR Clauses 552.212–71 and 552.212–72 to remove any requirements that are not necessary by law or Executive Order.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/00/20	
NPRM Comment Period End.	03/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Johnnie McDowell, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 718–6112, *Email:* johnnie.mcdowell@gsa.gov.

*RIN:* 3090–AK09

**Office of Governmentwide Policy****335. • Federal Permitting Improvement Steering Council (FPISC); FPISC Case 2019–001, Adding a New Sector of Covered Projects Under Fast–41 by the Federal Permitting Improvement Steering Council**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 42 U.S.C.

4370m(6)(A)

*Abstract:* Fixing America's Surface Transportation Act (FAST–41) is intended to improve the timeliness, predictability, and transparency of the Federal environmental review and authorization process for certain covered infrastructure projects across a broad range of sectors. It does so while upholding the U.S. Government's

responsibility to protect public health, welfare, safety, and the environment. While FAST–41 contains a list of sectors whose infrastructure projects are eligible for inclusion, the Act specifically allows for the addition of other sectors as determined by the majority vote of the Federal Permitting Improvement Steering Council (FPISC or the Council). Pursuant to that authority, and consistent with Executive Orders 13807 and 13817, the Council is proposing to include mining as a sector eligible under the definition of a FAST–41 covered project. Similar to other listed sectors, mining activities routinely include construction of a variety of infrastructure projects, such as roads, electricity generation/transmission, pipelines, and wastewater treatment facilities. To continue with the enhanced transparency inherent in FAST–41, the Council is requesting public comment on the addition of mining as a covered sector under the Act. Inclusion of mining as a covered sector will not guarantee that all mining projects will receive the benefits of enhanced coordination under FAST–41. Identical to the treatment of other sectors, individual mining project sponsors will have to be approved by FPISC.

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/00/20	
NPRM Comment Period End.	04/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Nicholas A. Falvo, Senior Legal Advisor, Federal Permitting Improvement Steering Council, General Services Administration, 1800 F Street NW, Room 5121, Washington, DC 20405, *Phone:* 202 430–4463, *Email:* nicholas.falvo@gsa.gov.

*RIN:* 3090–AK13

**GENERAL SERVICES  
ADMINISTRATION (GSA)***Office of Acquisition Policy*

## Final Rule Stage

**336. General Services Administration Acquisition Regulation (GSAR); GSAR Case 2015–G506, Adoption of Construction Project Delivery Method Involving Early Industry Engagement**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 40 U.S.C. 121(c)

*Abstract:* The General Services Administration (GSA) is amending the

General Services Administration Acquisition Regulation (GSAR) to adopt an additional project delivery method for construction, construction manager as constructor (CMc). The current FAR and GSAR lacks detailed coverage differentiating various construction project delivery methods. GSA's policies on CMc have been previously issued through other means. By incorporating CMc into the GSAR and differentiating for various construction methods, the GSAR provides centralized guidance to ensure consistent application of construction project principles across the organization.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/08/18	83 FR 55838
Correction .....	11/27/18	83 FR 60818
NPRM Comment Period End.	01/07/19	
Final Rule .....	12/00/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Christina Mullins, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-4066, *Email:* christina.mullins@gsa.gov, *RIN:* 3090-AJ64

**Office of Governmentwide Policy**

**337. Federal Permitting Improvement Steering Council (FPISC); FPISC Case 2018-001; Fees for Governance, Oversight, and Processing of Environmental Reviews and Authorizations**

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 42 U.S.C. 4370m-8

*Abstract:* GSA is amending a final rule to establish a fee structure to reimburse the Federal Permitting Improvement Steering Council and its Office of the Executive Director for reasonable costs incurred in coordinating environmental reviews and authorizations in implementing title 41 of the Fixing America's Surface Transportation Act.

GSA will amend this regulation on behalf of the Federal Permitting Improvement Steering Council.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/04/18	83 FR 44846
NPRM Comment Period End.	11/05/18	
Final Rule .....	07/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Amber Dawn Levofsky, Program Analyst, General Services Administration, 1800 F Street NW, Room 3017, Washington, DC 20405-0001, *Phone:* 202 969-7298, *Email:* amber.levofsky@gsa.gov, *RIN:* 3090-AJ88

**GENERAL SERVICES ADMINISTRATION (GSA)**

**Completed Actions**

**338. GSAR Case 2008-G517, Cooperative Purchasing—Acquisition of Security and Law Enforcement Related Goods And Services (Schedule 84) by State and Local Governments Through Federal Supply Schedules**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 40 U.S.C. 502(c)(1)(B)

*Abstract:* The General Services Administration (GSA) amended the General Services Administration Acquisition Regulation (GSAR) to implement Public Law 110-248, The Local Preparedness Acquisition Act. The Act authorizes the Administrator of General Services to provide for the use by State or local governments of Federal Supply Schedules of the GSA for alarm and signal systems, facility management systems, firefighting and rescue equipment, law enforcement and security equipment, marine craft and related equipment, special purpose clothing, and related services (as

contained in Federal supply classification code group 84 or any amended or subsequent version of that Federal supply classification group).

*Completed:*

Reason	Date	FR Cite
Final Rule .....	04/11/19	84 FR 14624
Final Rule Effective.	05/13/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Thomas O'Linn, *Phone:* 202 445-0390, *Email:* thomas.olinn@gsa.gov, *RIN:* 3090-AJ68

**339. General Services Administration Acquisition Regulation (GSAR); GSAR Case 2013-G502, Federal Supply Schedule Contract Administration**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c)

*Abstract:* The General Services Administration (GSA) amended the General Services Administration Acquisition Regulation (GSAR) to clarify and update the contracting by negotiation GSAR section and incorporate existing Federal Supply Schedule Contracting policies and procedures, and corresponding provisions and clauses.

*Completed:*

Reason	Date	FR Cite
Final Rule .....	04/23/19	84 FR 17030
Correction .....	05/17/19	84 FR 22381
Final Rule Effective.	05/23/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Dana L. Bowman, *Phone:* 202 357-9652, *Email:* dana.bowman@gsa.gov, *RIN:* 3090-AJ41

[FR Doc. 2019-26567 Filed 12-23-19; 8:45 am]

**BILLING CODE 6820-14-P**



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Part XVII

National Aeronautics and Space Administration

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Semiannual Regulatory Agenda

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****14 CFR Ch. V****Regulatory Agenda**

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** NASA's regulatory agenda describes those regulations being considered for development or amendment by NASA, the need and legal basis for the actions being considered, the name and telephone number of the knowledgeable official,

whether a regulatory analysis is required, and the status of regulations previously reported.

The regulatory plan is a statement of the Agency's priorities that describe legislative and programmatic activities, highlight rulemaking that streamline's regulations and report requirements, identify regulations that are of particular concern to small businesses, include preliminary estimates of the anticipated costs and benefits of each rule, and provide specific citation of actions required by statute or court order.

**ADDRESSES:** Acting Associate Administrator, Mission Support

Directorate, NASA Headquarters, Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Cheryl E. Parker, (202) 358-0252.

**SUPPLEMENTARY INFORMATION:** OMB guidelines dated June 26, 2019, "Fall 2019 Data Call for the Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions," require a regulatory agenda of those regulations under development and review to be published in the **Federal Register** each spring and fall.

Dated: July 26, 2019.

**Verron Brade,**

Acting Associate Administrator, Support Directorate.

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
340 .....	NASA Harassment Report Case Files (10 HRCF) Exemption ( <b>Section 610 Review</b> ) .....	2700-AE50

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)**

## Proposed Rule Stage

**340. NASA Harassment Report Case Files (10 HRCF) Exemption (Section 610 Review)**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 5 U.S.C. 552a, The Privacy Act of 1974

*Abstract:* NASA is issuing a direct final rule to modify the Agency's Privacy Act Regulations to exempt investigative materials found in NASA Harassment Report Case Files. The harassment report case records are used for the purpose of investigative

materials for potential law enforcement purposes. The exemption would prevent these investigative case files from being released under the Privacy Act. Case Files records are exempted from the following sections of the Privacy Act (5 U.S.C. 552a): (c)(3) relating to access to the disclosure accounting; (d) relating to access to the records; (e)(1) relating to the type of information maintained in the records; (e)(4)(G), (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing agency rules for gaining access and making corrections.

*Timetable:*

Action	Date	FR Cite
NPRM .....	04/00/20	

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Patti Stockman, National Aeronautics and Space Administration, 300 E Street SW, Washington, DC 20546, *Phone:* 202 358-4787, *Email:* patti.stockman@nasa.gov.

*RIN:* 2700-AE50

[FR Doc. 2019-26569 Filed 12-23-19; 8:45 am]

**BILLING CODE 7510-13-P**





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Part XVIII

Office of Management and Budget

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Semiannual Regulatory Agenda

**OFFICE OF MANAGEMENT AND BUDGET**  
**48 CFR Ch. 99, 2 CFR Chapters 1 and 2**  
**Federal Regulations, Guidance, OFPP Policy Letters, and CASB Cost Accounting Standards Included in the Semiannual Agenda of Federal Activities**

**AGENCY:** Office of Management and Budget.  
**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** The Office of Management and Budget (OMB) is publishing its semiannual agenda of upcoming activities for Federal regulations, OMB Guidance, Office of Federal Procurement Policy (OFPP) Policy Letters, and Cost Accounting Standards (CAS) Board Cost Accounting Standards.

OMB Guidance and OFPP Policy Letters are published in accordance

with OMB’s internal procedures for implementing Executive Order 12866 (October 4, 1993, 58 FR 51735). OMB policy guidelines are issued under authority derived from several sources, including: Subtitles I, II, and V of title 31, United States Code; Executive Order 11541; and other specific authority as cited. OMB Guidance and OFPP Policy Letters communicate guidance and instructions of a continuing nature to executive branch agencies. As such, most OMB Guidance and OFPP Policy Letters are not regulations. Nonetheless, because these issuances are typically of interest to the public, they are generally published in the **Federal Register** at both the proposed (for public comment) and final stages. For this reason, they are presented below in the standard format of “pre-rule,” “proposed rule,” and “final rule” stages.

CASB Cost Accounting Standards are issued under authority derived from 41 U.S.C. 1501 *et seq.* Cost Accounting Standards are rules governing the

measurement, assignment, and allocation of costs to contracts entered into with the United States Government.

For purposes of this agenda, we have excluded directives that outline procedures to be followed in connection with the President’s budget and legislative programs, as well as directives that affect only the internal functions, management, or personnel of Federal agencies.

**FOR FURTHER INFORMATION CONTACT:** See the agency contact person listed for each entry in the agenda, c/o Office of Management and Budget, Washington, DC 20503. On the overall agenda, contact Jamal Rittenberry, (202) 395–3589, at the above address.

**Tim Soltis,**  
*Deputy Controller, Office of Federal Financial Management.*

OFFICE OF MANAGEMENT AND BUDGET—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
341 .....	Federal Acquisition Security Council Implementing Regulation .....	0348–AB83

**OFFICE OF MANAGEMENT AND BUDGET (OMB)**

Final Rule Stage

**341. • Federal Acquisition Security Council Implementing Regulation**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* Pub. L. 115–390 sec. 202(c)

*Abstract:* This interim final rule will implement subchapter III of chapter 13 of title 41, United States Code.

Subchapter III creates the Federal Acquisition Security Council, and identifies a number of functions to be performed by the Council. The FASC is chaired by a designated OMB Senior-Level official, and Public Law 115–390 requires that the FASC publish an interim final rule to implement these functions.

*Timetable:*

Action	Date	FR Cite
Final Action .....	12/00/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Amy Hamilton, Office of Management and Budget, Phone: 202 395–0372.

*RIN:* 0348–AB83

[FR Doc. 2019–26570 Filed 12–23–19; 8:45 am]

**BILLING CODE 3110–01–P**



# FEDERAL REGISTER

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Vol. 84

Thursday,

No. 247

December 26, 2019

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Part XIX

Railroad Retirement Board

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Semiannual Regulatory Agenda

**RAILROAD RETIREMENT BOARD****20 CFR Ch. II****Semiannual Agenda of Regulations Under Development or Review****AGENCY:** Railroad Retirement Board.**ACTION:** Semiannual regulatory agenda.**SUMMARY:** This agenda contains a list of regulations that the Board is developing

or proposes to develop in the next 12 months and regulations that are scheduled to be reviewed in that period.

**ADDRESSES:** 844 North Rush Street, Chicago, IL 60611-1275.**FOR FURTHER INFORMATION CONTACT:**

Marguerite P. Dadabo, Assistant General Counsel, Office of General Counsel, Railroad Retirement Board, (312) 751-4945, Fax (312) 751-7102, TDD (312) 751-4701.

**SUPPLEMENTARY INFORMATION:**

Regulations that are routine in nature or which pertain solely to internal Agency management have not been included in the agenda.

Dated: July 23, 2019.

By Authority of the Board.

**Stephanie Hillyard,***Secretary to the Board.***RAILROAD RETIREMENT BOARD—LONG-TERM ACTIONS**

Sequence No.	Title	Regulation Identifier No.
342 .....	Proposed Amendment to Update the Titles of Various Executive Committee Members Whose Office Titles Have Changed ( <b>Section 610 Review</b> ).	3220-AB72
343 .....	Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Railroad Retirement Board ( <b>Section 610 Review</b> ).	3220-AB73

**RAILROAD RETIREMENT BOARD (RRB)**

## Long-Term Actions

**342. Proposed Amendment To Update the Titles of Various Executive Committee Members Whose Office Titles Have Changed (Section 610 Review)**

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 45 U.S.C. 231f; 45 U.S.C. 362

*Abstract:* The Railroad Retirement Board proposes to amend its regulations to update 20 CFR 375.5(b), which will change the titles of various Executive Committee members whose office titles have changed. The Railroad Retirement Board (Board) proposes to amend its regulations governing the Board's policy on delegation of authority in case of national emergency. The regulation to be amended is contained in section 375.5. In section 375.5(b) of the Board's regulations, the Board proposes to remove the language that refers to the "Director of Supply and Service" and the "Regional Directors," to update the title of Director of Administration to

"Director of Administration/COOP Executive," and to add the positions of "Chief Financial Officer" and "Director of Field Service" to the delegation of authority chain. Finally, the delegation of authority chain will be updated to reflect the addition of the updated titles and the removal of outdated positions.

*Timetable:*

Action	Date	FR Cite
Proposed Rule ....	10/00/21	

*Regulatory Flexibility Analysis*

*Required:* No.

*Agency Contact:* Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, Office of General Counsel, 844 North Rush Street, Room 811, Chicago, IL 60611, *Phone:* 312 751-4945, *TDD Phone:* 312 751-4701, *Fax:* 312 751-7102.

*RIN:* 3220-AB72

**343. Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Railroad Retirement Board (Section 610 Review)**

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 29 U.S.C. 794

*Abstract:* We propose to amend our regulations at 20 CFR part 365 to update terminology to refer to individuals with a disability. This amendment replaces the term "handicap" with the term "disability" to match the statutory language in the Rehabilitation Act Amendment of 1992, Public Law 102-569, 106 Stat. 4344.

*Timetable:*

Action	Date	FR Cite
Proposed Rule ....	10/00/21	

*Regulatory Flexibility Analysis*

*Required:* No.

*Agency Contact:* Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, Office of General Counsel, 844 North Rush Street, Room 811, Chicago, IL 60611, *Phone:* 312 751-4945, *TDD Phone:* 312 751-4701, *Fax:* 312 751-7102.

*RIN:* 3220-AB73

[FR Doc. 2019-26575 Filed 12-23-19; 8:45 am]

**BILLING CODE 7905-01-P**



# FEDERAL REGISTER

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Vol. 84

Thursday,

No. 247

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Part XX

Small Business Administration

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Semiannual Regulatory Agenda

**SMALL BUSINESS ADMINISTRATION****13 CFR Ch. I****Semiannual Regulatory Agenda**

**AGENCY:** U.S. Small Business Administration (SBA).

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** This semiannual Regulatory Agenda (Agenda) is a summary of current and projected regulatory and deregulatory actions and completed actions of the Small Business Administration (SBA). This summary information is intended to enable the public to be more aware of, and effectively participate in, SBA's regulatory and deregulatory activities. Accordingly, SBA invites the public to submit comments on any aspect of this Agenda.

**FOR FURTHER INFORMATION CONTACT:**

*General:* Please direct general comments or inquiries to Imelda A.

Kish, Law Librarian, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416, (202) 205-6849, [imelda.kish@sba.gov](mailto:imelda.kish@sba.gov).

*Specific:* Please direct specific comments and inquiries on individual regulatory activities identified in this Agenda to the individual listed in the summary of the regulation as the point of contact for that regulation.

**SUPPLEMENTARY INFORMATION:** The Regulatory Flexibility Act (RFA) requires SBA to publish in the **Federal Register** a semiannual regulatory flexibility agenda describing those Agency rules that are likely to have a significant economic impact on a substantial number of small entities (5 U.S.C. 602). The summary information published in the **Federal Register** is limited to those rules. Additional information regarding all of the rulemakings SBA expects to consider in the next 12 months is included in the Federal Government's complete

Regulatory Agenda, which will be available online at [www.reginfo.gov](http://www.reginfo.gov) in a format that offers users enhanced ability to obtain information about SBA's rules.

SBA is fully committed to implementing the Administration's regulatory reform policies, as established by Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs (January 30, 2017) and Executive Order 13777, Enforcing the Regulatory Reform Agenda (February 24, 2017). In order to fully implement the goal of these executive orders, SBA seeks feedback from the public in identifying any SBA regulations affected parties believe impose unnecessary burdens or costs that exceed their benefits; eliminate jobs or inhibit job creation; or are ineffective or outdated.

**Christopher Pilkerton,**  
*Acting Administrator.*

**SMALL BUSINESS ADMINISTRATION—PRERULE STAGE**

Sequence No.	Title	Regulation Identifier No.
344 .....	8(a) Business Development ( <b>Section 610 Review</b> ) .....	3245-AH19
345 .....	Government Contracting Programs ( <b>Section 610 Review</b> ) .....	3245-AH20
346 .....	HUBZone Program ( <b>Section 610 Review</b> ) .....	3245-AH21

**SMALL BUSINESS ADMINISTRATION—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
347 .....	Small Business Development Center Program Revisions .....	3245-AE05
348 .....	Small Business Size Standards: Educational Services; Health Care and Social Assistance; Arts, Entertainment and Recreation; Accommodation and Food Services; Other Services.	3245-AG88
349 .....	Small Business Size Standards: Agriculture, Forestry, Fishing and Hunting; Mining, Quarrying, and Oil and Gas Extraction; Utilities; Construction.	3245-AG89
350 .....	Small Business Size Standards: Transportation and Warehousing; Information; Finance and Insurance; Real Estate and Rental and Leasing.	3245-AG90
351 .....	Small Business Size Standards: Professional, Scientific and Technical Services; Management of Companies and Enterprises; Administrative and Support, Waste Management and Remediation Services.	3245-AG91
352 .....	Small Business Size Standards: Manufacturing and Industries With Employee Based Size Standards in Other Sectors Except Wholesale Trade and Retail Trade.	3245-AH09
353 .....	Small Business Size Standards: Wholesale Trade and Retail Trade .....	3245-AH10

**SMALL BUSINESS ADMINISTRATION—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
354 .....	Small Business Timber Set-Aside Program .....	3245-AG69
355 .....	National Defense Authorization Acts of 2016 and 2017, RISE After Disaster Act of 2015, and Other Small Business Government Contracting Amendments.	3245-AG86
356 .....	Small Business Size Standards: Calculation of Annual Average Receipts .....	3245-AH16
357 .....	Small Business Size Standards: Adjustment of Monetary Based Size Standards for Inflation .....	3245-AH17

**SMALL BUSINESS ADMINISTRATION—LONG-TERM ACTIONS**

Sequence No.	Title	Regulation Identifier No.
358 .....	Small Business Size Standards; Alternative Size Standard for 7(a), 504, and Disaster Loan Programs .....	3245-AG16

**SMALL BUSINESS ADMINISTRATION (SBA)**

Prerule Stage

**344. • 8(a) Business Development (Section 610 Review)***E.O. 13771 Designation:* Other.*Legal Authority:* 15 U.S.C. 637

*Abstract:* On June 30, 1998 (63 FR 35739), SBA promulgated a rulemaking establishing eligibility requirements for participation in the 8(a) Business Development and Federal Small Disadvantaged Business programs, and application, certification, and protest procedures, among other things. Certain sections within the rule may have been subsequently amended. The current requirements are codified in the Code of Federal Regulations at 13 CFR part 124. In developing this rule, SBA performed a Regulatory Flexibility Analysis, which indicated the rule could have a significant impact on a substantial number of small entities. SBA then used this analysis to develop the rule in such a way that mitigated small entity impact to the extent possible while still fulfilling SBA's statutory mandates. SBA is now initiating a review of this rule under section 610 of the Regulatory Flexibility Act to determine if the rule should be continued without change, or should be amended or rescinded, to minimize adverse economic impacts on small entities. In the course of the review, SBA will consider the following factors: (1) The continued need for the rule; (2) the comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with Federal, State, or local government rules; and (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. SBA will solicit comments. Comments may be submitted through [www.regulations.gov](http://www.regulations.gov), referring to RIN 3245-AH19, and must be submitted on or before January 2, 2020.

*Timetable:*

Action	Date	FR Cite
Begin Review .....	12/00/19	
End Review .....	01/00/20	

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Brenda J. Fernandez, Procurement Analyst, Small Business Administration, 409 Third Street SW, Washington, DC 20416, Phone: 202 205-7337, Email: [brenda.fernandez@sba.gov](mailto:brenda.fernandez@sba.gov).

RIN: 3245-AH19

**345. • Government Contracting Programs (Section 610 Review)***E.O. 13771 Designation:* Other.*Legal Authority:* Regulatory Flexibility Act, 5 U.S.C. 610; 15 U.S.C. 634; 15 U.S.C. 637; 15 U.S.C. 644

*Abstract:* On January 31, 1996 (61 FR 3312), SBA promulgated a rulemaking identifying requirements for four Government contracting assistance programs: Prime contracting assistance, subcontracting assistance, Government property sales assistance, and the Certificate of Competency program. Certain sections within the rule may have been subsequently amended. The current requirements are codified in the Code of Federal Regulations at 13 CFR part 125. In developing this rule, SBA performed a Regulatory Flexibility Analysis, which indicated the rule could have a significant impact on a substantial number of small entities. SBA then used this analysis to develop the rule in such a way that mitigated small entity impact to the extent possible while still fulfilling the programs' statutory mandates. SBA is now initiating a review of this rule under section 610 of the Regulatory Flexibility Act to determine if the rule should be continued without change, or should be amended or rescinded, to minimize adverse economic impacts on small entities. In the course of the review, SBA will consider the following factors: (1) The continued need for the rule; (2) the comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with Federal, State, or local government rules; and (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. SBA will solicit comments. Comments may be submitted through [www.regulations.gov](http://www.regulations.gov), referring to RIN 3245-AH20, and must be submitted on or before January 2, 2020.

*Timetable:*

Action	Date	FR Cite
Begin Review .....	12/00/19	
End Review .....	01/00/20	

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Brenda J. Fernandez, Procurement Analyst, Small Business Administration, 409 Third Street SW, Washington, DC 20416, Phone: 202 205-7337, Email: [brenda.fernandez@sba.gov](mailto:brenda.fernandez@sba.gov). RIN: 3245-AH20

**346. • HUBZone Program (Section 610 Review)***E.O. 13771 Designation:* Other.

*Legal Authority:* Regulatory Flexibility Act, 5 U.S.C. 610; 15 U.S.C. 632; 15 U.S.C. 657a

*Abstract:* On June 11, 1998 (63 FR 31908), SBA promulgated a rulemaking establishing eligibility requirements for qualified HUBZone small business concerns, procedures for certification program examinations and protests, and provisions relating to HUBZone contracts, among other things. Certain sections within the rule may have been subsequently amended. The current requirements are codified in the Code of Federal Regulations at 13 CFR part 126. In developing this rule, SBA performed a Regulatory Flexibility Analysis, which indicated the rule could have a significant impact on a substantial number of small entities. SBA then used this analysis to develop the rule in such a way that mitigated small entity impact to the extent possible while still fulfilling SBA's statutory mandates. SBA is now initiating a review of this rule under section 610 of the Regulatory Flexibility Act to determine if the rule should be amended or rescinded to minimize adverse economic impacts on small entities. In the course of the review, SBA will consider the following factors: (1) The continued need for the rule; (2) the comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with Federal, State, or local government rules; and (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. SBA will solicit comments. Comments may be submitted through [www.regulations.gov](http://www.regulations.gov), referring to RIN 3245-AH21, and must be submitted on or before January 2, 2020.

*Timetable:*

Action	Date	FR Cite
Begin Review .....	12/00/19	
End Review .....	01/00/20	

*Regulatory Flexibility Analysis Required:* No.

*Agency Contact:* Brenda J. Fernandez, Procurement Analyst, Small Business Administration, 409 Third Street SW, Washington, DC 20416, Phone: 202 205-7337, Email: [brenda.fernandez@sba.gov](mailto:brenda.fernandez@sba.gov).

RIN: 3245-AH21

**SMALL BUSINESS ADMINISTRATION (SBA)**

## Proposed Rule Stage

**347. Small Business Development Center Program Revisions***E.O. 13771 Designation:* Other.*Legal Authority:* 15 U.S.C. 634(b)(6); 15 U.S.C. 648

*Abstract:* This rule proposes to update the Small Business Development Center (SBDC) program regulations by proposing to amend: (1) Procedures for approving applications when a new Lead SBDC center is selected; (2) procedures and requirements regarding findings and disputes resulting from financial exams, programmatic reviews, accreditation reviews, and other SBA oversight activities; (3) requirements for new or renewal applications for SBDC grants, including electronic submission through the approved electronic Government submission facility; (4) procedures regarding the determination to affect suspension, termination or non-renewal of an SBDC's cooperative agreement; and (5) provisions regarding the collection and use of the individual SBDC client data.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	04/02/15	80 FR 17708
ANPRM Comment Period End.	06/01/15	
NPRM .....	03/00/20	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Rachel Newman-Karton, Program Manager, Small Business Administration, 409 3rd Street SW, Washington, DC 20416, *Phone:* 202 619-1816, *Email:* rachel.newman-karton@sba.gov.

*RIN:* 3245-AE05**348. Small Business Size Standards: Educational Services; Health Care and Social Assistance; Arts, Entertainment and Recreation; Accommodation and Food Services; Other Services***E.O. 13771 Designation:* Other.*Legal Authority:* 15 U.S.C. 632(a)

*Abstract:* The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second five-year review of size standards under the Jobs Act, in this proposed rule, SBA will evaluate size standards for all industries in North American Industry Classification System (NAICS) Sector 61 (Educational Services), Sector 62 (Health Care and Social Assistance),

Sector 71 (Arts, Entertainment and Recreation), Sector 72 (Accommodation and Food Services), and Sector 81 (Other Services) and make necessary adjustments to size standards in these sectors. This is one of a series of proposed rules that will examine groups of NAICS sectors. SBA will apply its Size Standards Methodology to this proposed rule.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/00/20	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov.

*RIN:* 3245-AG88**349. Small Business Size Standards: Agriculture, Forestry, Fishing and Hunting; Mining, Quarrying, and Oil and Gas Extraction; Utilities; Construction***E.O. 13771 Designation:* Other.*Legal Authority:* 15 U.S.C. 632(a)

*Abstract:* The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second five-year review of size standards under the Jobs Act, in this proposed rule, SBA will evaluate each industry that has a receipts-based standard in North American Industry Classification System (NAICS) Sector 11 (Agriculture, Forestry, Fishing and Hunting), Sector 21 (Mining, Quarrying, and Oil and Gas Extraction), Sector 22 (Utilities), and Sector 23 (Construction), and make necessary adjustments to size standards in these sectors. This is one of a series of proposed rules that will examine groups of NAICS sectors. SBA will apply its Size Standards Methodology to this proposed rule.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/00/19	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202

205-6390, *Email:* khem.sharma@sba.gov.

*RIN:* 3245-AG89**350. Small Business Size Standards: Transportation and Warehousing; Information; Finance and Insurance; Real Estate and Rental and Leasing***E.O. 13771 Designation:* Other.*Legal Authority:* 15 U.S.C. 632(a)

*Abstract:* The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second five-year review of size standards under the Jobs Act, in this proposed rule, SBA will evaluate each industry that has a receipts-based standard in North American Industry Classification System (NAICS) Sector 48-49 (Transportation and Warehousing), Sector 51 (Information), Sector 52 (Finance and Insurance), and Sector 53 (Real Estate and Rental and Leasing) and make necessary adjustments to size standards in these sectors. This is one of a series of proposed rules that will examine groups of NAICS sectors. SBA will apply its Size Standards Methodology to this proposed rule.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/00/20	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov.

*RIN:* 3245-AG90**351. Small Business Size Standards: Professional, Scientific and Technical Services; Management of Companies and Enterprises; Administrative and Support, Waste Management and Remediation Services***E.O. 13771 Designation:* Other.*Legal Authority:* 15 U.S.C. 632(a)

*Abstract:* The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second five-year review of size standards under the Jobs Act, in this proposed rule, SBA will evaluate each industry that has a receipts-based standard in North American Industry Classification System (NAICS) Sector 54 (Professional,



Scientific and Technical Services), Sector 55 (Management of Companies and Enterprises), and Sector 56 (Administrative and Support, Waste Management and Remediation Services) and make necessary adjustments to size standards in these sectors. This is one of a series of proposed rules that will examine groups of NAICS sectors. SBA will apply its Size Standards Methodology to this proposed rule.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* [khem.sharma@sba.gov](mailto:khem.sharma@sba.gov).

*RIN:* 3245-AG91

**352. Small Business Size Standards: Manufacturing and Industries With Employee Based Size Standards in Other Sectors Except Wholesale Trade and Retail Trade**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 15 U.S.C. 632(a)  
*Abstract:* The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second 5-year review of size standards under the Jobs Act, in this proposed rule, SBA will evaluate all industries in North American Industry Classification System (NAICS) Sector 31-33 (Manufacturing) and industries with employee based size standards in other sectors except Wholesale Trade and Retail Trade and make necessary adjustments to their size standards. This is one of a series of proposed rules that will examine groups of NAICS sectors. SBA will apply its revised Size Standards Methodology, which is available on its website at <http://www.sba.gov/size>, to this proposed rule.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202

205-6390, *Email:* [khem.sharma@sba.gov](mailto:khem.sharma@sba.gov).

*RIN:* 3245-AH09

**353. Small Business Size Standards: Wholesale Trade and Retail Trade**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 15 U.S.C. 632(a)  
*Abstract:* The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second 5-year review of size standards under the Jobs Act, in this proposed rule, SBA will evaluate all industries in North American Industry Classification System (NAICS) Sector 42 (Wholesale Trade) and Sector 44-45 (Retail Trade) and make necessary adjustments to their size standards. This is one of a series of proposed rules that will examine groups of NAICS sectors. SBA will apply its revised Size Standards Methodology, which is available on its website at <http://www.sba.gov/size>, to this proposed rule.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* [khem.sharma@sba.gov](mailto:khem.sharma@sba.gov).

*RIN:* 3245-AH10

**SMALL BUSINESS ADMINISTRATION (SBA)**

Final Rule Stage

**354. Small Business Timber Set-Aside Program**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 15 U.S.C. 631; 15 U.S.C. 644(a)  
*Abstract:* The U.S. Small Business Administration (SBA or Agency) is amending its Small Business Timber Set-Aside Program (the Program) regulations. The Small Business Timber Set-Aside Program is rooted in the Small Business Act, which tasked SBA with ensuring that small businesses receive a fair proportion of the total sales of government property. Accordingly, the Program requires Timber sales to be set aside for small business when small business

participation falls below a certain amount. SBA considered comments received during the Advance Notice of Proposed Rulemaking and Notice of Proposed Rulemaking processes, including on issues such as, but not limited to, whether the saw timber volume purchased through stewardship timber contracts should be included in calculations, and whether the appraisal point used in set-aside sales should be the nearest small business mill. In addition, SBA is considering data from the timber industry to help evaluate the current program and economic impact of potential changes.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	03/25/15	80 FR 15697
ANPRM Comment Period End.	05/26/15	
NPRM .....	09/27/16	81 FR 66199
NPRM Comment Period End.	11/28/16	
Final Rule .....	03/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* David W. Loines, Director, Office of Government Contracting, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7311, *Email:* [david.loines@sba.gov](mailto:david.loines@sba.gov).  
*RIN:* 3245-AG69

**355. National Defense Authorization Acts of 2016 and 2017, Rise After Disaster Act of 2015, and Other Small Business Government Contracting Amendments**

*E.O. 13771 Designation:* Regulatory.  
*Legal Authority:* 15 U.S.C. 637(d)(17); Pub. L. 114-328, sec. 1811, sec. 1821; Pub. L. 114-92, sec. 863; Pub. L. 114-88, sec. 2108  
*Abstract:* Section 1811 of the National Defense Authorization Act (NDAA) for Fiscal Year 2017, Public Law 114-328, December 23, 2016, (NDAA) of 2017 limits the scope of review of Procurement Center Representatives for certain Department of Defense procurements performed outside of the United States. Section 1821 of the NDAA of 2017 establishes that failure to act in good faith in providing timely subcontracting reports shall be considered a material breach of the contract. Section 863 of the NDAA for FY 2016, Public Law 114-92, November 25, 2015, establishes procedures for the publication of acquisition strategies if the acquisition involves consolidation or substantial bundling. This rule also addresses changes requested by industry or other agencies, including those pertaining to exclusions from

calculating compliance with the limitations on subcontracting, an agency's ability to set aside orders under set-aside contracts, and a contracting officer's authority to request reports on a prime contractor's compliance with the limitations on subcontracting. Section 2108 of Public Law 114–88 provides agencies with double credit when they award to a local small business in a disaster area.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/04/18	83 FR 62516
NPRM Comment Period End.	02/04/19	
Final Action .....	11/00/19	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205–7189, *Fax:* 202 205–6390, *Email:* khem.sharma@sba.gov.

*RIN:* 3245–AG86

**356. Small Business Size Standards: Calculation of Annual Average Receipts**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 15 U.S.C. 632(a); Pub. L. 115–32

*Abstract:* On December 17, 2018, the President signed the Small Business Runway Extension Act (Pub. L. 115–32), which amended section 3(a)(2)(C)(ii)(II) of the Small Business Act (15 U.S.C. 632(a)(2)(C)(ii)(II)) by changing calculating average annual receipts for size standard purposes. This rulemaking is to implement the new law by changing the period for calculating annual average revenue receipts for receipts based size standards from three (3) years to five (5) years in 13 CFR 121.104.

The Small Business Act (15 U.S.C. 632(a)) delegates to SBA's Administrator the responsibility for establishing, reviewing, and updating small business definitions, commonly referred to as size standards. The Small Business Runway Extension Act amended the Small Business Act, changing the period for calculating average annual receipts from three (3) years to five (5) years.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/24/19	84 FR 29399
NPRM Comment Period End.	08/23/19	
Final Action .....	11/00/19	

*Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205–7189, *Fax:* 202 205–6390, *Email:* khem.sharma@sba.gov.

*RIN:* 3245–AH16

**357. Small Business Size Standards: Adjustment of Monetary Based Size Standards for Inflation**

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 15 U.S.C. 632(a)

*Abstract:* In this interim final rule, the U.S. Small Business Administration (SBA or Agency) adjusts all monetary based industry size standards (*i.e.*, receipts, assets, net worth, and net income) for inflation since the last adjustment in 2014. In accordance with its regulations in 13 CFR 121.102(c), SBA is required to review the effects of inflation on its monetary standards at least once every five years and adjust them, if necessary. In addition, the Small Business Jobs Act of 2010 (Jobs Act) also requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. This action will restore the small business eligibility of businesses that have lost that status due to inflation.

*Timetable:*

Action	Date	FR Cite
Interim Final Rule	07/18/19	84 FR 34261
Interim Final Rule Effective.	08/19/19	
Interim Final Rule Comment Period End.	09/16/19	
Final Action .....	12/00/19	

*Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC

20416, *Phone:* 202 205–7189, *Fax:* 202 205–6390, *Email:* khem.sharma@sba.gov.

*RIN:* 3245–AH17

**SMALL BUSINESS ADMINISTRATION (SBA)**

Long-Term Actions

**358. Small Business Size Standards; Alternative Size Standard for 7(a), 504, and Disaster Loan Programs**

*E.O. 13771 Designation:* Other.

*Legal Authority:* Pub. L. 111–240, sec. 1116

*Abstract:* SBA will propose amendments its size eligibility criteria for Business Loans, certified development company (CDC) loans under title V of the Small Business Investment Act (504) and economic injury disaster loans (EIDL). For the SBA 7(a) Business Loan Program and the 504 program, the amendments will provide an alternative size standard for loan applicants that do not meet the small business size standards for their industries. The Small Business Jobs Act of 2010 (Jobs Act) established alternative size standards that apply to both of these programs until SBA's Administrator establishes other alternative size standards. For the disaster loan program, the amendments will provide an alternative size standard for loan applicants that do not meet the Small Business Size Standard for their industries. SBA loan program alternative size standards do not affect other Federal Government programs, including Federal procurement.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	03/22/18	83 FR 12506
ANPRM Comment Period End.	05/21/18	
NPRM .....	12/00/20	

*Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Khem Raj Sharma, *Phone:* 202 205–7189, *Fax:* 202 205–6390, *Email:* khem.sharma@sba.gov.

*RIN:* 3245–AG16

[FR Doc. 2019–26574 Filed 12–23–19; 8:45 am]

BILLING CODE 8025–01–P



# FEDERAL REGISTER

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Vol. 84

Thursday,

No. 247

December 26, 2019

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Part XXI

Department of Defense

General Services Administration

National Aeronautics and Space Administration

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Semiannual Regulatory Agenda

**DEPARTMENT OF DEFENSE****GENERAL SERVICES  
ADMINISTRATION****NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION****48 CFR Ch. 1****Semiannual Regulatory Agenda**

**AGENCY:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** This agenda announces the proposed regulatory actions the Council plans for the next 12 months and those completed since the fall 2018 edition. This agenda was developed under the

guidelines of Executive Orders (E.O.) 12866 “Regulatory Planning and Review,” as amended, Executive Order 13771 “Reducing Regulation and Controlling Regulatory Costs,” and Executive Order 13563 “Improving Regulation and Regulatory Review.” The purpose in publishing this agenda is to allow interested persons an opportunity to participate in the rulemaking process. Members of the public may submit comments on individual proposed and interim final rulemakings at [www.regulations.gov](http://www.regulations.gov) during the comment period that follows publication in the **Federal Register**. This agenda updates the report published on June 24, 2019, and the next agenda is scheduled for publication in the spring of 2020. The complete Unified Agenda is available online at [www.reginfo.gov](http://www.reginfo.gov).

**FOR FURTHER INFORMATION CONTACT:** Lois Mandell, Division Director, Regulatory Secretariat Division, 1800 F Street NW, 2nd Floor, Washington, DC 20405–0001, 202–501–4755.

**SUPPLEMENTARY INFORMATION:** DoD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the FAR through periodic issuance of changes published in the **Federal Register** and produced electronically as Federal Acquisition Circulars (FACs).

The electronic version of the FAR, including changes, can be accessed at <http://www.acquisition.gov/far>.

Dated: July 24, 2019.

**William F. Clark,**

*Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.*

**DOD/GSA/NASA (FAR)—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
359 .....	FAR Acquisition Regulation (FAR); FAR Case 2015–038, Reverse Auction Guidance .....	9000–AN31
360 .....	Federal Acquisition Regulation; FAR Case 2016–002, Applicability of Small Business Regulations Outside the United States.	9000–AN34
361 .....	Federal Acquisition Regulation (FAR); FAR Case 2016–013, Tax on Certain Foreign Procurement .....	9000–AN38
362 .....	Federal Acquisition Regulation (FAR); FAR Case 2017–003; Individual Sureties .....	9000–AN39
363 .....	Federal Acquisition Regulation (FAR); FAR Case 2017–014, Use of Acquisition 360 to Encourage Vendor Feedback.	9000–AN43
364 .....	Federal Acquisition Regulation (FAR); FAR Case 2017–013, Breaches of Personally Identifiable Information.	9000–AN44
365 .....	Federal Acquisition Regulation (FAR); FAR Case 2017–011, Section 508-Based Standards in Information and Communication Technology.	9000–AN46
366 .....	Federal Acquisition Regulation (FAR); FAR Case 2017–016, Controlled Unclassified Information (CUI) .....	9000–AN56
367 .....	Federal Acquisition Regulation (FAR); FAR Case 2017–018, Violation of Arms Control Treaties or Agreements With the United States.	9000–AN57
368 .....	Federal Regulation Acquisition (FAR); FAR Case 2017–019, Policy on Joint Ventures .....	9000–AN59
369 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–002, Protecting Life in Global Health Assistance ..	9000–AN62
370 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–004; Increased Micro-Purchase and Simplified Acquisition Thresholds.	9000–AN65
371 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–006; Definition of Subcontract .....	9000–AN66
372 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–005, Modifications to Cost or Pricing Data and Reporting Requirements.	9000–AN69
373 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–012, Rights to Federally Funded Inventions and Licensing of Government-Owned Inventions.	9000–AN71
374 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–013, Exemption of Commercial and COTS Item Contracts From Certain Laws and Regulations.	9000–AN72
375 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–014, Increasing Task-Order Level Competition .....	9000–AN73
376 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–016, Lowest Price Technically Acceptable Source Selection Process.	9000–AN75
377 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–018, Revision of Definition of “Commercial Item”	9000–AN76
378 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–019, Review of Commercial Clause Requirements and Flowdown.	9000–AN77
379 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–020, Construction Contract Administration .....	9000–AN78
380 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–021, Reserve Officer Training Corps and Military Recruiting on Campus.	9000–AN79
381 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–022; Orders Issued Via Fax or Electronic Commerce.	9000–AN80
382 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–023, Taxes—Foreign Contracts in Afghanistan .....	9000–AN81
383 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–024; Use of Interagency Fleet Management System Vehicles and Related Services.	9000–AN82
384 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–001, Analysis for Equipment Acquisitions .....	9000–AN84
385 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–002, Recreational Services on Federal Lands .....	9000–AN85
386 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–003, Substantial Bundling and Consolidation .....	9000–AN86
387 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–004, Good Faith in Small Business Subcontracting.	9000–AN87
388 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–007, Update of Historically Underutilized Business Zone Program.	9000–AN90

## DOD/GSA/NASA (FAR)—PROPOSED RULE STAGE—Continued

Sequence No.	Title	Regulation Identifier No.
389 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–008, Small Business Program Amendments .....	9000–AN91
390 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–009, Prohibition on Contracting With Entities Using Certain Telecommunications and Video Surveillance Services or Equipment.	9000–AN92
391 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–010, Efficient Federal Operations .....	9000–AN94
392 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–013, Inflation Adjustment of Acquisition-Related Thresholds.	9000–AN96
393 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–015, Improving Consistency Between Procurement & Non-Procurement Procedures on Suspension and Debarment.	9000–AN98
394 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–016, Maximizing Use of American-Made Goods, Products and Materials.	9000–AN99

## DOD/GSA/NASA (FAR)—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
395 .....	Federal Acquisition Regulation (FAR); FAR Case 2013–002; Reporting of Nonconforming Items to the Government-Industry Data Exchange Program ( <b>Reg Plan Seq No. 151</b> ).	9000–AM58
396 .....	Federal Acquisition Regulation (FAR); FAR Case 2014–002; Set-Asides Under Multiple Award Contracts	9000–AM93
397 .....	Federal Acquisition Regulation: FAR Case 2016–005; Effective Communication Between Government and Industry.	9000–AN29
398 .....	Federal Acquisition Regulation (FAR); FAR Case 2017–005, Whistleblower Protection for Contractor Employees.	9000–AN32
399 .....	Federal Acquisition Regulation (FAR); FAR Case 2016–011, Revision of Limitations on Subcontracting ....	9000–AN35
400 .....	Federal Acquisition Regulations (FAR); FAR Case 2015–002, Requirements for DD Form 254, Contract Security Classification Specification.	9000–AN40
401 .....	Federal Acquisition Regulation (FAR); FAR Case 2017–010, Evaluation Factors for Multiple-Award Contracts.	9000–AN54
402 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–003, Credit for Lower-Tier Small Business Subcontracting.	9000–AN61
403 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–017—Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.	9000–AN83
404 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–005, Update to Contract Performance Assessment Reporting System (CPARS).	9000–AN88

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

## DOD/GSA/NASA (FAR)—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
405 .....	Federal Acquisition Regulation (FAR); FAR Case 2015–015; Strategic Sourcing Documentation .....	9000–AM89
406 .....	Federal Acquisition Regulation (FAR); FAR Case 2015–033, Sustainable Acquisition .....	9000–AN28
407 .....	Federal Acquisition Regulation (FAR); FAR Case 2017–006, Exception From Certified Cost or Pricing Data Requirements—Adequate Price Competition.	9000–AN53
408 .....	Federal Acquisition Regulation (FAR); FAR Case 2017–020, Ombudsman for Indefinite-Delivery Contracts	9000–AN58
409 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–010, Use of Product and Services of Kaspersky Lab.	9000–AN64

**DEPARTMENT OF DEFENSE/  
GENERAL SERVICES  
ADMINISTRATION/NATIONAL  
AERONAUTICS AND SPACE  
ADMINISTRATION (FAR)**

Proposed Rule Stage

**359. FAR Acquisition Regulation (FAR);  
FAR Case 2015–038, Reverse Auction  
Guidance**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to

implement policies addressing the effective use of reverse auctions. Reverse auctions involve offerors lowering their pricing over multiple rounds of bidding in order to win Federal contracts. This change incorporates guidance from the Office of Federal Procurement Policy (OFPP) memorandum, “Effective Use of Reverse Auctions,” which was issued in response to recommendations from the GAO report, *Reverse Auctions: Guidance is Needed to Maximize Competition and Achieve Cost Savings* (GAO–14–108). Reverse auctions are one tool used by Federal agencies to

increase competition and reduce the cost of certain items. Reverse auctions differ from traditional auctions in that sellers compete against one another to provide the lowest price or highest-value offer to a buyer. This change to the FAR will include guidance that will standardize agencies’ use of reverse auctions to help agencies maximize competition and savings when using reverse auctions.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/00/19	

Action	Date	FR Cite
NPRM Comment Period End.	02/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 501-1448, *Email:* [curtis.glover@gsa.gov](mailto:curtis.glover@gsa.gov).

*RIN:* 9000-AN31

### 360. Federal Acquisition Regulation; FAR Case 2016-002, Applicability of Small Business Regulations Outside the United States

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) consistent with SBA's regulation at 13 CFR 125.2 as finalized in its rule "Acquisition Process: Task and Delivery Order Contracts, Bundling, Consolidation" issued on October 2, 2013, to clarify that overseas contracting is not excluded from agency responsibilities to foster small business participation.

In its final rule, SBA has clarified that, as a general matter, its small business contracting regulations apply regardless of the place of performance. In light of these changes, there is a need to amend the FAR, both to bring its coverage into alignment with SBA's regulation, and to give agencies the tools they need, especially the ability to use set-asides to maximize opportunities for small businesses overseas.

SBA has included contracts performed outside of the United States in agencies' prime contracting goals since FY 2016. Although inclusion for goaling purposes is not dependent on FAR changes, amending FAR part 19 will allow agencies to take advantage of the tools authorized for providing small business opportunities for contracts awarded outside of the United States.

This will make it easier for small businesses to receive additional opportunities for contracts performed outside of the United States.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/12/19	84 FR 39793
NPRM Comment Period End.	10/11/19	
Final Rule .....	04/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Marilyn Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-7185, *Email:* [marilyn.chambers@gsa.gov](mailto:marilyn.chambers@gsa.gov).

*RIN:* 9000-AN34

### 361. Federal Acquisition Regulation (FAR); FAR Case 2016-013, Tax on Certain Foreign Procurement

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 37; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement a final rule issued by the Department of the Treasury that implements section 301 of the James Zadroga 9/11 Health and Compensation Act of 2010, Public Law 111347. This section imposes on any foreign person that receives a specified Federal procurement payment a tax equal to two percent of the amount of such payment. This rule applies to foreign persons that are awarded Federal Government contracts to provide goods or services.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/20/19	84 FR 49498
NPRM Comment Period End.	11/19/19	
Final Rule .....	06/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Zenaida Delgado, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-7207, *Email:* [zenaida.delgado@gsa.gov](mailto:zenaida.delgado@gsa.gov).

*RIN:* 9000-AN38

### 362. Federal Acquisition Regulation (FAR); FAR Case 2017-003; Individual Sureties

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to change the kinds of assets that individual sureties must use as security for their individual surety bonds. This change implements section 874 of the National Defense Authorization Act (NDAA) for FY 2016 (Pub. L. 114-92), codified at 31 U.S.C. 9310, Individual Sureties. Individual sureties will no longer be able to pledge real property, corporate stocks, corporate bonds, or irrevocable letters of credit. The requirements of 31 U.S.C. 9310 are intended to strengthen the assets pledged by individual

sureties, thereby mitigating risk to the Government.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/00/20	
NPRM Comment Period End.	03/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Zenaida Delgado, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-7207, *Email:* [zenaida.delgado@gsa.gov](mailto:zenaida.delgado@gsa.gov).

*RIN:* 9000-AN39

### 363. Federal Acquisition Regulation (FAR); FAR Case 2017-014, Use of Acquisition 360 To Encourage Vendor Feedback

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to address the solicitation of contractor feedback on both contract formation and contract administration activities. Agencies would consider this feedback, as appropriate, to improve the efficiency and effectiveness of their acquisition activities. The rule would create FAR policy to encourage regular feedback in accordance with agency practice (both for contract formation and administration activities) and a standard FAR solicitation provision to support a sustainable model for broadened use of the Acquisition 360 survey to elicit feedback on the pre-award and debriefing processes in a consistent and standardized manner. Agencies would be able to use the solicitation provision to notify interested sources that a procurement is part of the Acquisition 360 survey and encourage stakeholders to voluntarily provide feedback on their experiences of the pre-award process.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	07/23/18	83 FR 34820
ANPRM Comment Period End.	09/21/18	
NPRM .....	01/00/20	
NPRM Comment Period End.	03/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 501-1448, *Email:* [curtis.glover@gsa.gov](mailto:curtis.glover@gsa.gov).

RIN: 9000-AN43

**364. Federal Acquisition Regulation (FAR); FAR Case 2017-013, Breaches of Personally Identifiable Information**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to create and implement appropriate contract clauses and regulatory coverage to address contractor requirements for a breach response consistent with the requirements. This FAR change will implement the requirements outlined in the Office of Management and Budget (OMB) Memorandum, M-17-12, "Preparing for and Responding to a Breach of Personally Identifiable Information," section V part B.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	01/00/20 03/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* FAR Policy, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-4075, *Email:* [farpolicy@gsa.gov](mailto:farpolicy@gsa.gov).

RIN: 9000-AN44

**365. Federal Acquisition Regulation (FAR); FAR Case 2017-011, Section 508-Based Standards in Information and Communication Technology**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to incorporate revisions and updates to standards in section 508 of the Rehabilitation Act of 1973, developed by the Architectural and Transportation Barriers Compliance Board (also referred to as the "Access Board"). This FAR change incorporates the U.S. Access Board's final rule, "Information and Communication Technology (ICT) Standards and Guidelines," published on January 18, 2017, which implemented revisions and updates to the section 508-based standards and section 255-based guidelines. This rule is expected to impose additional costs on Federal agencies. The purpose is to increase productivity for Federal employees with disabilities, time savings due to improved accessibility of Federal websites for members of the public with disabilities, and reduced

call volumes to Federal agencies. Additionally, this rule harmonizes standards with national and international consensus standards. This would assist American ICT companies by helping them to achieve economies of scale created by a wider use of these technical standards.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	11/00/19 01/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* FAR Policy, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-4075, *Email:* [farpolicy@gsa.gov](mailto:farpolicy@gsa.gov).

RIN: 9000-AN46

**366. Federal Acquisition Regulation (FAR); FAR Case 2017-016, Controlled Unclassified Information (CUI)**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement the National Archives and Records Administration (NARA) Controlled Unclassified Information (CUI) program of Executive Order 13556 of November 4, 2010. As the executive agent designated to oversee the Governmentwide CUI program, NARA issued implementing regulations in late 2016 designed to address Federal agency policies for designating, safeguarding, disseminating, marking, decontrolling, and disposing of CUI. The NARA rule, which is codified at 32 CFR 2002, affects contractors that handle, possess, use, share, or receive CUI. This FAR rule helps to ensure uniform implementation of the requirements of the CUI program in contracts across Government agencies.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	04/00/20 06/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* FAR Policy, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-4075, *Email:* [farpolicy@gsa.gov](mailto:farpolicy@gsa.gov).

RIN: 9000-AN56

**367. Federal Acquisition Regulation (FAR); FAR Case 2017-018, Violation of Arms Control Treaties or Agreements With the United States**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a proposed rule to address a public comment on the interim rule issued to amend the Federal Acquisition Regulation (FAR) to implement section 1290(c)(3) of the National Defense Authorization Act (NDAA) for FY 2017, which requires an offeror or any of its subsidiaries to certify that it does not engage in any activity that contributed to or is a significant factor in the determination that a country is not in full compliance with its obligations undertaken in all arms control, nonproliferation, and disarmament agreements or commitments in which the United States is a participating state.

*Timetable:*

Action	Date	FR Cite
Interim Final Rule Interim Final Rule Comment Pe- riod End. NPRM ..... NPRM Comment Period End.	06/15/18 08/14/18  02/00/20 04/00/20	83 FR 28145

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Cecelia L. Davis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 219-0202, *Email:* [cecilia.davis@gsa.gov](mailto:cecilia.davis@gsa.gov).

RIN: 9000-AN57

**368. Federal Regulation Acquisition (FAR); FAR Case 2017-019, Policy on Joint Ventures**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration (SBA), Small Business Mentor Protégé Programs, published on July 25, 2016 (81 FR 48557), regarding joint ventures and to clarify policy on 8(a) joint ventures. The regulatory changes provide industry with a new way to compete for small business or socioeconomic set-asides using a joint venture made up of a mentor and a protégé. The 8(a) joint venture clarification prevents confusion on an 8(a) joint venture's eligibility to compete for an 8(a) competitive procurement.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/00/20	
NPRM Comment Period End.	03/00/20	

*Regulatory Flexibility Analysis**Required: Yes.*

*Agency Contact:* Marilyn Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-7185, *Email:* marilyn.chambers@gsa.gov.

RIN: 9000-AN59

### 369. Federal Acquisition Regulation (FAR); FAR Case 2018-002, Protecting Life in Global Health Assistance

*E.O. 13771 Designation:* Regulatory.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement Presidential Memorandum, "The Mexico City Policy," issued on January 13, 2017, in accordance with the Department of State's implementation plan dated May 9, 2017. This rule would extend requirements of the memorandum and plans to new funding agreements for global health assistance furnished by all Federal departments or agencies. This expanded policy will cover global health assistance to include funding for international health programs, such as those for HIV/AIDS, maternal and child health, malaria, global health security, and certain family planning and reproductive health.

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/00/20	
NPRM Comment Period End.	04/00/20	

*Regulatory Flexibility Analysis**Required: Yes.*

*Agency Contact:* FAR Policy, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-4075, *Email:* farpolicy@gsa.gov.

RIN: 9000-AN62

### 370. Federal Acquisition Regulation (FAR); FAR Case 2018-004; Increased Micro-Purchase and Simplified Acquisition Thresholds

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the FAR to implement sections 805, 806, and 1702(a) of the National Defense

Authorization Act (NDAA) for FY 2018. Section 805 increases the micro-purchase threshold (MPT) to \$10,000 and limits the use of convenience checks to not more than one half of the MPT amount (*i.e.*, \$5,000). Section 806 increases the simplified acquisition threshold (SAT) to \$250,000. Section 1702(a) amends section 15(j)(1) of the Small Business Act (15 U.S.C. 644(j)(1)) to replace specific dollar thresholds with the terms "micro-purchase threshold" and "simplified acquisition threshold."

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/02/19	84 FR 52420
NPRM Comment Period End.	12/02/19	
Final Rule .....	02/00/20	

*Regulatory Flexibility Analysis**Required: Yes.*

*Agency Contact:* Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208-4949, *Email:* michael.o.jackson@gsa.gov.

RIN: 9000-AN65

### 371. Federal Acquisition Regulation (FAR); FAR Case 2018-006; Definition of Subcontract

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to implement section 820 of the National Defense Authorization Act (NDAA) for FY 2018. Section 820 amends 41 U.S.C. 1906(c)(1) to change the definition of "subcontract" for the procurement of commercial items to exclude agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Federal Government and other parties and are not identifiable to any particular contract.

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/00/20	
NPRM Comment Period End.	04/00/20	

*Regulatory Flexibility Analysis**Required: Yes.*

*Agency Contact:* Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208-4949, *Email:* michael.o.jackson@gsa.gov.

RIN: 9000-AN66

### 372. Federal Acquisition Regulation (FAR); FAR Case 2018-005, Modifications to Cost or Pricing Data and Reporting Requirements

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to increase the Truth in Negotiation Act (TINA) threshold to \$2 million and require other than certified cost or pricing data. The rule reduces the burden on contractors because they would not be required to certify their cost or pricing data between \$750,000 and \$2 million. This change implements section 811 of the National Defense Authorization Act (NDAA) for FY 2018. Section 811 modifies 10 U.S.C. 2306a and 41 U.S.C. 3502.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/02/19	84 FR 52428
NPRM Comment Period End.	12/02/19	
Final Rule .....	02/00/20	

*Regulatory Flexibility Analysis**Required: Yes.*

*Agency Contact:* Ms. Zenaida Delgado, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-7207, *Email:* zenaida.delgado@gsa.gov.

RIN: 9000-AN69

### 373. Federal Acquisition Regulation (FAR); FAR Case 2018-012, Rights to Federally Funded Inventions and Licensing of Government-Owned Inventions

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the FAR to implement the changes to 37 CFR parts 401 and 404, "Rights to Federally Funded Inventions and Licensing of Government-Owned Inventions," dated May 14, 2018. The changes reduce regulatory burdens, provide greater clarity to large businesses by codifying the applicability of Bayh-Dole as directed in Executive Order 12591, and provide greater clarity to all Federal funding recipients by updating regulatory provisions to align with provisions of the Leahy-Smith America Invents Act in terms of definitions and timeframes.

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/00/20	



Action	Date	FR Cite
NPRM Comment Period End.	04/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Cecelia L. Davis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 202 219-0202, Email: [cecelia.davis@gsa.gov](mailto:cecelia.davis@gsa.gov).

RIN: 9000-AN71

**374. Federal Acquisition Regulation (FAR); FAR Case 2018-013, Exemption of Commercial and COTS Item Contracts From Certain Laws and Regulations**

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch.137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement paragraph (a) of section 839 of the John S. McCain National Defense Authorization Act for fiscal year 2019. Paragraph (a) requires the FAR Council to review each past determination made not to exempt contracts and subcontracts for commercial products, commercial services, and commercially available off-the-shelf (COTS) items from certain laws when these contracts would otherwise have been exempt under 41 U.S.C. 1906(d) or 41 U.S.C. 1907(b). The FAR Council or the Administrator for Federal Procurement Policy has to determine whether there still exists specific reason not to provide exemptions from certain laws. If no determination is made to continue to exempt commercial contracts and subcontracts from certain laws, paragraph (a) requires that revisions to the FAR be proposed to reflect exemptions from those laws. Paragraph (a) requires these revisions to be proposed within one year of the date of enactment of section 839.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	12/00/19 02/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Mahruba Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 703 605-2868, Email: [mahruba.uddowla@gsa.gov](mailto:mahruba.uddowla@gsa.gov).

RIN: 9000-AN72

**375. Federal Acquisition Regulation (FAR); FAR Case 2018-014, Increasing Task-Order Level Competition**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 876 of the John S. McCain National Defense Authorization Act for fiscal year 2019, which would provide civilian agencies with an exception to the existing statutory requirement to include price to the Federal Government as an evaluation factor that must be considered in the evaluation of proposals for all contracts. The exception would only apply to IDIQ contracts and to Federal Supply Schedule contracts for services that are priced at an hourly rate. Furthermore, the exception would only apply in those instances where the Government intends to make a contract award to all qualifying offerors, thus affording maximum opportunity for effective competition at the task order level. An offeror would be qualified only if it is a responsible source and submits a proposal that conforms to the requirements of the solicitation, meets any technical requirements, and is otherwise eligible for award.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	02/00/20 04/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 202 501-1448, Email: [curtis.glover@gsa.gov](mailto:curtis.glover@gsa.gov).

RIN: 9000-AN73

**376. Federal Acquisition Regulation (FAR); FAR Case 2018-016, Lowest Price Technically Acceptable Source Selection Process**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement section 880 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 to avoid using lowest price technically acceptable source selection criteria in circumstances that would deny the Government the benefits of cost and

technical tradeoffs in the source selection process.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End. Final Rule .....	10/02/19 12/02/19 02/00/20	84 FR 52425

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 202 208-4949, Email: [michaelo.jackson@gsa.gov](mailto:michaelo.jackson@gsa.gov).

RIN: 9000-AN75

**377. Federal Acquisition Regulation (FAR); FAR Case 2018-018, Revision of Definition of "Commercial Item"**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C.121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to separate the commercial item definition into definitions of commercial product and commercial service. Section 836 of the National Defense Authorization Act (NDAA) for fiscal year (FY) 2019 (Pub. L. 115-232) set the effective date of the new definitions to January 1, 2020. This is consistent with the recommendations by the independent panel created by section 809 of the NDAA for FY 2016 (Pub. L. 11492). This case implements amendment to 41 U.S.C. 103.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	12/00/19 02/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Zenaida Delgado, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 202 969-7207, Email: [zenaida.delgado@gsa.gov](mailto:zenaida.delgado@gsa.gov).

RIN: 9000-AN76

**378. Federal Acquisition Regulation (FAR); FAR Case 2018-019, Review of Commercial Clause Requirements and Flowdown**

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement paragraphs (b) and (c) of section 839 of the John S. McCain

National Defense Authorization Act for fiscal year 2019.

Paragraph (b) requires the FAR Council to review the FAR to assess every regulation that requires a specific clause in contracts for commercial products or commercial services, unless the regulation is required by law or Executive Order. Paragraph (b) also requires that revisions to the FAR be proposed to eliminate those regulations unless the FAR Council makes a determination not to eliminate a regulation.

Paragraph (c) requires the FAR Council to review the FAR to assess every regulation that requires a prime contractor to include a specific clause in subcontracts for commercially available off-the-shelf items, unless the clause is required by law or Executive Order. Paragraph (c) also requires that revisions to the FAR be proposed to eliminate those regulations unless the FAR Council makes a determination not to eliminate a regulation.

Paragraphs (b) and (c) require these revisions to be proposed within one year of the date of the enactment of section 839.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/00/19	
NPRM Comment Period End.	02/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Mahruba Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605–2868, *Email:* mahruba.uddowla@gsa.gov.

*RIN:* 9000–AN77

**379. Federal Acquisition Regulation (FAR); FAR Case 2018–020, Construction Contract Administration**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* This proposal implements section 855 of the NDAA for FY 2019 (Pub. L. 115–232). Section 855 requires, for solicitations for construction contracts anticipated to be awarded to a small business, notification to prospective offerors regarding agency policies or practices in complying with FAR requirements relating to the timely definitization of requests for equitable adjustment and agency past performance in definitizing such requests.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/00/20	
NPRM Comment Period End.	03/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Marilyn Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969–7185, *Email:* marilyn.chambers@gsa.gov.

*RIN:* 9000–AN78

**380. Federal Acquisition Regulation (FAR); FAR Case 2018–021, Reserve Officer Training Corps and Military Recruiting on Campus**

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement the requirements at 10 U.S.C. 983, which prohibits the award of certain Federal contracts or grants to institutions of higher education that prohibit Senior Reserve Officer Training Corps units or military recruiting on campus.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/24/19	84 FR 49974
NPRM Comment Period End.	11/25/19	
Final Rule .....	05/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Cecelia L. Davis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 219–0202, *Email:* cecelia.davis@gsa.gov.

*RIN:* 9000–AN79

**381. Federal Acquisition Regulation (FAR); FAR Case 2018–022; Orders Issued Via Fax or Electronic Commerce**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) clause 52.216–18, Ordering, to authorize issuance of orders via fax or email and clarify when an order is considered to be issued when utilizing these methods.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/23/19	84 FR 44270

Action	Date	FR Cite
NPRM Comment Period End.	10/22/19	
Final Rule .....	03/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 501–1448, *Email:* curtis.glover@gsa.gov.

*RIN:* 9000–AN80

**382. Federal Acquisition Regulation (FAR); FAR Case 2018–023, Taxes—Foreign Contracts in Afghanistan**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement the provisions on taxes, duties, and fees contained in the Security and Defense Cooperation Agreement (dated 2014) and the North Atlantic Treaty Organization Status of Forces Agreement (dated 2014) with the Islamic Republic of Afghanistan. Both Agreements exempt the United States Government, and its contractors and subcontractors (other than those who are Afghan legal entities or residents), from paying any tax or similar charge assessed on activities associated with contracts performed within Afghanistan. The Agreements also exempt the acquisition, importation, exportation, reexportation, transportation, and use of supplies and services in Afghanistan, by or on behalf of the United States Government, from any taxes, customs, duties, fees, or similar charges in Afghanistan.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/20/19	84 FR 49502
Correction .....	10/15/19	84 FR 55109
NPRM Comment Period End.	11/19/19	
Final Rule .....	03/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* FAR Policy, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969–4075, *Email:* farpolicy@gsa.gov.

*RIN:* 9000–AN81

**383. Federal Acquisition Regulation (FAR); FAR Case 2018–024; Use of Interagency Fleet Management System Vehicles and Related Services**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) clause 52.251-1, Interagency Fleet Management System Vehicles and Related Services, to provide contractors who have been authorized to use fleet vehicles with additional information on how to request the vehicles from the Government.

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/00/20	
NPRM Comment Period End.	04/00/20	

#### *Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 501-1448, *Email:* [curtis.glover@gsa.gov](mailto:curtis.glover@gsa.gov).

*RIN:* 9000-AN82

#### **384. Federal Acquisition Regulation (FAR); FAR Case 2019-001, Analysis for Equipment Acquisitions**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the FAR by implementing section 555 of the Federal Aviation Administration (FAA) Reauthorization Act for FY 2018 (Pub. L. 115-254), which requires equipment to be acquired using the method of acquisition most advantageous to the Government based on a case-by-case analysis of costs and other factors. Section 555 requires the methods of acquisition to be compared in the analysis to include, at a minimum: (1) Purchase; (2) long-term lease or rental; (3) short-term lease or rental; (4) interagency acquisition; or, (5) acquisition agreements with a State or local government. Section 555 exempts certain acquisitions from this required analysis.

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/00/20	
NPRM Comment Period End.	04/00/20	

#### *Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208-4949, *Email:* [michaelo.jackson@gsa.gov](mailto:michaelo.jackson@gsa.gov).

*RIN:* 9000-AN84

#### **385. Federal Acquisition Regulation (FAR); FAR Case 2019-002, Recreational Services on Federal Lands**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to exempt contracts for seasonal recreational services and seasonal recreational equipment rental on Federal lands from the Executive Order 13658 minimum wage requirements. This rule implements Executive Order 13838 that was issued on May 25, 2018, and associated Department of Labor final rule published on September 26, 2018. In accordance with Executive Order 13838, this proposed rule will not limit Executive Order 13658's coverage of lodging and food services associated with seasonal recreational services, even when seasonal recreational services or seasonal recreational equipment rental are also provided under the same contract.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/21/19	84 FR 56157
NPRM Comment Period End.	12/20/19	
Final Rule .....	04/00/20	

#### *Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* FAR Policy, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-4075, *Email:* [farpolicy@gsa.gov](mailto:farpolicy@gsa.gov).

*RIN:* 9000-AN85

#### **386. Federal Acquisition Regulation (FAR); FAR Case 2019-003, Substantial Bundling and Consolidation**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 863 of the National Defense Authorization Acts (NDAA) for FY 2016 and the Small Business Administration (SBA) implementing regulations requiring publication of a notice of substantial bundling and a notice of consolidation of contract requirements.

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/00/20	

Action	Date	FR Cite
NPRM Comment Period End.	05/00/20	

#### *Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Marilyn Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-7185, *Email:* [marilyn.chambers@gsa.gov](mailto:marilyn.chambers@gsa.gov).

*RIN:* 9000-AN86

#### **387. Federal Acquisition Regulation (FAR); FAR Case 2019-004, Good Faith in Small Business Subcontracting**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 1821 of the National Defense Authorization Act (NDAA) for FY 2017 and the Small Business Administration regulatory changes relating to small business subcontracting plans. Section 1821 requires examples of activities that would be considered a failure to make a good faith effort to comply with small business subcontracting plan requirements.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/00/20	
NPRM Comment Period End.	03/00/20	

#### *Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Marilyn Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-7185, *Email:* [marilyn.chambers@gsa.gov](mailto:marilyn.chambers@gsa.gov).

*RIN:* 9000-AN87

#### **388. Federal Acquisition Regulation (FAR); FAR Case 2019-007, Update of Historically Underutilized Business Zone Program**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement regulatory changes proposed by the Small Business Administration regarding the Historically Underutilized Business Zone (HUBZone) Program. The proposed regulatory changes are intended to reduce the regulatory burden associated with the HUBZone Program.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	05/00/20 07/00/20	

*Regulatory Flexibility Analysis*  
*Required: Yes.*

*Agency Contact:* Marilyn Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969–7185, *Email:* marilyn.chambers@gsa.gov.  
*RIN:* 9000–AN90

**389. Federal Acquisition Regulation (FAR); FAR Case 2019–008, Small Business Program Amendments**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113  
*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement regulatory changes proposed by the Small Business Administration regarding small business programs. The proposed regulatory changes include the timing of the determination of size status for multiple-award contracts for which price is not evaluated at the contract level; the grounds for size-status protests; and the grounds for socioeconomic status protests.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	06/00/20 08/00/20	

*Regulatory Flexibility Analysis*  
*Required: Yes.*

*Agency Contact:* Marilyn Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969–7185, *Email:* marilyn.chambers@gsa.gov.  
*RIN:* 9000–AN91

**390. Federal Acquisition Regulation (FAR); FAR Case 2019–009, Prohibition on Contracting With Entities Using Certain Telecommunications and Video Surveillance Services or Equipment**

*E.O. 13771 Designation:* Fully or Partially Exempt.  
*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113  
*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement paragraph (a)(1)(B) of section 889 of the National Defense Authorization Act (NDAA) for FY 19 (Pub. L. 115–232). Beginning two years from the enacted date, paragraph (a)(1)(B) of section 889 prohibits the Government from entering into a

contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment and services from Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Technology Company, or Dahua Technology Company, to include any subsidiaries or affiliates. This FAR rule is needed to protect U.S. networks against cyber activities conducted through Chinese Government-supported telecommunications equipment and services. Paragraph (a)(1)(A) of section 889 is being implemented separately through FAR Case 2018–017.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	12/00/19 02/00/20	

*Regulatory Flexibility Analysis*  
*Required: Yes.*

*Agency Contact:* FAR Policy, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969–4075, *Email:* farpolicy@gsa.gov.  
*RIN:* 9000–AN92

**391. • Federal Acquisition Regulation (FAR); FAR Case 2019–010, Efficient Federal Operations**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113  
*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement Executive Order 13834, “Efficient Federal Operations.” Executive Order 13834 directs Federal agencies to comply with statutory requirements related to energy and environmental performance in a manner that increases efficiency, maximizes performance, eliminates unnecessary use of resources, and protects the environment. This rule promotes the efficient acquisition of sustainable products, services, and construction methods in order to reduce energy and water consumption, reliance on natural resources, and enhance pollution prevention, within the Federal Government.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	03/00/20 05/00/20	

*Regulatory Flexibility Analysis*  
*Required: Yes.*

*Agency Contact:* FAR Policy, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969–4075, *Email:* farpolicy@gsa.gov.  
*RIN:* 9000–AN94

**392. • Federal Acquisition Regulation (FAR); FAR Case 2019–013, Inflation Adjustment of Acquisition-Related Thresholds**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113  
*Abstract:* DoD, GSA, and NASA are issuing a proposed rule amending the Federal Acquisition Regulation (FAR) to implement the inflation adjustment of acquisition-related dollar thresholds. A statute (41 U.S.C. 1908) requires an adjustment every 5 years of acquisition-related thresholds for inflation using the Consumer Price Index for all urban consumers, except for the Construction Wage Rate Requirements statute (formerly Davis-Bacon Act), Service Contract Labor Standards statute, and trade agreements thresholds.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	12/00/19 02/00/20	

*Regulatory Flexibility Analysis*  
*Required: Yes.*

*Agency Contact:* Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208–4949, *Email:* michaelo.jackson@gsa.gov.  
*RIN:* 9000–AN96

**393. • Federal Acquisition Regulation (FAR); FAR Case 2019–015, Improving Consistency Between Procurement & Non-Procurement Procedures on Suspension and Debarment**

*E.O. 13771 Designation:* Other.  
*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113  
*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to bring the FAR and the Non-procurement Common Rule (NCR) procedures on suspension and debarment into closer alignment. The FAR covers procurement matters and the NCR covers other transactions, such as grants, cooperative agreements, contracts of assistance, loans and loan guarantees.  
The Government uses suspension and debarment procedures to exercise business judgment. These procedures give Federal officials a discretionary means to exclude parties from participation in certain transactions,

while affording those parties due process.

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/00/20	
NPRM Comment Period End.	04/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Cecelia L. Davis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 219-0202, *Email:* cecelia.davis@gsa.gov.

*RIN:* 9000-AN98

**394. • Federal Acquisition Regulation (FAR); FAR Case 2019-016, Maximizing Use of American-Made Goods, Products and Materials**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 13881, Maximizing Use of American-Made Goods, Products, and Materials.

The case proposes to amend the applicable provisions in the FAR that would provide that materials shall be considered to be of foreign origin if: (A) For iron and steel end products, the cost of foreign iron and steel used in such iron and steel end products constitutes 5 percent or more of the cost of all the products used in such iron and steel end products; or (B) for all other end products, the cost of the foreign products used in such end products constitutes 45 percent or more of the cost of all the products used in such end products.

The case also proposes to amend the applicable provisions in the FAR so that the executive agency concerned shall in each instance conduct the reasonableness and public interest determination referred to in sections 8302 and 8303 of title 41, United States Code, on the basis of the following described differential formula, subject to the terms thereof: The sum determined by computing 20 percent (for other than small businesses), or 30 percent (for small businesses), of the offer or offered price of materials of foreign origin.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/00/20	
NPRM Comment Period End.	03/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Cecelia L. Davis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 219-0202, *Email:* cecelia.davis@gsa.gov.

*RIN:* 9000-AN99

**DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)**

Final Rule Stage

**395. Federal Acquisition Regulation (FAR); FAR Case 2013-002; Reporting of Nonconforming Items to the Government-Industry Data Exchange Program**

*Regulatory Plan:* This entry is Seq. No. 151 in part II of this issue of the **Federal Register**.

*RIN:* 9000-AM58

**396. Federal Acquisition Regulation (FAR); FAR Case 2014-002; Set-Asides Under Multiple Award Contracts**

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration, which provide Governmentwide policy for partial set-asides and reserves and for set-asides of orders for small business concerns under multiple-award contracts.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/06/16	81 FR 88072
NPRM Comment Period End.	02/06/17	
Final Rule .....	11/00/19	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Mahruha Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605-2868, *Email:* mahruha.uddowla@gsa.gov.

*RIN:* 9000-AM93

**397. Federal Acquisition Regulation: FAR Case 2016-005; Effective Communication Between Government and Industry**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement section 887 of the NDAA for FY 2016 (Pub. L. 114-92). This law provides that Government acquisition personnel are permitted and encouraged to engage in responsible and constructive exchanges with industry. This change will permit and encourage Government acquisition personnel to engage in responsible and constructive exchanges with industry as part of market research as long as those exchanges are consistent with existing laws and regulations and promote a fair competitive environment.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/29/16	81 FR 85914
NPRM Comment Period End.	03/02/17	
Final Rule .....	01/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208-4949, *Email:* michaelo.jackson@gsa.gov.

*RIN:* 9000-AN29

**398. Federal Acquisition Regulation (FAR); FAR Case 2017-005, Whistleblower Protection for Contractor Employees**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA issued a final rule to amend the Federal Acquisition Regulation (FAR) to implement 41 U.S.C. 4712, "Enhancement of Contractor Protection From Reprisal for Disclosure of Certain Information," and makes the pilot program permanent. The pilot was enacted on January 2, 2013, by section 828 of the National Defense Authorization Act (NDAA) for fiscal year (FY) 2013. The rule clarifies that contractors and subcontractors are prohibited from discharging, demoting, or otherwise discriminating against an employee as a reprisal for disclosing to any of the entities such as agency Inspector Generals and Congress information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract; a gross waste of Federal funds; an abuse of authority relating to a Federal contract; a substantial and specific

danger to public health or safety; or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract.) This rule enhances whistleblower protections for contractor employees by making permanent the protection for disclosure of the aforementioned information, and ensuring that the prohibition on reimbursement for legal fees accrued in defense against reprisal claims applies to both contractors and subcontractors.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/26/18	83 FR 66223
NPRM Comment Period End.	02/25/19	
Final Rule .....	12/00/19	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Cecelia L. Davis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F NW, Washington, DC 20405, *Phone:* 202 219-0202, *Email:* cecelia.davis@gsa.gov.

*RIN:* 9000-AN32

**399. Federal Acquisition Regulation (FAR); FAR Case 2016-011, Revision of Limitations on Subcontracting**

*E.O. 13771 Designation:* Deregulatory. *Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to revise and standardize the limitations on subcontracting, including the nonmanufacturer rule, that apply to small business concerns under FAR part 19 procurements. This rule incorporates The Small Business Administration's (SBA) final rule that implemented the statutory requirements of section 1651 of the National Defense Authorization Act (NDAA) for fiscal year 2013. This action is necessary to meet the Congressional intent of clarifying the limitations on subcontracting with which small businesses must comply, as well as the ways in which they can comply. The rule will benefit both small businesses and Federal agencies. The rule will allow small businesses to take advantage of subcontracts with similarly situated entities. As a result, these small businesses will be able to compete for larger contracts, which would positively affect their potential for growth as well as that of their potential subcontractors.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/04/18	83 FR 62540

Action	Date	FR Cite
NPRM Comment Period End.	02/04/19	
Final Rule .....	01/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* FAR Policy, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-4075, *Email:* farpolicy@gsa.gov. *RIN:* 9000-AN35

**400. Federal Acquisition Regulations (FAR); FAR Case 2015-002, Requirements for DD Form 254, Contract Security Classification Specification**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to require the use of Department of Defense (DoD) Wide Area Workflow (WAWF) for the electronic submission of the DD Form 254, "Contract Security Classification Specification." This form is used to convey security requirements regarding classified information to contractors and subcontractors and must be submitted to the Defense Security Services (DSS) when contractors or subcontractors require access to classified information under contracts awarded by agencies that are covered by the National Industrial Security Program (NISP). By changing the submittal process of the form from a manual process to an automated one, the Government will reduce the cost of maintaining the forms, while also providing a centralized repository for classified contract security requirements and supporting data.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/12/19	84 FR 33201
NPRM Comment Period End.	09/10/19	
Final Rule .....	04/00/20	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 501-1448, *Email:* curtis.glover@gsa.gov *RIN:* 9000-AN40

**401. Federal Acquisition Regulation (FAR); FAR Case 2017-010, Evaluation Factors for Multiple-Award Contracts**

*E.O. 13771 Designation:* Deregulatory.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement section 825 of the National Defense Authorization Act (NDAA) for FY 17 (Pub. L. 114-328). Section 825 amends 10 U.S.C. 2305(a)(3) to change the requirement regarding the consideration of cost or price to the Government as a factor in the evaluation of proposals for certain multiple-award task order contracts awarded by DoD, NASA, or the Coast Guard. At the Government's discretion, solicitations for multiple-award contracts, which intend to award the same or similar services to each qualifying offeror, do not require price or cost as an evaluation factor for the base contract award. This rule will streamline the award of contracts for DoD, NASA, and the Coast Guard because they will not be required to consider cost or price in the evaluation of the award decision. Relieving the requirement to account for cost or price when evaluating proposals for these types of contracts, which feature competitive orders, will enable procurement officials to focus their energy on establishing and evaluating the non-price factors that will result in more meaningful distinctions among offerors.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/24/18	83 FR 48271
Correction .....	10/23/18	83 FR 53421
NPRM Comment Period End.	11/23/18	
Final Rule .....	12/00/19	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208-4949, *Email:* michael.o.jackson@gsa.gov. *RIN:* 9000-AN54

**402. Federal Acquisition Regulation (FAR); FAR Case 2018-003, Credit for Lower-Tier Small Business Subcontracting**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation to implement section 1614 of the National Defense Authorization Act (NDAA) of fiscal year 2014, as implemented in the Small Business Administration's final rule issued on December 23, 2016. Section

1614 allows other than small business prime contractors to receive small business subcontracting credit for subcontracts their subcontractors award to small businesses.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/26/19	84 FR 30071
NPRM Comment Period End.	08/26/19	
Final Rule .....	06/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Marilyn Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-7185, *Email:* marilyn.chambers@gsa.gov.

*RIN:* 9000-AN61

**403. Federal Acquisition Regulation (FAR); FAR Case 2018-017—Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment**

*E.O. 13771 Designation:* Fully or Partially Exempt.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are amending the Federal Acquisition Regulation (FAR) to implement section 889 of the National Defense Authorization Act (NDAA) for FY 19 (Pub. L. 115-232). Section 889 prohibits the procurement or use of covered telecommunications equipment and services from Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Technology Company, or Dahua Technology Company, to include any subsidiaries or affiliates. This FAR rule is needed to protect U.S. networks against cyber activities conducted through Chinese Government-supported telecommunications equipment and services.

*Timetable:*

Action	Date	FR Cite
Interim Final Rule	08/13/19	84 FR 40216
Interim Final Rule Comment Period End.	10/15/19	
Interim Final Rule	11/00/19	
Interim Final Rule Comment Period End.	01/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* FAR Policy, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-4075, *Email:* farpolicy@gsa.gov.

*RIN:* 9000-AN83

**404. Federal Acquisition Regulation (FAR); FAR Case 2019-005, Update to Contract Performance Assessment Reporting System (CPARS)**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA issued a final rule amending the Federal Acquisition Regulation (FAR) to implement changes regarding the Past Performance Information Retrieval System (PPIRS). This rule establishes that the Contract Performance Assessment Reporting System (CPARS) is the official system for past performance information.

Effective January 15, 2019, PPIRS was officially retired to conclude its merger with the CPARS. Data from PPIRS has been merged into CPARS.gov, making CPARS the official system for past performance information. This merge simplifies functions such as creating and editing performance and integrity records, changes to administering users and running reports, generating performance records, and viewing/managing performance records. Users will now have one location and one account to perform all functionality.

*Timetable:*

Action	Date	FR Cite
Final Rule .....	09/10/19	84 FR 47865
Final Rule Effective.	10/10/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 501-1448, *Email:* curtis.glover@gsa.gov.

*RIN:* 9000-AN88

**DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)**

Completed Actions

**405. Federal Acquisition Regulation (FAR); FAR Case 2015-015; Strategic Sourcing Documentation**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch 137; 51 U.S.C. 20113

*Abstract:* This case is closed because it was implementing a statutory provision pertaining to a program created by the Executive Branch that has become outdated since the statute was

enacted. This case was initially opened to implement section 836 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 (Pub. L. 113291; 41 U.S.C. 3301, note), which called for the creation of regulation governing the use of contract solutions established under the “Federal Strategic Sourcing Initiative” (FSSI). Since then, OMB has evolved and expanded FSSI into a larger and more comprehensive “Category Management” framework. OMB Memorandum M-19-13, Category Management: Making Smarter Use of Common Contract Solutions and Practices, issued on March 20, 2019, provides the requisite guidance on the use of category management, including requirements for the use of Governmentwide solutions. The FAR Council will review the need for regulatory changes in light of the OMB guidance and related developments since section 836 was enacted.

*Completed:*

Reason	Date	FR Cite
Withdrawn .....	05/28/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Michael O. Jackson, *Phone:* 202 208-4949, *Email:* michael.o.jackson@gsa.gov.

*RIN:* 9000-AM89

**406. Federal Acquisition Regulation (FAR); FAR Case 2015-033, Sustainable Acquisition**

*E.O. 13771 Designation:* Other.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* This case is closed because it primarily implemented Executive Order 13693, Planning for Federal Sustainability in the Next Decade, which has been rescinded and replaced with Executive Order 13834, “Efficient Federal Operations,” dated May 17, 2018. The remaining elements of the case have been rolled into a new FAR case, 2019-010, “Efficient Federal Operations,” which will implement Executive Order 13834.

*Completed:*

Reason	Date	FR Cite
Withdrawn .....	05/28/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* FAR Policy, *Phone:* 202 969-4075, *Email:* farpolicy@gsa.gov.

*RIN:* 9000-AN28



**407. Federal Acquisition Regulation (FAR); FAR Case 2017–006, Exception From Certified Cost or Pricing Data Requirements—Adequate Price Competition**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement section 822 of the National Defense Authorization Act (NDAA) for FY 2017 (Pub. L. 114–328). This rule applies to DoD, NASA, and the Coast Guard, and implements exceptions for these agencies at FAR 15.403(c)(1) from certified cost or pricing data requirements when price is based on adequate price competition. This rule also limits the exception for price based on adequate price competition to circumstances in which there is adequate competition that results in at least two or more responsive and viable competing bids.

*Completed:*

Reason	Date	FR Cite
Final Rule ..... Final Rule Effective.	06/12/19 07/12/19	84 FR 27494

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael O. Jackson, Phone: 202 208–4949, Email: michaelo.jackson@gsa.gov.

RIN: 9000–AN53

**408. Federal Acquisition Regulation (FAR); FAR Case 2017–020, Ombudsman for Indefinite-Delivery Contracts**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA issued a final rule to amend the Federal Acquisition Regulation (FAR) by providing a new clause with contact information for the agency task and delivery order ombudsman as required by the FAR. Specifically, FAR 16.504(a)(4)(v) requires that the name, address, telephone number, facsimile number, and email address of the agency task and delivery order ombudsman be included in solicitations and contracts for an indefinite quantity requirement, if multiple awards may be made for uniformity and consistency.

*Completed:*

Reason	Date	FR Cite
Final Rule ..... Final Rule Effective.	09/06/19 09/06/19	84 FR 38836

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Michael O. Jackson, Phone: 202 208–4949, Email: michaelo.jackson@gsa.gov.  
RIN: 9000–AN58

**409. Federal Acquisition Regulation (FAR); FAR Case 2018–010, Use of Product and Services of Kaspersky Lab**

*E.O. 13771 Designation:* Not subject to, not significant.

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA issued a final rule to amend the Federal Acquisition Regulation (FAR) to implement section 1634 of the National Defense Authorization Act (NDAA) of fiscal year 2018 to prohibit any department, agency, organization, or other element of the Federal Government from using products and services developed or provided by Kaspersky Lab or any entity in which Kaspersky Lab has a majority ownership.

*Completed:*

Reason	Date	FR Cite
Final Rule ..... Final Rule Effective.	09/10/19 09/10/19	84 FR 47861

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* FAR Policy, Phone: 202 969–4075, Email: farpolicy@gsa.gov.

RIN: 9000–AN64

[FR Doc. 2019–26576 Filed 12–23–19; 8:45 am]

BILLING CODE 5001–06–P





# FEDERAL REGISTER

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Vol. 84

Thursday,

No. 247

December 26, 2019

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Part XXII

Commodity Futures Trading Commission

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Semiannual Regulatory Agenda

**COMMODITY FUTURES TRADING COMMISSION****17 CFR Ch. I****Regulatory Flexibility Agenda**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission"), in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of rulemakings that the Commission expects to propose or promulgate over the next year. The Commission welcomes comments from small entities and others on the agenda.

**FOR FURTHER INFORMATION CONTACT:** Christopher J. Kirkpatrick, Secretary of the Commission, (202) 418-5964, [ckirkpatrick@cftc.gov](mailto:ckirkpatrick@cftc.gov), Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

**SUPPLEMENTARY INFORMATION:** The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601, *et seq.*, includes a requirement that each agency publish semiannually in the **Federal Register** a regulatory flexibility agenda. Such agendas are to contain the following elements, as specified in 5 U.S.C. 602(a):

(1) A brief description of the subject area of any rule that the agency expects to propose or promulgate, which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda, the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable about the items listed in the agenda.

Accordingly, the Commission has prepared an agenda of rulemakings that

it presently expects may be considered during the course of the next year. Subject to a determination for each rule, it is possible as a general matter that some of these rules may have some impact on small entities.<sup>1</sup> The Commission notes also that, under the RFA, it is not precluded from considering or acting on a matter not included in the regulatory flexibility agenda, nor is it required to consider or act on any matter that is listed in the agenda. See 5 U.S.C. 602(d).

The Commission's Fall 2019 regulatory flexibility agenda is included in the Unified Agenda of Federal Regulatory and Deregulatory Actions. The complete Unified Agenda will be available online at [www.reginfo.gov](http://www.reginfo.gov), in a format that offers users enhanced ability to obtain information from the Agenda database.

Issued in Washington, DC, on July 26, 2019, by the Commission.

**Christopher J. Kirkpatrick,**  
*Secretary of the Commission.*

**COMMODITY FUTURES TRADING COMMISSION—LONG-TERM ACTIONS**

Sequence No.	Title	Regulation Identifier No.
410 .....	Regulation Automated Trading .....	3038-AD52

**COMMODITY FUTURES TRADING COMMISSION (CFTC)****Long-Term Actions****410. Regulation Automated Trading**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 7 U.S.C. 1a(23); 7 U.S.C. 6c(a); 7 U.S.C. 7(d); 7 U.S.C. 12(a)(5)

*Abstract:* On November 7, 2016, the Commodity Futures Trading Commission ("Commission") approved a supplemental notice of proposed rulemaking for Regulation AT ("Supplemental NPRM"). The Supplemental NPRM modifies certain rules proposed in the Commission's December 2015, notice of proposed rulemaking (NPRM) for Regulation AT. The Supplemental NPRM was published in the **Federal Register** on November 25, 2016, with a 90-day comment period closing on January 24,

2017. The Commission subsequently extended the comment period until May 1, 2017. The NPRM and Supplemental NPRM, through a set of proposed regulations collectively referred to as "Regulation AT," would require registration of certain market participants that engage in proprietary algorithmic trading; impose pre-trade risk control, testing, and certification requirements on market participants, futures commission merchants, and/or designated contract markets; and set forth preservation and access obligations relating to algorithmic trading source code.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	09/12/13	78 FR 56542
ANPRM Comment Period End.	12/11/13	

Action	Date	FR Cite
ANPRM Comment Period Extended.	01/24/14	79 FR 4104
ANPRM Comment Period Extended End.	02/14/14	
NPRM .....	12/17/15	80 FR 78824
NPRM Comment Period End.	03/16/16	
NPRM Comment Period Re-opened.	06/10/16	81 FR 36484
NPRM Comment Period Re-opened End.	06/24/16	
Supplemental NPRM.	11/25/16	81 FR 85334
Supplemental NPRM Comment Period End.	01/24/17	
Supplemental NPRM Comment Period Extended.	01/26/17	82 FR 8502

<sup>1</sup> The Commission published its definition of a "small entity" for purposes of rulemaking proceedings at 47 FR 18618 (April 30, 1982). Pursuant to that definition, the Commission is not required to list—but nonetheless does—many of the items contained in this regulatory flexibility agenda. See also 5 U.S.C. 602(a)(1). Moreover, for certain items listed in this agenda, the Commission

has previously certified, under section 605 of the RFA, 5 U.S.C. 605, that those items will not have a significant economic impact on a substantial number of small entities. For these reasons, the listing of a rule in this regulatory flexibility agenda should not be taken as a determination that the rule, when proposed or promulgated, will in fact require a regulatory flexibility analysis. Rather, the

Commission has chosen to publish an agenda that includes significant and other substantive rules, regardless of their potential impact on small entities, to provide the public with broader notice of new or revised regulations the Commission may consider and to enhance the public's opportunity to participate in the rulemaking process.

Action	Date	FR Cite
Supplemental NPRM Com- ment Period Ex- tended End.	05/01/17	
NPRM .....	06/00/21	

*Agency Contact:* Marilee Dahlman,  
*Phone:* 202 418–5264, *Email:*  
*mdahlman@cftc.gov.*

*RIN:* 3038–AD52

[FR Doc. 2019–26635 Filed 12–23–19; 8:45 am]

**BILLING CODE 6351–01–P**

*Regulatory Flexibility Analysis*  
*Required:* Yes.





# FEDERAL REGISTER

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Vol. 84

Thursday,

No. 247

December 26, 2019

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Part XXIII

Bureau of Consumer Financial Protection

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Semiannual Regulatory Agenda

**BUREAU OF CONSUMER FINANCIAL PROTECTION****12 CFR CH. X****Semiannual Regulatory Agenda**

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** The Bureau of Consumer Financial Protection (Bureau) is publishing this agenda as part of the Fall 2019 Unified Agenda of Federal Regulatory and Deregulatory Actions. The Bureau reasonably anticipates having the regulatory matters identified below under consideration during the period from October 1, 2019, to September 30, 2020. The next agenda will be published in spring 2020 and will update this agenda through spring 2021. Publication of this agenda is in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

**DATES:** This information is current as of July 25, 2019.

**ADDRESSES:** Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.

**FOR FURTHER INFORMATION CONTACT:** A staff contact is included for each regulatory item listed herein. If you require this document in an alternative electronic format, please contact [CFPB\\_Accessibility@cfpb.gov](mailto:CFPB_Accessibility@cfpb.gov).

**SUPPLEMENTARY INFORMATION:** The Bureau is publishing its Fall 2019 Agenda as part of the Fall 2019 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget under Executive Order 12866. The agenda lists the regulatory matters that the Bureau reasonably anticipates having under consideration during the period from October 1, 2019, to September 30, 2020, as described further below.<sup>1</sup> The Bureau's participation in the Unified Agenda is voluntary. The complete Unified Agenda is available to the public at the following website: <http://www.reginfo.gov>.

Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (Dodd-Frank Act), the Bureau has rulemaking, supervisory, enforcement, consumer education, and other

authorities relating to consumer financial products and services. These authorities include the authority to issue regulations under more than a dozen Federal consumer financial laws, which transferred to the Bureau from seven Federal agencies on July 21, 2011. The Bureau's general purpose, as specified in section 1021(a) of the Dodd-Frank Act, is to implement and enforce Federal consumer financial law consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive.

Section 1021 of the Dodd-Frank Act specifies the objectives of the Bureau, including ensuring that, with respect to consumer financial products and services, consumers are provided with timely and understandable information to make responsible decisions about financial transactions; consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination; outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens; that Federal consumer financial law is enforced consistently, without regard to the status of a person as a depository institution, in order to promote fair competition; and markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.

As a general matter, the Bureau believes that it can best achieve these statutory purposes by using its various tools to focus on the prevention of consumer harm. With specific regard to rulemaking, the Bureau seeks to articulate clear rules of the road for regulated entities that promote competition, increase transparency, and preserve fair markets for financial products and services. If Congress directs the Bureau to promulgate rules or address specific issues through rulemaking, the Bureau will comply with the law. If the Bureau has discretion, the Bureau will focus on preventing consumer harm by maximizing informed consumer choice, and by reducing unwarranted regulatory burden which can adversely affect competition and consumers' access to financial products and services. The Bureau is working on various initiatives to achieve these objectives as described below.

A new permanent director of the Bureau took office in December 2018. The Director embarked on a listening

tour to engage with Bureau stakeholders, employees, and outside experts, building on feedback submitted through more than 88,000 public comments in response to the Bureau's 2018 "Call for Evidence" initiative. This Unified Agenda represents the first one the Bureau has prepared following the Director's listening tour. It seeks to provide the public with visibility into the rulemaking activities in which the Bureau is likely to be engaged over the next 12 months and those that are contemplated in the ensuing year. To enhance transparency, the Bureau has updated this Unified Agenda to identify current priorities and to delete outdated items.

**Implementing Statutory Directives**

The Bureau is engaged in a number of rulemakings to implement directives mandated in the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 (EGRRCPA), Public Law 115–174, 132 Stat. 1297, the Dodd-Frank Act, and other statutes. As part of these rulemakings, the Bureau is working to maximize consumer welfare and achieve other statutory objectives through protecting consumers from harm and minimizing regulatory burden, including facilitating industry compliance with rules.

For example, in March 2019, the Bureau published an Advance Notice of Proposed Rulemaking (ANPRM) to seek public comment relating to implementation of section 307 of the EGRRCPA, which amends the Truth in Lending Act (TILA) to mandate that the Bureau prescribe certain regulations relating to "Property Assessed Clean Energy" (PACE) financing. As defined by EGRRCPA section 307, PACE financing results in a tax assessment on a consumer's real property and covers the costs of home improvements. The required regulations must carry out the purposes of TILA's ability-to-repay (ATR) requirements, currently in place for residential mortgage loans, with respect to PACE financing, and apply TILA's general civil liability provision for violations of the ATR requirements the Bureau will prescribe for PACE financing. The regulations must "account for the unique nature" of PACE financing. The Bureau is reviewing the comments it received in response to the ANPRM, as it considers next steps to facilitate the development of a Notice of Proposed Rulemaking (NPRM).

The Bureau has also been engaged in a range of other activities to support its rulemaking to implement the EGRRCPA. For example, the Bureau updated its small entity compliance guides and

<sup>1</sup> The listing does not include certain routine, frequent, or administrative matters. Further, the fields "Unfunded Mandates," "E.O. 13771 Designation," and "Federalism Implications" are not required for independent regulatory agencies, including the Bureau, and, accordingly, the Bureau has indicated responses of "no" or "Independent Agency" for such fields.

other compliance aids to reflect the EGRRCPA's statutory changes. The Bureau also issued written guidance as encouraged by section 109 of the Act, which states that the Bureau "should endeavor to provide clearer, authoritative guidance" on certain mortgage regulations.<sup>2</sup> Finally, the Bureau anticipates engaging in guidance activity, as needed, to facilitate compliance, regarding the EGRRCPA provisions that do not require rulemaking to take effect.

In anticipation of rulemaking activity, the Bureau has also conducted a preliminary analysis of the number of lenders potentially impacted by implementation of section 108 of the EGRRCPA, which relates to escrow requirements for loans made by certain creditors. The Bureau released the analysis late this summer, which shows that a limited number of additional lenders would be exempt under section 108 of the EGRRCPA once implemented by rule.

Section 1071 of the Dodd-Frank Act amended the Equal Credit Opportunity Act to require, subject to rules prescribed by the Bureau, financial institutions to collect, report, and make public certain information concerning credit applications made by women-owned, minority-owned, and small businesses. The Bureau is hosting a symposium on small business data collection in November 2019 in order to facilitate a robust discussion with outside experts on the issues implicated by creating such a data collection and reporting regime. After the symposium, the Bureau anticipates that its next step will be the release of materials in advance of convening a panel under the Small Business Regulatory Enforcement Fairness Act, in conjunction with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy, to consult with representatives of small businesses that may be affected by the rulemaking.

### Promoting Competition, Increasing Transparency and Preserving Fair Markets

#### 1. Continuation of Other Rulemakings

The Bureau is continuing certain other rulemakings described in its Spring 2019 Agenda to articulate clear rules of the road for regulated entities that promote competition, increase transparency, and preserve fair markets for financial products and services.

For example, to consider concerns about possible unwarranted regulatory burden, the Bureau issued an NPRM in May 2019 to reconsider the thresholds for reporting data about closed-end mortgage loans and open-end lines of credit under the Bureau's 2015 Home Mortgage Disclosure Act (HMDA) rule. The NPRM also proposed to incorporate into Regulation C an interpretive and procedural rule that the Bureau issued in August 2018 to clarify partial HMDA exemptions created by the EGRRCPA. This summer, the Bureau reopened the comment period of certain aspects of the proposed rule until mid-October. Thus, the Bureau plans to issue two separate final rules to address different aspects of the proposed rule at different times—the first one in the fall of 2019 would address the proposed 2-year extension of the temporary threshold for collecting and reporting data on open-end lines of credit and the EGRRCPA partial exemption provisions, and the second one in the spring of 2020 would address the proposed changes to the permanent thresholds for collecting and reporting data on open-end lines of credit and closed-end mortgage loans. Likewise, to consider concerns about possible unwarranted regulatory burden, the Bureau also issued an ANPRM in May 2019 concerning certain data points that are reported under the 2015 HMDA rule and coverage of certain business or commercial purpose loans. In June 2019, the Bureau extended the comment period on the ANPRM to mid-October. In summer 2020, the Bureau expects to issue an NPRM to follow up on the ANPRM. The Bureau also expects to issue an NPRM addressing the public disclosure of HMDA data in light of consumer privacy interests, so that collection and reporting of data points and public disclosure of those data points can be considered concurrently.<sup>3</sup>

<sup>3</sup> The 2010 Dodd-Frank Act amendments to HMDA direct the Bureau to develop regulations that modify or require modification of the public HMDA data for the purpose of protecting consumer privacy interests. The Bureau's 2015 HMDA rule adopted a balancing test to determine whether and how HMDA data should be modified prior to its disclosure to the public in order to protect applicant and borrower privacy while also fulfilling HMDA's public disclosure purpose. The Bureau in 2018 issued final policy guidance applying the test to current data points and announced its intention to conduct a notice-and-comment rulemaking to seek further input on the public release going forward. Commencing a notice-and-comment rulemaking will also enable the Bureau to adopt a more definitive approach to disclosing HMDA data to the public in future years after considering new information concerning the privacy risks and benefits of disclosure of the HMDA data. Until the Bureau promulgates a final rule on the public disclosure of HMDA data, it anticipates that it will continue to disclose HMDA data in the manner detailed in the final policy guidance.

In addition, in February 2019, the Bureau issued an NPRM relating to reconsideration of the mandatory underwriting requirements of a 2017 rule titled Payday, Vehicle Title, and Certain High-Cost Installment Loans. In the NPRM, the Bureau initially determined that the evidence underlying the identification of the unfair and abusive practice in the mandatory underwriting provisions of the 2017 rule was not sufficiently robust and reliable to support that determination, in light of the impact those provisions will have on the market for covered short-term and longer-term balloon-payment loans, and the ability of consumers to obtain such loans, among other things. The Bureau also initially determined that its approach for its unfairness and abusiveness determinations was sufficiently problematic to necessitate reconsideration. Based on its reconsideration of those issues, the Bureau proposed to rescind the mandatory underwriting provisions in their entirety. The comment period for the NPRM closed in May 2019 and the Bureau is carefully reviewing the approximately 190,000 comments it received. The Bureau expects to take final action with respect to this proposal in April 2020.

Finally, the Bureau issued an NPRM in May 2019, which would prescribe rules under Regulation F to govern the activities of debt collectors, as that term is defined under the Fair Debt Collection Practices Act. The Bureau's proposal would, among other things, address communications in connection with debt collection; interpret and apply prohibitions on harassment or abuse, false or misleading representations, and unfair practices in debt collection; and clarify requirements for certain consumer-facing debt collection disclosures. The proposal builds on the Bureau's research and pre-rulemaking activities regarding the debt collection market, which remains a top source of complaints to the Bureau. The Bureau also is engaged in testing of consumer disclosures related to time-barred debt disclosures that were not the focus of the May 2019 proposal. After testing, the Bureau will assess whether to issue a supplemental NPRM seeking comments on any disclosure proposal related to the collection of time-barred debt. The Bureau expects to take final action with regard to the May 2019 NPRM in 2020.

In addition to these three rulemakings in which the Bureau already has issued proposals, the Bureau also is continuing work related to a potential rulemaking to amend the Bureau's Remittance Rule.

<sup>2</sup> See, e.g., "TILA-RESPA Integrated Disclosure FAQs"—available at <https://www.consumerfinance.gov/policy-compliance/guidance/tila-respa-disclosure-rule/tila-respa-integrated-disclosure-faqs/>.

After completing an assessment in October 2018 of its rules to implement Dodd-Frank Act requirements for remittance transfers,<sup>4</sup> the Bureau issued in April 2019 a Request for Information to gather information related to the scope of the Remittance Rule's coverage and the expiration of a statutorily-established exception in the Remittance Rule that permits insured banks and insured credit unions to estimate certain required disclosures and other potential remittance transfer issues. In its consideration of appropriate next steps, including potentially rulemaking, the Bureau is considering stakeholder feedback during the assessment process and comments received in response to the Request for Information.

## 2. New Projects and Further Planning

In January 2019, the Bureau completed an assessment of rules implementing Dodd-Frank Act provisions that require mortgage lenders to determine consumers' ability to repay loans and define certain "qualified mortgages" that are presumed to comply with the statutory requirements.<sup>5</sup> The Bureau is now focusing its attention on a regulatory provision that extends qualified mortgage status to loans that are eligible to be purchased or guaranteed by either Fannie Mae or Freddie Mac (which are often called the Government Sponsored Enterprises or GSEs) while they operate under Federal conservatorship or receivership. The "GSE patch" provision is set to expire in January 2021, meaning that loans originated after that date would not be eligible for qualified mortgage status under its criteria. In July 2019, the Bureau issued an ANPRM to solicit information about possible amendments to the qualified mortgage provisions of Regulation Z, specifically information about issues related to the scheduled expiration of the GSE patch. The Bureau currently plans to allow the GSE patch to expire and is considering whether to revise Regulation Z's general qualified mortgage definition in light of this planned expiration. The Bureau is further considering a limited extension of the expiration date only as necessary to allow for a smooth and orderly transition away from the GSE Patch.

In light of feedback received in response to the Bureau's 2018 Call for

Evidence and various other outreach to stakeholders, the Bureau has decided to add two new entries to its long-term regulatory agenda. This portion of the agenda focuses on potential regulatory actions that an agency may engage in beyond the current fiscal year, and currently includes issues such as potential rulemaking or other activity regarding the Dodd-Frank Act's prohibition on abusive acts or practices. The Bureau is now adding entries to address issues of concern in connection with loan originator compensation and to facilitate the use of electronic channels of communication in the origination and servicing of credit card accounts.

As to loan originator compensation, the Bureau has received feedback that aspects of Regulation Z's loan originator compensation requirements are unnecessarily restrictive. The Bureau is considering a rulemaking to address certain of these concerns. In particular, the Bureau plans to examine whether to permit adjustments to a loan originator's compensation in connection with originating State housing finance authority loans in order to facilitate the origination of such loans. The Bureau also plans to examine whether to permit creditors to decrease a loan originator's compensation due to the loan originator's error in order to provide clearer rules of the road for regulated entities. The Bureau has no current plans to consider other significant potential changes.

As to electronic communications, the Bureau has received feedback that the intersection of certain requirements of Regulation Z and the Electronic Signatures in Global and National Commerce Act (E-SIGN) are too restrictive for consumers applying for credit card accounts via electronic channels and for consumers willing, or preferring, to receive account information electronically only. To decrease regulatory burdens that may be inhibiting the use of electronic communication, the Bureau is considering a rulemaking to address a range of issues at the intersection of E-SIGN and Regulation Z with regard to credit cards. The Bureau also notes that similar concerns about the effect of E-SIGN have been raised with respect to other types of consumer financial products and services including checking accounts. The Bureau anticipates that what it learns in considering these issues in the credit card context may assist the Bureau in assessing whether there are similar concerns with other financial products and services that may be appropriate to address in future rulemakings.

The Bureau is engaged in other rulemakings consistent with its general interest in modernizing disclosure rules in light of new and emerging technology. For example, the Bureau issued an NPRM in May that, among other things, proposed regulations that would modernize content and delivery requirements for certain disclosures in the debt collection context. The Bureau is interested in exploring ways to adapt disclosure regulations so that they more effectively inform the increasing number of consumers who use digital media for financial products and services, including, but not limited to, financial products, such as credit cards.

The Bureau is also actively reviewing existing regulations. Section 1022(d) of the Dodd-Frank Act requires the Bureau to conduct an assessment of each significant rule or order adopted by the Bureau under Federal consumer financial law and publish a report of each assessment not later than 5 years after the effective date of the subject matter or order. The Bureau will be conducting an assessment of its regulations to consolidate various mortgage origination disclosures under the Truth in Lending Act and Real Estate Settlement Procedures Act. The Regulatory Flexibility Act (RFA) requires the Bureau to consider the effect on small entities of certain rules it promulgates. The Bureau published in May 2019 its plan for conducting reviews, consistent with section 610 of the RFA, of certain regulations which are believed to have a significant impact on a substantial number of small entities. Congress specified that the purpose of such reviews shall be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of the applicable statutes, to minimize any significant economic impact of the rules upon a substantial number of such small entities. The Bureau is reviewing comments received in response to its request for comment on the first such review, concerning the impact on small banks and credit unions of a 2009 Regulation E amendment concerning overdraft. In 2020, the Bureau expects to conduct additional reviews pursuant to section 610 of the RFA, including a review of the Regulation Z rules that implement the Credit Card Accountability Responsibility and Disclosure Act of 2009.

Finally, as required by the Dodd-Frank Act, the Bureau is also continuing to monitor markets for consumer financial products and services to identify risks to consumers and the proper functioning of such markets. As

<sup>4</sup> "Remittance rule assessment report"—available at <https://www.consumerfinance.gov/data-research/research-reports/remittance-rule-assessment-report/>.

<sup>5</sup> "2013 Ability-to-Repay and Qualified Mortgage Assessment Report"—available at <https://www.consumerfinance.gov/data-research/research-reports/2013-ability-repay-and-qualified-mortgage-assessment-report/>.



discussed in a recent report by the Government Accountability Office, the Bureau's Division of Research, Markets, and Regulations and specifically its Markets Offices continuously monitor market developments and risks to

consumers. The Bureau also has created a number of cross-Bureau working groups focused around specific markets which advance the Bureau's market monitoring work. The Bureau's market monitoring work assists in identifying

issues for potential future rulemaking work.

Dated: July 26, 2019.

**Lisa J. Cole,**

*Acting Assistant Director for Regulations,  
Bureau of Consumer Financial Protection.*

#### CONSUMER FINANCIAL PROTECTION BUREAU—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
411 .....	Business Lending Data (Regulation B) .....	3170-AA09

#### CONSUMER FINANCIAL PROTECTION BUREAU—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
412 .....	Debt Collection Rule .....	3170-AA41

### CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

#### Prerule Stage

#### 411. Business Lending Data (Regulation B)

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 1691c–2  
*Abstract:* Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amends the Equal Credit Opportunity Act (ECOA) to require financial institutions to report information concerning credit applications made by women-owned, minority-owned, and small businesses. The amendments to ECOA made by the Dodd-Frank Act require that certain data be collected, maintained, and reported, including the number of the application and date the application was received; the type and purpose of the loan or credit applied for; the amount of credit applied for and approved; the type of action taken with regard to each application and the date of such action; the census tract of the principal place of business; the gross annual revenue of the business; and the race, sex, and ethnicity of the principal owners of the business. The Dodd-Frank Act also provides authority for the Bureau to require any additional data that the Bureau determines would aid in fulfilling the purposes of this section. The Bureau may adopt exceptions to any requirement of section 1071 and may exempt any financial institution from its requirements, as the Bureau deems necessary and appropriate to carry out section 1071's purposes. The Bureau issued a Request for Information in 2017 seeking public comment on, among other things, the types of credit products offered and the types of data

currently collected by lenders in this market, and the potential complexity, cost of, and privacy issues related to, small business data collection. The Bureau is hosting a symposium on small business data collection later this year. The information received in response to the Request for Information and the symposium will help the Bureau as it determines how to implement the rule efficiently while minimizing burdens on lenders. After the symposium, the Bureau anticipates that its next step will be the release of materials in advance of convening a panel under the Small Business Regulatory Enforcement Fairness Act, in conjunction with representatives of small businesses that may be affected by the rulemaking.

#### *Timetable:*

Action	Date	FR Cite
Request for Information.	05/15/17	82 FR 22318
Request for Information Comment Period End.	09/14/17	
Pre-rule Activity ...	11/00/19	

#### *Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Elena Grigera Babinecz, Office of Regulations, Consumer Financial Protection Bureau, Phone: 202 435–7700.  
*RIN:* 3170-AA09

### CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

#### Proposed Rule Stage

#### 412. Debt Collection Rule

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 1692l(d)

*Abstract:* The Bureau issued a Notice of Proposed Rulemaking in May 2019, which would prescribe rules under Regulation F to govern the activities of debt collectors, as that term is defined under the Fair Debt Collection Practices Act. The Bureau's proposal would, among other things, address communications in connection with debt collection; interpret and apply prohibitions on harassment or abuse, false or misleading representations, and unfair practices in debt collection; and clarify requirements for certain consumer-facing debt collection disclosures. The proposal builds on the Bureau's research and pre-rulemaking activities regarding the debt collection market, which remains a top source of complaints to the Bureau. The Bureau also is engaged in testing of consumer disclosures related to time-barred debt disclosures that were not addressed in the May 2019 proposal. After testing, the Bureau will assess whether to publish a supplemental Notice of Proposed Rulemaking related to time-barred debt disclosures.

#### *Timetable:*

Action	Date	FR Cite
ANPRM .....	11/12/13	78 FR 67847
ANPRM Comment Period Extended.	01/14/14	79 FR 2384
ANPRM Comment Period End.	02/10/14	
ANPRM Comment Period Extended End.	02/28/14	
Pre-Rule Activity	07/28/16	
NPRM .....	05/21/19	84 FR 23274
NPRM Comment Period Extended.	08/02/19	84 FR 37806

Action	Date	FR Cite	
NPRM Comment Period End.	08/19/19		<i>Agency Contact:</i> Kristin McPartland, Office of Regulations, Consumer Financial Protection Bureau, <i>Phone:</i> 202 435-7700.  <i>RIN:</i> 3170-AA41  [FR Doc. 2019-26636 Filed 12-23-19; 8:45 am]  <b>BILLING CODE 4810-AM-P</b>
NPRM Comment Period Ex- tended End.	09/18/19		
Other .....	01/00/20		

*Regulatory Flexibility Analysis  
Required: Yes.*



# FEDERAL REGISTER

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Vol. 84

Thursday,

No. 247

December 26, 2019

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Part XXIV

Consumer Product Safety Commission

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Semiannual Regulatory Agenda

**CONSUMER PRODUCT SAFETY COMMISSION****16 CFR Ch. II****Semiannual Agenda and Regulatory Plan**

**AGENCY:** U.S. Consumer Product Safety Commission.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** The Commission publishes its semiannual regulatory flexibility agenda in this document. The document also includes an agenda of regulatory actions that the Commission expects to be under development or review by the agency during the next year. This document meets the requirements of the Regulatory Flexibility Act and Executive Order 12866. The Commission welcomes comments on the agenda and on the individual agenda entries.

**DATES:** Comments should be received in the Division of the Secretariat on or before January 27, 2020.

**ADDRESSES:** Comments on the regulatory flexibility agenda should be captioned, "Regulatory Flexibility Agenda," and be emailed to: *cpsc-os@cpsc.gov*. Comments may also be mailed or delivered to the Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East-West Highway, Bethesda, MD 20814-4408.

**FOR FURTHER INFORMATION CONTACT:** For further information on the agenda, in general, contact Adrienne Layton, Directorate for Health Sciences, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814-4408, *alayton@cpsc.gov*. For further information regarding a particular item on the agenda, consult the individual listed in the column headed, "Contact," for that particular item.

**SUPPLEMENTARY INFORMATION:** The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 to 612) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small

businesses, small governmental organizations, and other small entities. Section 602 of the RFA (5 U.S.C. 602) requires each agency to publish, twice each year, a regulatory flexibility agenda containing a brief description of the subject area of any rule expected to be proposed or promulgated, which is likely to have a "significant economic impact" on a "substantial number" of small entities. The agency must also provide a summary of the nature of the rule and a schedule for acting on each rule for which the agency has issued a notice of proposed rulemaking.

The regulatory flexibility agenda is required to contain the name and address of the agency official knowledgeable about the items listed. Furthermore, agencies are required to provide notice of their agendas to small entities and to solicit their comments by direct notification or by inclusion in publications likely to be obtained by such entities.

Additionally, Executive Order 12866 requires each agency to publish, twice each year, a regulatory agenda of regulations under development or review during the next year, and the executive order states that such an agenda may be combined with the agenda published in accordance with the RFA. The regulatory flexibility agenda lists the regulatory activities expected to be under development or review during the next 12 months. It includes all such activities, whether or not they may have a significant economic impact on a substantial number of small entities. This agenda also includes regulatory activities that appeared in the fall 2018 agenda and have been completed by the Commission prior to publication of this agenda. Although CPSC, as an independent regulatory agency, is not required to comply with Executive Orders, the Commission does follow Executive Order 12866 regarding the publication of its regulatory agenda.

The agenda contains a brief description and summary of each regulatory activity, including the objectives and legal basis for each; an

approximate schedule of target dates, subject to revision, for the development or completion of each activity; and the name and telephone number of a knowledgeable agency official concerning particular items on the agenda.

The internet is the basic means through which the Unified Agenda is disseminated.

The complete Unified Agenda will be available online at *www.reginfo.gov*, in a format that offers users the ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), the Commission's printed agenda entries include only:

(1) Rules that are in the agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules that the agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's agenda requirements. Additional information on these entries is available in the Unified Agenda published on the internet.

The agenda reflects an assessment of the likelihood that the specified event will occur during the next year; the precise dates for each rulemaking are uncertain. New information, changes of circumstances, or changes in law may alter anticipated timing. In addition, no final determination by staff or the Commission regarding the need for, or the substance of, any rule or regulation should be inferred from this agenda.

Dated: July 23, 2019.

**Alberta E. Mills,**

*Secretary, Consumer Product Safety Commission.*

**CONSUMER PRODUCT SAFETY COMMISSION—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
413 .....	Flammability Standard for Upholstered Furniture ( <b>Reg Plan Seq No. 152</b> ) .....	3041-AB35
414 .....	Regulatory Options for Table Saws ( <b>Reg Plan Seq No. 153</b> ) .....	3041-AC31
415 .....	Fireworks Devices .....	3041-AC35

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

## CONSUMER PRODUCT SAFETY COMMISSION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
416 .....	Portable Generators .....	3041-AC36
417 .....	Recreational Off-Road Vehicles .....	3041-AC78

**CONSUMER PRODUCT SAFETY COMMISSION (CPSC)**

Final Rule Stage

**413. Flammability Standard for Upholstered Furniture**

*Regulatory Plan:* This entry is Seq. No. 152 in part II of this issue of the **Federal Register**.

*RIN:* 3041-AB35

**414. Regulatory Options for Table Saws**

*Regulatory Plan:* This entry is Seq. No. 153 in part II of this issue of the **Federal Register**.

*RIN:* 3041-AC31

**415. Fireworks Devices**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 1261  
*Abstract:* Staff prepared a draft advance notice of proposed rulemaking (ANPRM) concerning fireworks devices, requesting comments on whether there is a need for the agency to update and strengthen its regulation of fireworks devices. Staff sent the ANPRM to the Commission for consideration on June 26, 2006. On June 30, 2006, the Commission voted to issue an ANPRM, which was issued on July 12, 2006. The comment period on the ANPRM closed on September 11, 2006. In June 2011, the Commission directed staff to review progress made since the issuance of the FY 2006 ANPRM regarding consumer fireworks regulations. In FY 2012, staff concentrated efforts on developing an updated test method to evaluate aerial firework break charge energy release, assess potential hazards to consumers associated with “adult snapper” fireworks, and propose appropriate solutions. In January 2013, October 2013, and February 2014, staff released status reports providing information regarding staff’s fireworks research. In the FY 2015 Operating Plan, the Commission directed staff to conduct a rule review of the current fireworks regulations. Staff sent a briefing package to the Commission on December 30, 2015, responding to the Commission’s request for a rule review. Staff sent a draft NPRM and briefing package to the Commission on December 14, 2016. The Commission held a briefing on the matter on January 11, 2017. On January 25, 2017, the Commission voted to issue

the NPRM. The NPRM was published on February 2, 2017. The comment period on the NPRM closed on July 17, 2017. CPSC received more than 2,400 written comments. The Commission provided an opportunity for oral presentation of comments on March 7, 2018. Staff sent the final rule briefing package to the Commission on September 26, 2018. The Commission held a public briefing on the matter on October 3, 2018. The next expected action is the Commission’s decision on the draft final rule.

*Timetable:*

Action	Date	FR Cite
Staff Sent Draft ANPRM to Commission.	06/26/06	71 FR 39249
Commission Decision.	06/30/06	
ANPRM .....	07/12/06	
ANPRM Comment Period End.	09/11/06	
Staff Released a Fireworks Safety Standards Development Status Report.	01/31/13	11/24/14
Staff Released a Fireworks Safety Standards Development Status Report.	10/23/13	
Staff Released Fireworks Safety Standards Development Status Report Draft.	11/24/14	
Staff Sent Briefing Package to Commission with Rule Review Recommendations.	12/30/15	12/14/16
Staff Sent Draft NPRM to Commission.	12/14/16	
Commission Decision.	01/25/17	82 FR 9012 82 FR 17947
NPRM .....	02/02/17	
Comment Period Extended.	04/18/17	83 FR 5056
Comment Period End.	07/17/17	
Notice of Opportunity for Oral Presentation of Comments.	02/05/18	

Action	Date	FR Cite
Staff Sent Final Rule Briefing Package to Commission.	09/26/18	
Commission Decision.	11/00/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Rodney Valliere Ph.D., Project Manager, Directorate for Laboratory Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, Phone: 301 987-2526, Email: rvalliere@cpsc.gov.

*RIN:* 3041-AC35

**CONSUMER PRODUCT SAFETY COMMISSION (CPSC)**

Long-Term Actions

**416. Portable Generators**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 2051

*Abstract:* On December 5, 2006, the Commission voted to issue an advance notice of proposed rulemaking (ANPRM) under the Consumer Product Safety Act (CPSA) concerning portable generators. The ANPRM discusses regulatory options that could reduce deaths and injuries related to portable generators, particularly those involving carbon monoxide (CO) poisoning. The ANPRM was published in the **Federal Register** on December 12, 2006. Staff reviewed public comments and conducted technical activities. In FY 2006, staff awarded a contract to develop a prototype generator engine with reduced CO in the exhaust. Also in FY 2006, staff entered into an interagency agreement (IAG) with the National Institute of Standards and Technology (NIST) to conduct tests with a generator, in both off-the-shelf and prototype configurations, operating in the garage attached to NIST’s test house. NIST’s test house, a double-wide manufactured home, is designed for conducting residential indoor air quality (IAQ) studies, and the scenarios tested are typical of those involving consumer fatalities. These tests provide empirical

data on CO accumulation in the garage and infiltration into the house; staff used these data to evaluate the efficacy of the prototype in reducing the risk of fatal or severe CO poisoning. Under this IAG, NIST also modeled the CO infiltration from the garage under a variety of other conditions, including different ambient conditions and longer generator run times. In FY 2009, staff entered into a second IAG with NIST with the goal of developing CO emission performance requirements for a possible proposed regulation that would be based on health effects criteria. In 2011, staff prepared a package containing staff and contractor reports on the technology demonstration of the low CO emission prototype portable generator. This included, among other staff reports, a summary of the prototype development and durability results, as well as end-of-life emission test results performed on the generator by an independent emissions laboratory. Staff's assessment of the ability of the prototype to reduce the CO poisoning hazard was also included. In September 2012, staff released this package and solicited comments from stakeholders.

In October 2016, staff delivered a briefing package with a draft notice of proposed rulemaking (NPRM) to the Commission. In November 2016, the Commission voted to approve the NPRM. The notice was published in the **Federal Register** on November 21, 2016, with a comment period deadline of February 6, 2017. In December 2016, the Commission voted to extend the comment period until April 24, 2017, in response to a request to extend the comment period an additional 75 days. The Commission held a public hearing on March 8, 2017, to provide an opportunity for stakeholders to present oral comments on the NPRM.

In 2018, two voluntary standards adopted different CO mitigation requirements intended to address the CO poisoning hazard associated with portable generators. In FY 2019 CPSC will solicit public comments on staff's plans to assess the effectiveness of those requirements through a **Federal Register** notice containing a Notice of Availability of two NIST reports co-authored by CPSC staff and soliciting comments on the one containing staff's plan, NIST Technical Note 2048, *Simulation and Analysis Plan to Evaluate the Impact of CO Mitigation Requirement for Portable Generators*. On July 2, 2019, the Commission voted to approve the publication of the **Federal Register** notice as drafted and it was published in the **Federal Register** on July 9, 2019, opening a 60-day

comment period on TN 2048 that ends on September 9, 2019.

*Timetable:*

Action	Date	FR Cite
Staff Sent ANPRM to Commission.	07/06/06	
Staff Sent Supplemental Material to Commission.	10/12/06	
Commission Decision.	10/26/06	
Staff Sent Draft ANPRM to Commission.	11/21/06	
ANPRM .....	12/12/06	71 FR 74472
ANPRM Comment Period End.	02/12/07	
Staff Releases Research Report for Comment.	10/10/12	
NPRM .....	11/21/16	81 FR 83556
NPRM Comment Period Extended.	12/13/16	81 FR 89888
Public Hearing for Oral Comments.	03/08/17	82 FR 8907
NPRM Comment Period End.	04/24/17	
Staff Sends Notice of Availability to the Commission.	06/26/19	
Commission Decision.	07/02/19	
Notice of Availability.	07/09/19	84 FR 32729
Staff Sends Briefing Package to the Commission.	11/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Janet L. Buyer, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, Phone: 301 987-2293, Email: jbuyer@cpsc.gov.

*RIN:* 3041-AC36

**417. Recreational Off-Road Vehicles**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 2056; 15 U.S.C. 2058

*Abstract:* The Commission is considering whether recreational off-road vehicles (ROVs) present an unreasonable risk of injury that should be regulated. ROVs are motorized vehicles having four or more low-pressure tires designed for off-road use and intended by the manufacturer primarily for recreational use by one or more persons. The salient characteristics of an ROV include a steering wheel for steering control, foot

controls for throttle and braking, bench or bucket seats, a rollover protective structure, and a maximum speed greater than 30 mph. On October 21, 2009, the Commission voted to publish an advance notice of proposed rulemaking (ANPRM) in the **Federal Register**. The ANPRM was published in the **Federal Register** on October 28, 2009, and the comment period ended December 28, 2009. The Commission received two letters requesting an extension of the comment period. The Commission extended the comment period until March 15, 2010. Staff conducted testing and evaluation programs to develop performance requirements addressing vehicle stability, vehicle handling, and occupant protection. On October 29, 2014, the Commission voted to publish an NPRM proposing standards addressing vehicle stability, vehicle handling, and occupant protection. The NPRM was published in the **Federal Register** on November 19, 2014. On January 23, 2015, the Commission published a notice of extension of the comment period for the NPRM, extending the comment period to April 8, 2015. Congress directed in fiscal year 2016 and reaffirmed in subsequent fiscal year appropriations that none of the amounts made available by the Appropriations Bill may be used to finalize or implement the Safety Standard for Recreational Off-Highway Vehicles published by the CPSC in the **Federal Register** on November 19, 2014 (79 FR 68964), (ROV NPRM) until after the National Academy of Sciences completes a study to determine specific information as set forth in the Appropriations Bill. Staff ceased work on a Final Rule briefing package in FY 2015 and instead engaged the Recreational Off-Highway Vehicle Association (ROHVA) and Outdoor Power Equipment Institute (OPEI) in the development of voluntary standards for ROVs. Staff conducted dynamic and static tests on ROVs, shared test results with ROHVA and OPEI, and participated in the development of revised voluntary standards to address staff's concerns with vehicle stability, vehicle handling, and occupant protection. The voluntary standards for ROVs were revised and published in 2016 (ANSI/ROHVA 1-2016 and ANSI/OPEI B71.9-2016). Staff assessed the new voluntary standard requirements and prepared a termination of rulemaking briefing package that was submitted to the Commission on November 22, 2016. The Commission voted not to terminate the rulemaking associated with ROVs. Staff continues to

monitor and participate in voluntary standards activity related to ROVs.

*Timetable:*

Action	Date	FR Cite
Staff Sends ANPRM Briefing Package to Commission.	10/07/09	
Commission Decision.	10/21/09	
ANPRM .....	10/28/09	74 FR 55495
ANPRM Comment Period Extended.	12/22/09	74 FR 67987
Extended Comment Period End.	03/15/10	
Staff Sends NPRM Briefing Package to Commission.	09/24/14	

Action	Date	FR Cite
Staff Sends Supplemental Information on ROVs to Commission.	10/17/14	
Commission Decision.	10/29/14	
NPRM Published in FEDERAL REGISTER.	11/19/14	79 FR 68964
NPRM Comment Period Extended.	01/23/15	80 FR 3535
Extended Comment Period End.	04/08/15	
Staff Sends Briefing Package Assessing Voluntary Standards to Commission.	11/22/16	

Action	Date	FR Cite
Commission Decision Not to Terminate.	01/25/17	
Staff is Evaluating Voluntary Standards.	11/00/20	

*Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Caroleene Paul, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, *Phone:* 301 987-2225, *Email:* cpaul@cpsc.gov.

*RIN:* 3041-AC78

[FR Doc. 2019-26554 Filed 12-23-19; 8:45 am]

**BILLING CODE 6355-01-P**







# FEDERAL REGISTER

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Vol. 84

Thursday,

No. 247

December 26, 2019

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Part XXV

Federal Communications Commission

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Semiannual Regulatory Agenda

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Ch. I****Semiannual Regulatory Agenda**

**AGENCY:** Federal Communications Commission.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** Twice a year, in spring and fall, the Commission publishes in the **Federal Register** a list in the Unified Agenda of those major items and other significant proceedings under development or review that pertain to the Regulatory Flexibility Act (U.S.C. 602). The Unified Agenda also provides the Code of Federal Regulations citations and legal authorities that govern these proceedings. The complete Unified Agenda will be published on the internet in a searchable format at [www.reginfo.gov](http://www.reginfo.gov).

**ADDRESSES:** Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Maura McGowan, Telecommunications Policy Specialist, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, (202) 418-0990.

**SUPPLEMENTARY INFORMATION:****Unified Agenda of Major and Other Significant Proceedings**

The Commission encourages public participation in its rulemaking process. To help keep the public informed of significant rulemaking proceedings, the Commission has prepared a list of important proceedings now in progress. The General Services Administration publishes the Unified Agenda in the **Federal Register** in the spring and fall of each year.

The following terms may be helpful in understanding the status of the proceedings included in this report:

**Docket Number**—assigned to a proceeding if the Commission has issued either a Notice of Proposed Rulemaking or a Notice of Inquiry concerning the matter under consideration. The Commission has used docket numbers since January 1, 1978. Docket numbers consist of the last two digits of the calendar year in which the docket was established plus a sequential number that begins at 1 with the first docket initiated during a calendar year (e.g., Docket No. 15–1 or Docket No. 17–1). The abbreviation for the responsible bureau usually precedes the docket number, as in “MB Docket No. 17–289,” which indicates that the responsible bureau is the Media Bureau. A docket number consisting of only five digits (e.g., Docket No. 29622) indicates that the docket was established before January 1, 1978.

**Notice of Inquiry (NOI)**—issued by the Commission when it is seeking information on a broad subject or trying to generate ideas on a given topic. A comment period is specified during which all interested parties may submit comments.

**Notice of Proposed Rulemaking (NPRM)**—issued by the Commission when it is proposing a specific change to Commission rules and regulations. Before any changes are actually made, interested parties may submit written comments on the proposed revisions.

**Further Notice of Proposed Rulemaking (FNPRM)**—issued by the Commission when additional comment in the proceeding is sought.

**Memorandum Opinion and Order (MO&O)**—issued by the Commission to deny a petition for rulemaking, conclude an inquiry, modify a decision, or address a petition for reconsideration of a decision.

**Rulemaking (RM) Number**—assigned to a proceeding after the appropriate bureau or office has reviewed a petition for rulemaking, but before the Commission has taken action on the petition.

**Report and Order (R&O)**—issued by the Commission to state a new or amended rule or state that the Commission rules and regulations will not be revised.

**Marlene H. Dortch,**  
Secretary, Federal Communications Commission.

**CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU—LONG-TERM ACTIONS**

Sequence No.	Title	Regulation Identifier No.
418 .....	Rules and Regulations Implementing the Telephone Consumer Protection Act (TCPA) of 1991 (CG Docket No. 02–278).	3060–AI14
419 .....	Rules and Regulations Implementing Section 225 of the Communications Act (Telecommunications Relay Service) (CG Docket No. 03–123).	3060–AI15
420 .....	Structure and Practices of the Video Relay Service (VRS) Program (CG Docket No. 10–51) .....	3060–AJ42
421 .....	Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services; CG Docket No. 13–24.	3060–AK01
422 .....	Advanced Methods to Target and Eliminate Unlawful Robocalls (CG Docket No. 17–59) .....	3060–AK62

**OFFICE OF ENGINEERING AND TECHNOLOGY—LONG-TERM ACTIONS**

Sequence No.	Title	Regulation Identifier No.
423 .....	Federal Earth Stations—Non-Federal Fixed Satellite Service Space Stations; Spectrum for Non-Federal Space Launch Operations; ET Docket No. 13–115.	3060–AK09
424 .....	Authorization of Radio Frequency Equipment; ET Docket No. 13–44 .....	3060–AK10
425 .....	Spectrum Access for Wireless Microphone Operations (GN Docket Nos. 14–166 and 12–268) .....	3060–AK30
426 .....	Encouraging the Provision of New Technologies and Services to the Public (GN Docket No. 18–22) .....	3060–AK80
427 .....	Spectrum Horizon (ET Docket No. 18–21) .....	3060–AK81
428 .....	Amendment of Parts 1, 2, 15, 90, and 95 of the Commission’s Rules to Permit Radar Services in the 76–81 GHz Band (ET Docket No. 15–26).	3060–AK82

## INTERNATIONAL BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
429 .....	International Settlements Policy Reform (IB Docket No. 11–80) .....	3060–AJ77
430 .....	Comprehensive Review of Licensing and Operating Rules for Satellite Services (IB Docket No. 12–267) ..	3060–AJ98
431 .....	Update to Parts 2 and 25 Concerning NonGeostationary, Fixed-Satellite Service Systems, and Related Matters: IB Docket No. 16–408.	3060–AK59
432 .....	Amendment of Parts 2 and 25 of the FCC Rules to Facilitate the Use of Earth Stations in Motion Communicating With Geostationary Orbit Space Stations in FSS Bands: IB Docket No. 17–95.	3060–AK84
433 .....	Further Streamlining Part 25 Rules Governing Satellite Services: IB Docket No. 18–314 .....	3060–AK87
434 .....	Streamlining Licensing Procedures for Small Satellites: IB Docket No. 18–86 .....	3060–AK88
435 .....	Facilitating the Communications of Earth Stations in Motion With Non-Geostationary Orbit Space Stations: IB Docket No. 18–315.	3060–AK89
436 .....	Mitigation of Orbital Debris in the New Space Age: IB Docket No. 18–313 .....	3060–AK90

## MEDIA BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
437 .....	Cable Television Rate Regulation .....	3060–AF41
438 .....	Implementation of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992 (MB Docket No. 05–311).	3060–AI69
439 .....	Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard (GN Docket No. 16–142).	3060–AK56
440 .....	Electronic Delivery of MVPD Communications (MB Docket No. 17–317) .....	3060–AK70
441 .....	2018 Quadrennial Regulatory Review of the Commission’s Broadcast Ownership Rules (MB Docket 18–349).	3060–AK77
442 .....	Children’s Television Programming Rules (MB Docket 18–202) .....	3060–AK78
443 .....	Amendment of Part 74 of the Commission’s Rules Regarding FM Translator Interference (MB Docket 18–119).	3060–AK79
444 .....	Channel Lineup Requirements—Sections 76.1705 and 76.1700(a)(4): Modernization of Media Regulation Initiative: MB Docket Nos. 18–92 and 17–105.	3060–AK85
445 .....	Equal Employment Opportunity Enforcement (MB Docket 19–77) .....	3060–AK86

## MEDIA BUREAU—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
446 .....	Digital Must-Carry (CS Docket No. 98–120) .....	3060–AG91
447 .....	Enhanced and Standardized Disclosure (MM Docket No. 00–168; MB Docket No. 11–189) .....	3060–AH71
448 .....	Digital Television Distributed Transmission System Technologies (MB Docket No. 05–312) .....	3060–AI68
449 .....	An Inquiry Into the Commission’s Policies and Rules Regarding AM Radio Service Directional Antenna Performance Verification (MM Docket No. 93–177).	3060–AJ17

## OFFICE OF MANAGING DIRECTOR—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
450 .....	Assessment and Collection of Regulatory Fees .....	3060–AK64

## PUBLIC SAFETY AND HOMELAND SECURITY BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
451 .....	Wireless E911 Location Accuracy Requirements: PS Docket No. 07–114 .....	3060–AJ52
452 .....	Proposed Amendments to Service Rules Governing Public Safety Narrowband Operations in the 769–775 and 799–805 MHz Bands; PS Docket No. 13–87.	3060–AK19
453 .....	Improving Outage Reporting for Submarine Cables and Enhancing Submarine Cable Outage Data; GN Docket No. 15–206.	3060–AK39
454 .....	Amendments to Part 4 of the Commission’s Rules Concerning Disruptions to Communications: PS Docket No. 15–80.	3060–AK40
455 .....	New Part 4 of the Commission’s Rules Concerning Disruptions to Communications; ET Docket No. 04–35	3060–AK41
456 .....	Wireless Emergency Alerts (WEA): PS Docket No. 15–91 .....	3060–AK54
457 .....	Blue Alert EAS Event Code .....	3060–AK63

## WIRELESS TELECOMMUNICATIONS BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
458 .....	Universal Service Reform Mobility Fund (WT Docket No. 10–208) .....	3060–AJ58
459 .....	Improving Spectrum Efficiency Through Flexible Channel Spacing and Bandwidth Utilization for Economic Area-Based 800 MHz Specialized Mobile Radio Licensees (WT Docket Nos. 12–64 and 11–110).	3060–AJ71
460 .....	Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions (GN Docket No. 12–268).	3060–AJ82
461 .....	Amendment of Parts 1, 2, 22, 24, 27, 90, and 95 of the Commission's Rules to Improve Wireless Coverage Through the Use of Signal Boosters (WT Docket No. 10–4).	3060–AJ87
462 .....	Amendment of the Commission's Rules Governing Certain Aviation Ground Station Equipment (Squitter) (WT Docket Nos. 10–61 and 09–42).	3060–AJ88
463 .....	Promoting Technological Solutions to Combat Wireless Contraband Device Use in Correctional Facilities; GN Docket No. 13–111.	3060–AK06
464 .....	Promoting Investment in the 3550–3700 MHz Band; GN Docket No. 17–258 .....	3060–AK12
465 .....	800 MHz Cellular Telecommunications Licensing Reform; Docket No. 12–40 .....	3060–AK13
466 .....	Updating Part 1 Competitive Bidding Rules (WT Docket No. 14–170) .....	3060–AK28
467 .....	Use of Spectrum Bands Above 24 GHz for Mobile Services—Spectrum Frontiers: WT Docket 10–112 .....	3060–AK44
468 .....	Transforming the 2.5 GHz Band .....	3060–AK75
469 .....	Expanding Flexible Use of the 3.7 to 4.2 GHz Band; GN Docket No. 18–122 .....	3060–AK76
470 .....	Amendment of the Commission's Rules to Promote Aviation Safety: WT Docket No. 19–140 .....	3060–AK92

## WIRELESS TELECOMMUNICATIONS BUREAU—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
471 .....	Review of Part 87 of the Commission's Rules Concerning Aviation (WT Docket No. 01–289) .....	3060–AI35
472 .....	Amendment of Part 101 of the Commission's Rules for Microwave Use and Broadcast Auxiliary Service Flexibility.	3060–AJ47
473 .....	Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525–1559 MHz and 1626.5–1660.5 MHz, 1610–1626.5 MHz and 2483.5–2500 MHz, and 2000–2020 MHz and 2180–2200 MHz.	3060–AJ59

## WIRELINE COMPETITION BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
474 .....	Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information (CC Docket No. 96–115).	3060–AG43
475 .....	Numbering Resource Optimization .....	3060–AH80
476 .....	Jurisdictional Separations .....	3060–AJ06
477 .....	Service Quality Measurement Plan for Interstate Special Access (WC Docket No. 02–112; CC Docket No. 00–175; WC Docket No. 06–120).	3060–AJ08
478 .....	Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans.	3060–AJ15
479 .....	Local Number Portability Porting Interval and Validation Requirements (WC Docket No. 07–244) .....	3060–AJ32
480 .....	Rural Call Completion; WC Docket No. 13–39 .....	3060–AJ89
481 .....	Rates for Inmate Calling Services; WC Docket No. 12–375 .....	3060–AK08
482 .....	Comprehensive Review of the Part 32 Uniform System of Accounts (WC Docket No. 14–130) .....	3060–AK20
483 .....	Restoring Internet Freedom (WC Docket No. 17–108); Protecting and Promoting the Open Internet (GN Docket No. 14–28).	3060–AK21
484 .....	Technology Transitions; GN Docket No 13–5, WC Docket No. 05–25; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment; WC Docket No. 17–84.	3060–AK32
485 .....	Numbering Policies for Modern Communications, WC Docket No. 13–97 .....	3060–AK36
486 .....	Implementation of the Universal Service Portions of the 1996 Telecommunications Act .....	3060–AK57
487 .....	Toll Free Assignment Modernization and Toll Free Service Access Codes: WC Docket No. 17–192, CC Docket No. 95–155.	3060–AK91

**FEDERAL COMMUNICATIONS COMMISSION (FCC)**

Consumer and Governmental Affairs Bureau

## Long-Term Actions

**418. Rules and Regulations****Implementing the Telephone Consumer Protection Act (TCPA) of 1991 (CG Docket No. 02–278)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 227

*Abstract:* In this docket, the

Commission considers rules and policies to implement the Telephone Consumer Protection Act of 1991 (TCPA). The TCPA places requirements on robocalls (calls using an automatic telephone dialing system, an autodialer, a prerecorded or, an artificial voice), telemarketing calls, and unsolicited fax advertisements.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/08/02	67 FR 62667
FNPRM .....	04/03/03	68 FR 16250
Order .....	07/25/03	68 FR 44144
Order Effective .....	08/25/03	
Order on Reconsideration.	08/25/03	68 FR 50978
Order .....	10/14/03	68 FR 59130
FNPRM .....	03/31/04	69 FR 16873
Order .....	10/08/04	69 FR 60311
Order .....	10/28/04	69 FR 62816
Order on Reconsideration.	04/13/05	70 FR 19330
Order .....	06/30/05	70 FR 37705
NPRM .....	12/19/05	70 FR 75102
Public Notice .....	04/26/06	71 FR 24634
Order .....	05/03/06	71 FR 25967
NPRM .....	12/14/07	72 FR 71099
Declaratory Ruling	02/01/08	73 FR 6041
R&O .....	07/14/08	73 FR 40183
Order on Reconsideration.	10/30/08	73 FR 64556
NPRM .....	03/22/10	75 FR 13471
R&O .....	06/11/12	77 FR 34233
Public Notice .....	06/30/10	75 FR 34244
Public Notice (Reconsideration Petitions Filed).	10/03/12	77 FR 60343
Announcement of Effective Date.	10/16/12	77 FR 63240
Opposition End Date.	10/18/12	
Rule Corrections	11/08/12	77 FR 66935
Declaratory Ruling (release date).	11/29/12	
Declaratory Ruling (release date).	05/09/13	
Declaratory Ruling and Order.	10/09/15	80 FR 61129
NPRM .....	05/20/16	81 FR 31889
Declaratory Ruling	07/05/16	
R&O .....	11/16/16	81 FR 80594
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Kristi Thornton, Associate Division Chief, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418–2467, Email: kristi.thornton@fcc.gov.

RIN: 3060–AI14

**419. Rules and Regulations****Implementing Section 225 of the Communications Act (Telecommunications Relay Service) (CG Docket No. 03–123)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 225

*Abstract:* This proceeding continues the Commission's inquiry into improving the quality of telecommunications relay service (TRS) and furthering the goal of functional equivalency, consistent with Congress' mandate that TRS regulations encourage the use of existing technology and not discourage or impair the development of new technology. In this docket, the Commission explores ways to improve emergency preparedness for TRS facilities and services, new TRS technologies, public access to information and outreach, and issues related to payments from the Interstate TRS Fund.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/25/03	68 FR 50993
R&O, Order on Reconsideration.	09/01/04	69 FR 53346
FNPRM .....	09/01/04	69 FR 53382
Public Notice .....	02/17/05	70 FR 8034
Declaratory Ruling/Interpretation.	02/25/05	70 FR 9239
Public Notice .....	03/07/05	70 FR 10930
Order .....	03/23/05	70 FR 14568
Public Notice/Announcement of Date.	04/06/05	70 FR 17334
Order .....	07/01/05	70 FR 38134
Order on Reconsideration.	08/31/05	70 FR 51643
R&O .....	08/31/05	70 FR 51649
Order .....	09/14/05	70 FR 54294
Order .....	09/14/05	70 FR 54298
Public Notice .....	10/12/05	70 FR 59346
R&O/Order on Reconsideration.	12/23/05	70 FR 76208
Order .....	12/28/05	70 FR 76712
Order .....	12/29/05	70 FR 77052
NPRM .....	02/01/06	71 FR 5221
Declaratory Ruling/Clarification.	05/31/06	71 FR 30818
FNPRM .....	05/31/06	71 FR 30848
FNPRM .....	06/01/06	71 FR 31131
Declaratory Ruling/Dismissal of Petition.	06/21/06	71 FR 35553
Clarification .....	06/28/06	71 FR 36690

Action	Date	FR Cite
Declaratory Ruling on Reconsideration.	07/06/06	71 FR 38268
Order on Reconsideration.	08/16/06	71 FR 47141
MO&O .....	08/16/06	71 FR 47145
Clarification .....	08/23/06	71 FR 49380
FNPRM .....	09/13/06	71 FR 54009
Final Rule; Clarification.	02/14/07	72 FR 6960
Order .....	03/14/07	72 FR 11789
R&O .....	08/06/07	72 FR 43546
Public Notice .....	08/16/07	72 FR 46060
Order .....	11/01/07	72 FR 61813
Public Notice .....	01/04/08	73 FR 863
R&O/Declaratory Ruling.	01/17/08	73 FR 3197
Order .....	02/19/08	73 FR 9031
Order .....	04/21/08	73 FR 21347
R&O .....	04/21/08	73 FR 21252
Order .....	04/23/08	73 FR 21843
Public Notice .....	04/30/08	73 FR 23361
Order .....	05/15/08	73 FR 28057
Declaratory Ruling	07/08/08	73 FR 38928
FNPRM .....	07/18/08	73 FR 41307
R&O .....	07/18/08	73 FR 41286
Public Notice .....	08/01/08	73 FR 45006
Public Notice .....	08/05/08	73 FR 45354
Public Notice .....	10/10/08	73 FR 60172
Order .....	10/23/08	73 FR 63078
2nd R&O and Order on Reconsideration.	12/30/08	73 FR 79683
Order .....	05/06/09	74 FR 20892
Public Notice .....	05/07/09	74 FR 21364
NPRM .....	05/21/09	74 FR 23815
Public Notice .....	05/21/09	74 FR 23859
Public Notice .....	06/12/09	74 FR 28046
Order .....	07/29/09	74 FR 37624
Public Notice .....	08/07/09	74 FR 39699
Order .....	09/18/09	74 FR 47894
Order .....	10/26/09	74 FR 54913
Public Notice .....	05/12/10	75 FR 26701
Order Denying Stay Motion (Release Date).	07/09/10	
Order .....	08/13/10	75 FR 49491
Order .....	09/03/10	75 FR 54040
NPRM .....	11/02/10	75 FR 67333
NPRM .....	05/02/11	76 FR 24442
Order .....	07/25/11	76 FR 44326
Final Rule (Order)	09/27/11	76 FR 59551
Final Rule; Announcement of Effective Date.	11/22/11	76 FR 72124
Proposed Rule (Public Notice).	02/28/12	77 FR 11997
Proposed Rule (FNPRM).	02/01/12	77 FR 4948
First R&O .....	07/25/12	77 FR 43538
Public Notice .....	10/29/12	77 FR 65526
Order on Reconsideration.	12/26/12	77 FR 75894
Order .....	02/05/13	78 FR 8030
Order (Interim Rule).	02/05/13	78 FR 8032
NPRM .....	02/05/13	78 FR 8090
Announcement of Effective Date.	03/07/13	78 FR 14701
NPRM Comment Period End.	03/13/13	
FNPRM .....	07/05/13	78 FR 40407
FNPRM Comment Period End.	09/18/13	

Action	Date	FR Cite	Action	Date	FR Cite
R&O .....	07/05/13	78 FR 40582	Public Notice	07/31/17	
R&O .....	08/15/13	78 FR 49693	Comment Pe-		
FNPRM .....	08/15/13	78 FR 49717	riod End.		
FNPRM Comment	09/30/13		Public Notice—	08/17/17	
Period End.			Correction		
R&O .....	08/30/13	78 FR 53684	Comment Pe-		
FNPRM .....	09/03/13	78 FR 54201	riod End.		
NPRM .....	10/23/13	78 FR 63152	R&O .....	08/22/17	82 FR 39673
FNPRM Comment	11/18/13		Announcement of	10/17/17	82 FR 48203
Period End.			Effective Date.		
Petition for Recon-	12/16/13	78 FR 76096	Public Notice; Pe-	10/25/17	82 FR 49303
sideration; Re-			tion for Recon-		
quest for Com-			sideration.		
ment.			Oppositions Due	11/20/17	
Petition for Re-	12/16/13	78 FR 76097	Date.		
consideration;			R&O and Declara-	06/27/18	83 FR 30082
Request for			tory Ruling.		
Comment.			FNPRM .....	07/18/18	83 FR 33899
Request for Clari-	12/30/13	78 FR 79362	FNPRM Comment	11/15/18	
fication; Re-			Period End.		
quest for Com-			Public Notice .....	08/23/18	83 FR 42630
ment; Corre-			Public Notice Op-	09/17/18	
ction.			position Period		
Petition for Re-	01/10/14		End.		
consideration			Announcement of	02/04/19	84 FR 1409
Comment Pe-			Effective Date.		
riod End.			R&O .....	03/08/19	84 FR 8457
NPRM Comment	01/21/14		FNPRM .....	03/14/19	84 FR 9276
Period End.			FNPRM Comment	04/29/19	
Announcement of	07/11/14	79 FR 40003	Period End.		
Effective Date.			R&O .....	06/06/19	84 FR 26364
Announcement of	08/28/14	79 FR 51446	FNPRM .....	06/06/19	84 FR 26379
Effective Date.			Petition for Recon	06/18/19	84 FR 28264
Correction—An-	08/28/14	79 FR 51450	Request for		
ouncement of			Comment.		
Effective Date.			Petition for Recon	07/15/19	
Technical Amend-	09/09/14	79 FR 53303	Comment Pe-		
ments.			riod End.		
Public Notice .....	09/15/14	79 FR 54979	FNPRM Comment	08/05/19	
R&O and Order ...	10/21/14	79 FR 62875	Period End.		
FNPRM .....	10/21/14	79 FR 62935	Next Action Unde-		
FNPRM Comment	12/22/14		termined.		
Period End.					
Final Action (An-	10/30/14	79 FR 64515			
nouncement of					
Effective Date).					
Final Rule Efec-	10/30/14				
tive.					
FNPRM .....	11/08/15	80 FR 72029			
FNPRM Comment	01/01/16				
Period End.					
Public Notice .....	01/20/16	81 FR 3085			
Public Notice	02/16/16				
Comment Pe-					
riod End.					
R&O .....	03/21/16	81 FR 14984			
FNPRM .....	08/24/16	81 FR 57851			
FNPRM Comment	09/14/16				
Period End.					
NOI and FNPRM	04/12/17	82 FR 17613			
NOI and FNPRM	05/30/17				
Comment Pe-					
riod End.					
R&O .....	04/13/17	82 FR 17754			
R&O .....	04/27/17	82 FR 19322			
FNPRM .....	04/27/17	82 FR 19347			
FNPRM Comment	07/11/17				
Period End.					
R&O .....	06/23/17	82 FR 28566			
Public Notice .....	07/21/17	82 FR 33856			
Public Notice—	07/25/17	82 FR 34471			
Correction.					

efficient way to make VRS available and to determine what is the most fair, efficient, and transparent cost-recovery methodology. In addition, the Commission looks at various ways to measure the quality of VRS so as to ensure a better consumer experience.

*Timetable:*

Action	Date	FR Cite
Declaratory Ruling	05/07/10	75 FR 25255
Declaratory Ruling	07/13/10	75 FR 39945
Order .....	07/13/10	75 FR 39859
Notice of Inquiry ..	07/19/10	75 FR 41863
NPRM .....	08/23/10	75 FR 51735
Interim Final Rule	02/15/11	76 FR 8659
Public Notice .....	03/02/11	76 FR 11462
R&O .....	05/02/11	76 FR 24393
FNPRM .....	05/02/11	76 FR 24437
NPRM .....	05/02/11	76 FR 24442
R&O (Correction)	05/27/11	76 FR 30841
Order .....	07/25/11	76 FR 44326
2nd R&O .....	08/05/11	76 FR 47469
Order (Interim	08/05/11	76 FR 47476
Final Rule).		
Final Rule; An-	09/26/11	76 FR 59269
nouncement of		
Effective Date.		
Final Rule; Peti-	09/27/11	76 FR 59557
tion for Recon-		
sideration; Pub-		
lic Notice.		
Oppositions Due	10/07/11	
Date.		
Final Rule; Clari-	10/31/11	76 FR 67070
fication (MO&O).		
FNPRM .....	10/31/11	76 FR 67118
Interim Final Rule;	11/03/11	76 FR 68116
Announcement		
of Effective		
Date.		
Final Rule; An-	11/04/11	76 FR 68328
nouncement of		
Effective Date.		
Final Rule; An-	11/07/11	76 FR 68642
nouncement of		
Effective Date.		
FNPRM Comment	12/30/11	
Period End.		
FNPRM .....	02/01/12	77 FR 4948
FNPRM Comment	03/19/12	
Period End.		
Final Rule; Cor-	03/27/12	77 FR 18106
rection.		
Correcting	06/07/12	77 FR 33662
Amendments.		
Order (Release	07/25/12	
Date).		
Correcting	10/04/12	77 FR 60630
Amendments.		
Public Notice .....	10/29/12	77 FR 65526
Comment Period	11/29/12	
End.		
FNPRM .....	07/05/13	78 FR 40407
R&O .....	07/05/13	78 FR 40582
FNPRM Comment	09/18/13	
Period End.		
Public Notice .....	09/11/13	78 FR 55696
Public Notice .....	09/15/14	79 FR 54979
Comment Period	10/10/14	
End.		
Final Action (An-	10/30/14	79 FR 64515
nouncement of		
Effective Date).		

Action	Date	FR Cite
Final Rule Effective.	10/30/14	
FNPRM .....	11/18/15	80 FR 72029
FNPRM Comment Period End.	02/01/16	
R&O .....	03/21/16	81 FR 14984
FNPRM .....	08/24/16	81 FR 57851
FNPRM Comment Period End.	09/14/16	
NOI and FNPRM	04/12/17	82 FR 17613
NOI and FNPRM Comment Period End.	05/30/17	
R&O .....	04/13/17	82 FR 17754
R&O .....	04/27/17	82 FR 19322
FNPRM .....	04/27/17	82 FR 19347
FNPRM Comment Period End.	07/01/17	
Order .....	06/23/17	82 FR 28566
Public Notice .....	07/21/17	82 FR 33856
Public Notice Comment Period End.	07/31/17	
Public Notice Correction.	07/25/17	82 FR 34471
Public Notice Correction Comment Period End.	08/17/17	
R&O and Order ...	08/22/17	82 FR 39673
Announcement of Effective Date.	10/17/17	82 FR 48203
Public Notice; Petition for Reconsideration.	10/25/17	82 FR 49303
Oppositions Due Date.	11/20/17	
R&O .....	06/06/19	84 FR 26364
FNPRM .....	06/06/19	84 FR 26379
FNPRM Comment Period End.	08/05/19	
Next Action Undetermined.		

#### Regulatory Flexibility Analysis

Required: Yes.

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*RIN:* 3060–AJ42

#### 421. Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services; CG Docket No. 13–24

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 225

*Abstract:* The Federal Communications Commission (FCC) initiated this proceeding in its effort to ensure that Internet-Protocol Captioned Telephone Service (IP CTS) is provided effectively and in the most efficient manner. In doing so, the FCC adopted rules to address certain practices related

to the provision and marketing of IP CTS, as well as compensation of TRS providers. IP CTS is a form of relay service designed to allow people with hearing loss to speak directly to another party on a telephone call and to simultaneously listen to the other party and read captions of what that party is saying over an IP-enabled device. To ensure that IP CTS is provided efficiently to persons who need to use this service, the Commission adopted rules establishing several requirements and issued an FNPRM to address additional issues.

#### Timetable:

Action	Date	FR Cite
NPRM .....	02/05/13	78 FR 8090
Order (Interim Rule).	02/05/13	78 FR 8032
Order .....	02/05/13	78 FR 8030
Announcement of Effective Date.	03/07/13	78 FR 14701
FNPRM Comment Period End.	03/12/13	
R&O .....	08/30/13	78 FR 53684
FNPRM .....	09/03/13	78 FR 54201
FNPRM Comment Period End.	11/18/13	
Petition for Reconsideration Request for Comment.	12/16/13	78 FR 76097
Petition for Reconsideration Comment Period End.	01/10/14	
Announcement of Effective Date.	07/11/14	79 FR 40003
Announcement of Effective Date.	08/28/14	79 FR 51446
Correction—Announcement of Effective Date.	08/28/14	79 FR 51450
Technical Amendments.	09/09/14	79 FR 53303
R&O and Declaratory Ruling.	06/27/18	83 FR 30082
FNPRM .....	07/18/18	83 FR 33899
Public Notice .....	08/23/18	83 FR 42630
Public Notice Opposition Period End.	09/07/18	
FNPRM Comment Period End.	11/15/18	
Announcement of Effective Date.	02/04/19	84 FR 1409
R&O .....	03/08/19	84 FR 8457
FNPRM .....	03/14/19	84 FR 9276
FNPRM Comment Period End.	04/29/19	
Petition for Recon Request for Comment.	06/18/19	84 FR 28264
Petition for Recon Comment Period End.	07/15/19	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Eliot Greenwald, Deputy Chief, Disability Rights Office, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–2235, *Email:* [eliot.greenwald@fcc.gov](mailto:eliot.greenwald@fcc.gov).

*RIN:* 3060–AK01

#### 422. Advanced Methods To Target and Eliminate Unlawful Robocalls (CG Docket No. 17–59)

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 201 and 202; 47 U.S.C. 227; 47 U.S.C. 251(e)

*Abstract:* The Telephone Consumer Protection Act of 1991 restricts the use of robocalls autodialed or prerecorded calls in certain instances. In CG Docket No. 17–59, the Commission considers rules and policies aimed at eliminating unlawful robocalling. Among the issues it examines in this docket are whether to allow carriers to block calls that purport to be from unallocated or unassigned phone numbers through the use of spoofing, whether to allow carriers to block calls based on their own analyses of which calls are likely to be unlawful and whether to establish a database of reassigned phone numbers to help prevent robocalls to consumers, who did not consent to such calls.

#### Timetable:

Action	Date	FR Cite
NPRM/NOI .....	05/17/17	82 FR 22625
2nd NOI .....	07/13/17	
NPRM Comment Period End.	07/31/17	
FNPRM .....	01/08/18	83 FR 770
R&O .....	01/12/18	83 FR 1566
2nd FNPRM .....	04/23/18	83 FR 17631
2nd FNPRM Comment Period End.	06/07/18	
2nd FNPRM Reply Comment Period End.	07/09/18	
2nd R&O .....	03/26/19	84 FR 11226
3rd FNPRM .....	06/24/19	84 FR 29478
Declaratory Ruling	06/24/19	84 FR 29387
Next Action Undetermined.		

#### Regulatory Flexibility Analysis

Required: Yes.

*Agency Contact:* Josh Zeldis, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–0715, *Email:* [josh.zeldis@fcc.gov](mailto:josh.zeldis@fcc.gov).

Karen Schroeder, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–0654, *Email:* [karen.schroeder@fcc.gov](mailto:karen.schroeder@fcc.gov).

Jerusha Burnett, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC

20554, Phone: 202 418-0526, Email: [jerusha.burnett@fcc.gov](mailto:jerusha.burnett@fcc.gov).  
RIN: 3060-AK62

## FEDERAL COMMUNICATIONS COMMISSION (FCC)

Office of Engineering and Technology

Long-Term Actions

### 423. Federal Earth Stations—Non-Federal Fixed Satellite Service Space Stations; Spectrum For Non-Federal Space Launch Operations; ET Docket No. 13-115

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 154; 47 U.S.C. 302(a); 47 U.S.C. 303; 47 U.S.C. 336

*Abstract:* The Notice of Proposed Rulemaking proposes to make spectrum allocation proposals for three different space-related purposes. The Commission makes two alternative proposals to modify the Allocation Table to provide interference protection for Fixed-Satellite Service (FSS) and Mobile-Satellite Service (MSS) earth stations operated by Federal agencies under authorizations granted by the National Telecommunications and Information Administration (NTIA) in certain frequency bands. The Commission also proposes to amend a footnote to the Allocation Table to permit a Federal MSS system to operate in the 399.9 to 400.05 MHz band; it also makes alternative proposals to modify the Allocation Table to provide access to spectrum on an interference protected basis to Commission licensees for use during the launch of launch vehicles (*i.e.*, rockets). The Commission also seeks comment broadly on the future spectrum needs of the commercial space sector. The Commission expects that, if adopted, these proposals would advance the commercial space industry and the important role it will play in our Nation's economy and technological innovation now and in the future.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/01/13	78 FR 39200
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Nicholas Oros, Electronics Engineer, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-0636, Email: [nicholas.oros@fcc.gov](mailto:nicholas.oros@fcc.gov).

RIN: 3060-AK09

### 424. Authorization of Radio Frequency Equipment; ET Docket No. 13-44

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 157(a); 47 U.S.C. 301; 47 U.S.C. 303(f); 47 U.S.C. 303(g); 47 U.S.C. 303(r); 47 U.S.C. 307(e); 47 U.S.C. 332

*Abstract:* The Commission is responsible for an equipment authorization program for radio frequency (RF) devices under part 2 of its rules. This program is one of the primary means that the Commission uses to ensure that the multitude of RF devices used in the United States operate effectively without causing harmful interference and otherwise comply with the Commission rules. All RF devices subject to equipment authorization must comply with the Commission's technical requirement before they can be imported or marketed. The Commission or a Telecommunication Certification Body (TCB) must approve some of these devices before they can be imported or marketed, while others do not require such approval. The Commission last comprehensively reviewed its equipment authorization program more than 10 years ago. The rapid innovation in equipment design since that time has led to ever-accelerating growth in the number of parties applying for equipment approval. The Commission therefore believes that the time is now right for us to comprehensively review our equipment authorization processes to ensure that they continue to enable this growth and innovation in the wireless equipment market. In May 2012, the Commission began this reform process by issuing an Order to increase the supply of available grantee codes. With this Notice of Proposed Rulemaking (NPRM), the Commission continues its work to review and reform the equipment authorization processes and rules. This Notice of Proposed Rulemaking proposes certain changes to the Commission's part 2 equipment authorization processes to ensure that they continue to operate efficiently and effectively. In particular, it addresses the role of TCBs in certifying RF equipment and post-market surveillance, as well as the Commission's role in assessing TCB performance. The NPRM also addressed the role of test laboratories in the RF equipment approval process, including accreditation of test labs and the Commission's recognition of laboratory accreditation bodies, and measurement procedures used to determine RF

equipment compliance. Finally, it proposes certain modifications to the rules regarding TCBs that approve terminal equipment under part 68 of the rules that are consistent with our proposed modifications to the rules for TCBs that approve RF equipment. Specifically, the Commission proposes to recognize the National Institute for Standards and Technology (NIST) as the organization that designates TCBs in the United States and to modify the rules to reference the current International Organization for Standardization and International Electrotechnical Commission (ISO/IEC) guides used to accredit TCBs.

This Report and Order updates the Commission's radiofrequency (RF) equipment authorization program to build on the success realized by its use of Commission-recognized Telecommunications Certification Bodies (TCBs). The rules the Commission is adopting will facilitate the continued rapid introduction of new and innovative products to the market while ensuring that these products do not cause harmful interference to each other or to other communications devices and services.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/03/13	78 FR 25916
R&O .....	06/12/15	80 FR 33425
Memorandum, Opinion & Order.	06/29/16	81 FR 42264
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Hugh Van Tuyl, Electronics Engineer, Federal Communications Commission, Office of Engineering and Technology, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-7506, Fax: 202 418-1944, Email: [hugh.vantuyl@fcc.gov](mailto:hugh.vantuyl@fcc.gov).

RIN: 3060-AK10

### 425. Spectrum Access for Wireless Microphone Operations (GN Docket Nos. 14-166 and 12-268)

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 157(a); 47 U.S.C. 301; 47 U.S.C. 303(f); 47 U.S.C. 303(g); 47 U.S.C. 303(r); 47 U.S.C. 307(e); 47 U.S.C. 332

*Abstract:* The Notice of Proposed Rule Making initiated a proceeding to address how to accommodate the long-term needs of wireless microphone users. Wireless microphones play an important role in enabling broadcasters



and other video programming networks to serve consumers, including as they cover breaking news and broadcast live sports events. They enhance event productions in a variety of settings including theaters and music venues, film studios, conventions, corporate events, houses of worship, and internet webcasts. They also help create high-quality content that consumers demand and value. Recent actions by the Commission, and in particular the repurposing of broadcast television band spectrum for wireless services set forth in the Incentive Auction Report and Order, will significantly alter the regulatory environment in which wireless microphones operate, which necessitates our addressing how to accommodate wireless microphone users in the future.

In the Report and Order, the Commission takes several steps to accommodate the long-term needs of wireless microphone users. Wireless microphones play an important role in enabling broadcasters and other video programming networks to serve consumers, including as they cover breaking news and live sports events. They enhance event productions in a variety of settings including theaters and music venues, film studios, conventions, corporate events, houses of worship, and internet webcasts. They also help create high-quality content that consumers demand and value. In particular, the Commission provides additional opportunities for wireless microphone operations in the TV bands following the upcoming incentive auction, and the Commission provides new opportunities for wireless microphone operations to access spectrum in other frequency bands where they can share use of the bands without harming existing users.

In the Order on Reconsideration, we address the four petitions for reconsideration of the Wireless Microphones R&O concerning licensed wireless microphone operations in the TV bands, the 600 MHz duplex gap, and several other frequency bands, as well as three petitions for reconsideration of the TV bands part 15 R&O concerning unlicensed wireless microphone operations in the TV bands, the 600 MHz guard bands and duplex gap, and the 600 MHz service band. Because these petitions involve several overlapping technical and operational issues concerning wireless microphones, we consolidate our consideration of them in this one order.

In the Further Notice, we propose to permit certain professional theater, music, performing arts, or similar organizations that operate wireless

microphones on an unlicensed basis and that meet certain criteria to obtain a part 74 license to operate in the TV bands (and the 600 MHz service band during the post-auction transition period), thereby allowing them to register in the white spaces databases for interference protection from unlicensed white space devices at venues where their events/productions are performed. In addition, we propose to permit these same users, based on demonstrated need, also to obtain a part 74 license to operate on other bands available for use by part 74 wireless microphone licensees, provided that they meet the applicable requirements for operating in those bands.

#### *Timetable:*

Action	Date	FR Cite
NPRM .....	11/21/14	79 FR 69387
NPRM Comment Period End.	01/05/15	
NPRM Reply Comment Period End.	01/26/15	
R&O .....	11/17/15	80 FR 71702
FNPRM .....	09/01/17	82 FR 41583
Order on Recon ..	09/01/17	82 FR 41549
Next Action Undetermined.		

#### *Regulatory Flexibility Analysis Required: Yes.*

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#### **426. Encouraging the Provision of New Technologies and Services to the Public (GN Docket No. 18-22)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 154(3)

*Abstract:* In this proceeding, the FCC seeks to establish rules describing guidelines and procedures to implement the stated policy goal of section 7 to encourage the provision of new technologies and services to the public. Although the forces of competition and technological growth work together to enable the development and deployment of many new technologies and services to the public, the Commission has at times been slow to identify and take action to ensure that important new technologies or services are made available as quickly as possible. The Commission has sought to overcome these impediments by streamlining many of its processes but

all too often regulatory delays can adversely impact newly proposed technologies or services.

#### *Timetable:*

Action	Date	FR Cite
NPRM .....	04/04/18	83 FR 14395
Comment Period End.	05/04/18	
Next Action Undetermined.		

#### *Regulatory Flexibility Analysis Required: Yes.*

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#### **427. Spectrum Horizon (ET Docket No. 18-21)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 and 152; 47 U.S.C. 154; 47 U.S.C. 157; 47 U.S.C. 201; 47 U.S.C. 301; 47 U.S.C. 302(a); 47 U.S.C. 303; 47 U.S.C. 307; 47 U.S.C. 310; 47 U.S.C. 332; sec. 76 of 1996 Telecom Act, as amended, 47 U.S.C. 302 and sec. 1.411

*Abstract:* In this proceeding, the FCC seeks to implement a plan to make the spectrum above 95 GHz more readily accessible for new innovative services and technologies. Throughout its history, when the Commission has expanded access to what was thought to be the upper reaches of the usable spectrum, new technological advances have emerged to push the boundary of usable spectrum even further. The frequencies above 95 GHz are today's spectrum horizons. The Notice sought comment on proposed rules to permit licensed fixed point-to-point operations in a total of 102.2 gigahertz of spectrum; on making 15.2 gigahertz of spectrum available for unlicensed use; and on creating a new category of experimental licenses to increase opportunities for entities to develop new services and technologies from 95 GHz to 3 THz with no limits on geography or technology.

#### *Timetable:*

Action	Date	FR Cite
NPRM .....	04/02/18	83 FR 13888
ANPRM Comment Period End.	05/02/18	
R&O .....	06/14/19	84 FR 25685
Next Action Undetermined.		

#### *Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Michael Ha, Deputy Division Chief, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 201 418-2099, *Email:* michael.ha@fcc.gov.

*RIN:* 3060-AK81

**428. Amendment of Parts 1, 2, 15, 90, and 95 of the Commission's Rules To Permit Radar Services in the 76–81 GHz Band (ET Docket No. 15–26)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 and 152; 47 U.S.C. 154(i); 47 U.S.C. 301; 47 U.S.C. 302(a); 47 U.S.C. 303(f)

*Abstract:* In this Report and Order, the FCC establishes a flexible and streamlined regulatory framework for radar applications that will operate within the 76–81 GHz band. Specifically, the FCC give vehicular radars and certain airport-based radars protection from harmful interference as well as a contiguous five gigahertz allocation, facilitating the development and deployment of new safety devices. Doing so also harmonizes FCC rules with international efforts to create a global allocation for vehicular radars, while promoting efficient use of spectrum by consolidating such radars into a single band. In addition, the FCC established a comprehensive and consistent set of rules and policies to govern the operation of vehicular radars and certain airport-based radars in the 76–81 GHz band.

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/06/15	80 FR 12120
NPRM Comment Period End.	04/06/15	
R&O .....	09/20/17	82 FR 43865
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Howard Griboff, Deputy Chief, Policy Division, Federal Communications Commission, International Bureau, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-0657, *Fax:* 202 418-2824, *Email:* howard.griboff@fcc.gov.

*RIN:* 3060-AK82

**FEDERAL COMMUNICATIONS COMMISSION (FCC)**

*International Bureau*

Long-Term Actions

**429. International Settlements Policy Reform (IB Docket No. 11–80)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 to 152; 47 U.S.C. 154; 47 U.S.C. 201 to 205; 47 U.S.C. 208; 47 U.S.C. 211; 47 U.S.C. 214; 47 U.S.C. 303(r); 47 U.S.C. 309; 47 U.S.C. 403

*Abstract:* The FCC is reviewing the International Settlements Policy (ISP). It governs the ways U.S. carriers negotiate with foreign carriers for the exchange of international traffic and is the structure by which the Commission has sought to respond to concerns that foreign carriers with market power are able to take advantage of the presence of multiple U.S. carriers serving a particular market. In 2011, the FCC released an NPRM that proposed to further deregulate the international telephony market and enable U.S. consumers to enjoy competitive prices when they make calls to international destinations. First, it proposed to remove the ISP from all international routes except Cuba. Second, the FCC sought comment on a proposal to enable the Commission to better protect U.S. consumers from the effects of anticompetitive conduct by foreign carriers in instances necessitating Commission intervention. In 2012, the FCC adopted a Report and Order that eliminated the ISP on all routes but maintained the nondiscrimination requirement of the ISP on the U.S.-Cuba route and codified it in 47 CFR 63.22(f). In the Report and Order, the FCC also adopted measures to protect U.S. consumers from anticompetitive conduct by foreign carriers. In 2016, the FCC released an FNPRM seeking comment on removing the discrimination requirement on the U.S.-Cuba route.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/13/11	76 FR 42625
NPRM Comment Period End.	09/02/11	
Report and Order	02/15/13	78 FR 11109
FNPRM .....	03/04/16	81 FR 11500
FNPRM Comment Period End.	04/18/16	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* David Krech, Assoc. Chief, Telecommunications & Analysis

Division, Federal Communications Commission, International Bureau, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7443, *Fax:* 202 418-2824, *Email:* david.krech@fcc.gov.

*RIN:* 3060-AJ77

**430. Comprehensive Review of Licensing and Operating Rules for Satellite Services (IB Docket No. 12–267)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 154(i); 47 U.S.C. 157(a); 47 U.S.C. 161; 47 U.S.C. 303(c); 47 U.S.C. 303(g); 47 U.S.C. 303(r)

*Abstract:* The Commission adopted a Notice of Proposed Rulemaking (NPRM) to initiate a comprehensive review of part 25 of the Commission's rules, which governs the licensing and operation of space stations and earth stations. The Commission proposed amendments to modernize the rules to better reflect evolving technology, to eliminate unnecessary technical and information filing requirements, and to reorganize and simplify existing requirements. In the ensuing Report and Order, the Commission adopted most of its proposed changes and revised more than 150 rule provisions. Several proposals raised by commenters in the proceeding, however, were not within the scope of the original NPRM. To address these and other issues, the Commission released a Further Notice of Proposed Rulemaking (FNPRM). The FNPRM proposed additional rule changes to facilitate international coordination of proposed satellite networks, to revise system implementation milestones and the associated bond, and to expand the applicability of routine licensing standards. Following the FNPRM, the Commission issued a Second Report and Order adopting most of its proposals in the FNPRM. Among other changes, the Commission established a two-step licensing procedure for most geostationary satellite applicants to facilitate international coordination, simplified the satellite development milestones, adopted an escalating bond requirement to discourage speculation, and refined the two-degree orbital spacing policy for most geostationary satellites to protect existing services. In addition, in May 2016, the International Bureau published a Public Notice inviting comment on the appropriate implementation schedule for a Carrier Identification requirement adopted in the first Report and Order in this proceeding. In July 2017, the Commission adopted a waiver of the Carrier Identification requirement for

certain earth stations that cannot be suitably upgraded.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/08/12	77 FR 67172
NPRM Comment Period End.	02/13/13	
Report and Order	02/12/14	79 FR 8308
FNPRM .....	10/31/14	79 FR 65106
FNPRM Comment Period End.	03/02/15	
Public Notice .....	05/31/16	81 FR 34301
2nd R&O .....	08/18/16	81 FR 55316
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Clay DeCell, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–0803, *Email:* clay.decell@fcc.gov.  
*RIN:* 3060–A]98

**431. Update to Parts 2 and 25 Concerning Nongeostationary, Fixed-Satellite Service Systems, and Related Matters: IB Docket No. 16–408**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 154(i); 47 U.S.C. 303; 47 U.S.C. 316

*Abstract:* On January 11, 2017, the Commission began a rulemaking to update its rules and policies concerning non-geostationary-satellite orbit (NGSO), fixed-satellite service (FSS) systems and related matters. The proposed changes would, among other things, provide for more flexible use of the 17.8–20.2 GHz bands for FSS, promote shared use of spectrum among NGSO FSS satellite systems, and remove unnecessary design restrictions on NGSO FSS systems. The Commission subsequently adopted a Report and Order establishing new sharing criteria among NGSO FSS systems and providing additional flexibility for FSS spectrum use. The Commission also released a Further Notice of Proposed Rulemaking proposing to remove the domestic coverage requirement for NGSO FSS systems.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/11/17	82 FR 3258
NPRM Comment Period End.	04/10/17	
FNPRM .....	11/15/17	82 FR 52869
R&O .....	12/18/17	82 FR 59972
FNPRM Comment Period End.	01/02/18	
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Clay DeCell, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–0803, *Email:* clay.decell@fcc.gov.  
*RIN:* 3060–AK59

**432. • Amendment of Parts 2 and 25 of the FCC Rules To Facilitate the Use of Earth Stations in Motion Communicating With Geostationary Orbit Space Stations in FSS Bands: IB Docket No. 17–95**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 154(i); 47 U.S.C. 157(a); 47 U.S.C. 303; 47 U.S.C. 308(b); 47 U.S.C. 316

*Abstract:* In June 2017, the Commission began a rulemaking to streamline, consolidate, and harmonize rules governing earth stations in motion (ESIMs) used to provide satellite-based services on ships, airplanes and vehicles communicating with geostationary-satellite orbit (GSO), fixed-satellite service (FSS) satellite systems. In September 2018, the Commission adopted rules governing communications of ESIMs with GSO satellites. These rules addressed communications in the conventional C-, Ku-, and Ka-bands, as well as portions of the extended Ku-band. At the same time, the Commission also released a Further Notice of Proposed Rulemaking that sought comment on allowing ESIMs to operate in all of the frequency bands in which earth stations at fixed locations operating in GSO FSS satellite networks can be blanket-licensed. Specifically, comment was sought on expanding the frequencies available for communications of ESIMs with GSO FSS satellites to include the following frequency bands: 10.7–10.95 GHz, 11.2–11.45 GHz, 17.8–18.3 GHz, 18.8–19.3 GHz, 19.3–19.4 GHz, 19.6–19.7 GHz (space-to-Earth); and 28.6–29.1 GHz (Earth-to-space).

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/16/17	82 FR 27652
NPRM Comment Period End.	08/30/17	
OMB-approval for Information Collection of R&O Comment Period End.	08/28/18	
FNPRM .....	02/22/19	84 FR 5654
R&O .....	03/25/19	84 FR 11090
FNPRM Comment Period End.	04/28/19	

Action	Date	FR Cite
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Cindy Spiers, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–1593, *Email:* cindy.spiers@fcc.gov.  
*RIN:* 3060–AK84

**433. • Further Streamlining Part 25 Rules Governing Satellite Services: IB Docket No. 18–314**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. secs. 154(i); 47 U.S.C. 161; 47 U.S.C. 303; 47 U.S.C. 316

*Abstract:* Under the Commission's rules, satellite operators must follow separate application and authorization processes for the satellites and earth stations that make up their networks and have no option for a single, unified network license. In this Notice of Proposed Rulemaking, the FCC proposes to create a new, optional, unified license to include both space stations and earth stations operating in a geostationary-satellite orbit, fixed-satellite service (GSO FSS) satellite network. In addition, the Commission proposes to repeal or modify unnecessarily burdensome rules in Part 25 governing satellite services, such as annual reporting requirements. These proposals would greatly simplify the Commission's licensing and regulation of satellite systems.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/31/19	84 FR 638
NPRM Comment Period End.	03/18/19	
NPRM Reply Comment Period End.	04/16/19	
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Clay Decell, Attorney Advisor, Federal Communications Commission, 445 12th Street, Washington, DC 20554, *Phone:* 202 418–0803, *Email:* clay.decell@fcc.gov.  
*RIN:* 3060–AK87

**434. • Streamlining Licensing Procedures for Small Satellites; IB Docket No. 18–86**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 154(i); 47 U.S.C. 157; 47 U.S.C. 158; 47 U.S.C. 301; 47 U.S.C. 303; 47 U.S.C. 308; 47 U.S.C. 309

*Abstract:* On April 17, 2018, the Commission released a Notice of Proposed Rulemaking (NPRM) proposing to modify the Commission's part 25 satellite licensing rules to create a new category of application specific to small satellites. The Commission sought comment on criteria that would define this new category and proposed that applicants meeting the criteria could take advantage of a simplified application, faster processing, and lower fees, among other things. The proposed streamlined licensing process was developed based on the features and characteristics that typically distinguish small satellite operations from other types of satellite operations, such as shorter orbital lifetime and less intensive frequency use. The NPRM detailed this small satellite procedure, which would serve as an optional alternative to existing procedures for authorization of small satellites. The NPRM also provided background information on the Commission's other processes for licensing and authorizing small satellites, including under the experimental (part 5) and amateur (part 97) rules, although no changes were proposed to either of those parts. The NPRM also sought comment on topics related to spectrum use by small satellites. The Commission asked for comment on typical small satellite frequency use characteristics, how to facilitate compatibility with Federal operations, use of particular spectrum for inter-satellite links by small satellites, and other issues related to operations by small satellites in frequency bands. Finally, the NPRM sought comment on the appropriate application fee that would apply to the proposed optional part 25 streamlined process. The Commission proposed a \$30,000 application fee. It noted that any changes to the annual regulatory fees applicable to the small satellites authorized under the streamlined process would be addressed through the separate annual proceeding for review of regulatory fees.

*Timetable:*

Action	Date	FR Cite
NPRM .....	04/18/18	83 FR 24064
NPRM Comment Period End.	08/07/18	
R&O (adopted date).	08/01/19	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Merissa Velez, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-0751, Email: merissa.velez@fcc.gov.

*RIN:* 3060-AK88

**435. • Facilitating the Communications of Earth Stations in Motion With Non-Geostationary Orbit Space Stations: IB Docket No. 18-315**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 154(i); 47 U.S.C. 157(a); 47 U.S.C. 303; 47 U.S.C. 308(b); 47 U.S.C. 316

*Abstract:* In November 2018, the Commission adopted a notice of proposed rulemaking that proposed to expand the scope of the Commission's rules governing ESIMs operations to cover communications with NGSO FSS satellites. Comment was sought on establishing a regulatory framework for communications of ESIMs with NGSO FSS satellites that would be analogous to that which exists for ESIMs communicating with GSO FSS satellites. In this context, comment was sought on: (1) Allowing ESIMs to communicate in many of the same conventional Ku-band, extended Ku-band, and Ka-band frequencies that were allowed for communications of ESIMs with GSO FSS satellites (with the exception of the 18.6–18.8 GHz and 29.25–29.5 GHz frequency bands); (2) extending blanket licensing to ESIMs communicating with NGSO satellites; and (3) revisions to specific provisions in the Commission's rules to implement these changes. The specific frequency bands for communications of ESIMs with NGOS FSS satellites on which comment was sought are as follows: 10.7–11.7 GHz; 11.7–12.2 GHz; 14.0–14.5 GHz; 17.8–18.3 GHz; 18.3–18.6 GHz; 18.8–19.3 GHz; 19.3–19.4 GHz; 19.6–19.7 GHz; 19.7–20.2 GHz; 28.35–28.6 GHz; 28.6–29.1 GHz; and 29.5–30.0 GHz.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/28/18	83 FR 67180
NPRM Comment Period End.	03/13/19	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Cindy Spiers, Attorney Advisor, Federal Communications Commission, 445 12th

Street SW, Washington, DC 20554, Phone: 202 418-1593, Email: cindy.spiers@fcc.gov.

*RIN:* 3060-AK89

**436. • Mitigation of Orbital Debris in the New Space Age: IB Docket No. 18-313**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 154; 47 U.S.C. 157; 47 U.S.C. 301; 47 U.S.C. 302; 47 U.S.C. 303; 47 U.S.C. 307; 47 U.S.C. 308; 47 U.S.C. 309; 47 U.S.C. 310; 47 U.S.C. 319; 47 U.S.C. 332; 47 U.S.C. 336; 47 U.S.C. 605; 47 U.S.C. 721

*Abstract:* The Commission's current orbital debris rules were first adopted in 2004. Since then, significant changes have occurred in satellite technologies and market conditions, particularly in Low Earth Orbit, *i.e.*, below 2000 kilometers altitude. These changes include the increasing use of lower cost small satellites and proposals to deploy large constellations of non-geostationary satellite orbit (NGSO) systems, some involving thousands of satellites.

The NPRM proposes changes to improve disclosure of debris mitigation plans. The NPRM also makes proposals and seeks comment related to satellite disposal reliability and methodology, appropriate deployment altitudes in low-Earth-orbit, and on-orbit lifetime, with a particular focus on large NGSO satellite constellations. Other aspects of the NPRM include new rule proposals for geostationary orbit satellite (GSO) license term extension requests, and consideration of disclosure requirements related to several emerging technologies and new types of commercial operations, including rendezvous and proximity operations.

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/19/19	84 FR 4742
NPRM Comment Period End.	05/06/19	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Merissa Velez, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-0751, Email: merissa.velez@fcc.gov.

*RIN:* 3060-AK90

**FEDERAL COMMUNICATIONS COMMISSION (FCC)***Media Bureau*

## Long-Term Actions

**437. Cable Television Rate Regulation**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 154; 47 U.S.C. 543

*Abstract:* The Commission has adopted rate regulations to implement section 623 of the 1992 Cable Act to ensure that cable subscribers nationwide enjoy the rates that would be charged by cable systems operating in a competitive environment.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/04/93	58 FR 48
R&O and FNPRM	05/21/93	58 FR 29736
MO&O and FNPRM.	08/18/93	58 FR 43816
Third R&O .....	11/30/93	58 FR 63087
Order on Recon, Fourth R&O, and Fifth NPRM.	04/15/94	59 FR 17943
Third Order on Recon.	04/15/94	59 FR 17961
Fifth Order on Recon and FNPRM.	10/13/94	59 FR 51869
Fourth Order on Recon.	10/21/94	59 FR 53113
Sixth Order on Recon, Fifth R&O, and Seventh NPRM.	12/06/94	59 FR 62614
Seventh Order on Recon.	01/25/95	60 FR 4863
Ninth Order on Recon.	02/27/95	60 FR 10512
Eighth Order on Recon.	03/17/95	60 FR 14373
Sixth R&O and Eleventh Order on Recon.	07/12/95	60 FR 35854
Thirteenth Order on Recon.	10/05/95	60 FR 52106
Twelfth Order on Recon.	10/26/95	60 FR 54815
Tenth Order on Recon.	04/08/96	61 FR 15388
Order on Recon of the First R&O and FNPRM.	04/15/96	61 FR 16447
MO&O .....	02/12/97	62 FR 6491
Report on Cable Industry Prices.	02/24/97	62 FR 8245
R&O .....	03/31/97	62 FR 15118
Fourteenth Order on Recon.	10/15/97	62 FR 53572
NPRM and Order Inactive per Maura McGowan.	09/05/02	67 FR 56882
FNPRM and R&O	12/12/11	
Next Action Undetermined.	11/27/18	83 FR 60804

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Martha Heller, Chief, Policy, Media Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-2120, *Email:* martha.heller@fcc.gov.

*RIN:* 3060-AF41

**438. Implementation of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992 (MB Docket No. 05-311)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 541(a)(1); 47 U.S.C. 556(c)

*Abstract:* Section 621(a)(1) of the Communications Act of 1934, as amended, states in relevant part that “a franchising authority . . . may not unreasonably refuse to award an additional competitive franchise.” This proceeding sought to implement section 621(a)(1)’s directive by examining whether the franchising process unreasonably impedes the achievement of the interrelated Federal goals of enhanced cable competition and accelerated broadband deployment and, if so, how the Commission should act to address that problem. The subsequent Report and Order found that certain actions by local franchising authorities constitute an unreasonable refusal to award a competitive franchise within the meaning of section 621(a)(1). The item included a Further Notice of Proposed Rulemaking (FNPRM) seeking comment on how the findings should affect existing franchises. In the Second Report and Order, a number of the rules promulgated in this docket were extended to incumbent cable operators. The Second FNPRM addressed two issues raised by a remand from the U.S. Court of Appeals for the Sixth Circuit concerning how local franchising authorities may regulate cable operators and cable television services.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/19/05	70 FR 73973
NPRM Comment Period End.	02/13/06	
R&O and FNPRM	03/21/07	72 FR 13230
FNPRM Comment Period End.	04/20/07	
Second R&O .....	11/23/07	72 FR 65670
Second FNPRM ..	10/15/18	83 FR 51911
Third R&O (re-lease date).	08/02/19	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Holly Saurer, Deputy Chief, Media Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7283, *Fax:* 202 418-1069, *Email:* holly.saurer@fcc.gov.

*RIN:* 3060-A169

**439. Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard (GN Docket No. 16-142)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 157; 47 U.S.C. 301; 47 U.S.C. 303; 47 U.S.C. 307 to 309; 47 U.S.C. 316; 47 U.S.C. 319; 47 U.S.C. 325(b); 47 U.S.C. 336; 47 U.S.C. 399(b); 47 U.S.C. 403; 47 U.S.C. 534; 47 U.S.C. 535

*Abstract:* In this proceeding, the Commission seeks to authorize television broadcasters to use the “Next Generation” ATSC 3.0 broadcast television transmission standard on a voluntary, market-driven basis, while they continue to deliver current-generation digital television broadcast service to their viewers. In the Report and Order, the Commission adopted rules to afford broadcasters flexibility to deploy ATSC 3.0-based transmissions, while minimizing the impact on, and costs to, consumers and other industry stakeholders.

The FNPRM sought comment on three topics: (1) Issues related to the local simulcasting requirement, (2) whether to let broadcasters use vacant channels in the broadcast band, and (3) the import of the Next Gen standard on simulcasting stations.

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/10/17	82 FR 13285
NPRM Comment Period End.	05/09/17	
FNPRM .....	12/20/17	82 FR 60350
R&O .....	02/02/18	83 FR 4998
FNPRM Comment Period End.	02/20/18	
FNPRM Reply Comment Period End.	03/20/18	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Evan Baranoff, Attorney, Policy Division, Federal Communications Commission, Media Bureau, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7142, *Email:* evan.baranoff@fcc.gov.

RIN: 3060-AK56

**440. Electronic Delivery of MVPD Communications (MB Docket No. 17-317)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C., sec. 151

*Abstract:* In this proceeding, the Commission addresses ways to modernize certain notice provisions in part 76 of the Commission's rules governing multichannel video and cable television service. The Commission considers allowing various types of written communications from cable operators to subscribers to be delivered electronically. Additionally, the Commission considers permitting cable operators to reply to consumer requests or complaints by email in certain circumstances. The Commission also evaluates updating the requirement in the Commission's rules that requires broadcast television stations to send carriage election notices via certified mail.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/16/18	83 FR 2119
NPRM Comment Period End.	02/15/18	
R&O and FNPRM (release date). Next Action Undetermined.	07/11/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Martha Heller, Chief, Policy, Media Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-2120, *Email:* martha.heller@fcc.gov.

RIN: 3060-AK70

**441. 2018 Quadrennial Regulatory Review of the Commission's Broadcast Ownership Rules (MB Docket 18-349)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 152(a); 47 U.S.C. 154(i); 47 U.S.C. 257; 47 U.S.C. 303; 47 U.S.C. 307; 47 U.S.C. 309 and 310; 47 U.S.C. 403; sec. 202(h) of the Telecommunications Act

*Abstract:* Section 202(h) of the Telecommunications Act of 1996 requires the Commission to review its broadcast ownership rules every 4 years and to determine whether any such rules are necessary in the public interest as the result of competition. The rules subject to review in the 2018 quadrennial review are the Local Radio Ownership Rule, the Local Television Ownership Rule, and the Dual Network

Rule. The Commission also sought comment on potential pro-diversity proposals including extending cable procurement requirements to broadcasters, adopting formulas aimed at creating media ownership limits that promote diversity, and developing a model for market-based, tradeable diversity credits to serve as an alternative method for setting ownership limits.

*Timetable:*

Action	Date	FR Cite
NPRM (release date). Next Action Undetermined.	12/13/18	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Brendan Holland, Chief, Industry Analysis Division, Media Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-2486, *Email:* brendan.holland@fcc.gov.  
RIN: 3060-AK77

**442. Children's Television Programming Rules (MB Docket 18-202)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 303; 47 U.S.C. 303b; 47 U.S.C. 307; 47 U.S.C. 336

*Abstract:* The Children's Television Act (CTA) of 1990 requires that the Commission consider, in its review of television license renewals, the extent to which the licensee has served the educational and informational needs of children through its overall programming, including programming specifically designed to serve such needs. The Commission adopted rules implementing the CTA in 1991 and revised these rules in 1996, 2004, and 2006. In this proceeding, the Commission proposes to revise the children's television programming rules to modify outdated requirements and to give broadcasters greater flexibility in serving the educational and informational needs of children.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/25/18	83 FR 35158
NPRM Comment Period End.	09/28/18	
R&O and FNPRM (release date). Next Action Undetermined.	07/12/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Kathy Berthot, Attorney, Policy Division, Media Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7454, *Email:* kathy.berthot@fcc.gov.

RIN: 3060-AK78

**443. Amendment of Part 74 of the Commission's Rules Regarding FM Translator Interference (MB Docket 18-119)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i) and 154(j); 47 U.S.C. 301; 47 U.S.C. 303; 47 U.S.C. 307 to 309; 47 U.S.C. 316; 47 U.S.C. 319

*Abstract:* In this proceeding, the Commission proposes to streamline the rules relating to interference caused by FM translators and expedite the translator complaint resolution process. The rule changes are intended to limit or avoid protracted and contentious interference resolution disputes, provide translator licensees both additional flexibility to remediate interference and additional investment certainty, and allow earlier and expedited resolution of interference complaints by affected stations.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/06/18	83 FR 26229
NPRM Comment Period End.	07/06/18	
R&O .....	06/14/19	84 FR 27734
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Christine Goepp, Attorney, Audio Div., Media Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7834, *Email:* christine.geopp@fcc.gov.

RIN: 3060-AK79

**444. • Channel Lineup Requirements—Sections 76.1705 and 76.1700(A)(4): Modernization of Media Regulation Initiative: MB Docket Nos. 18-92 and 17-105**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 303(r); 47 U.S.C. 521; 47 U.S.C. 544(e)

*Abstract:* In this proceeding, the Commission considers whether to eliminate rules pertaining to cable operators' channel lineups. The Commission evaluates whether the requirements are unnecessary as channel lineups are readily available to

consumers through a variety of other means. Through this proceeding, the Commission continues the effort to modernize its regulations and reduce unnecessary requirements that can impede competition and innovation in the media marketplace.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/01/18	83 FR 19033
R&O .....	05/01/19	84 FR 18406
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Kim Matthews, Attorney, Policy Division, Federal Communications Commission, Media Bureau, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-2154, *Fax:* 202 418-2053, *Email:* kim.matthews@fcc.gov.

*RIN:* 3060-AK85

**445. • Equal Employment Opportunity Enforcement (MB Docket 19-77)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 334; 47 U.S.C. 554

*Abstract:* In this proceeding, the Commission seeks comment on ways in which it can make improvements to equal employment opportunity (EEO) compliance and enforcement.

*Timetable:*

Action	Date	FR Cite
NPRM (release date). Next Action Undetermined.	06/21/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Radhika Karmarker, Attorney Advisor, TAPD, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-1523, *Email:* radhika.karmarker@fcc.gov.

*RIN:* 3060-AK86

**FEDERAL COMMUNICATIONS COMMISSION (FCC)**

*Media Bureau*

*Completed Actions*

**446. Digital Must-Carry (CS Docket No. 98-120)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 534

*Abstract:* Section 614(b)(4)(B) of the Communications Act requires that, at the time the Commission prescribes standards for advanced television, it should “initiate a proceeding to establish any changes in the signal carriage requirements of cable television systems necessary to ensure cable carriage of those broadcast signals of local commercial television stations which have been changed to conform with such modified standards.” In August of 1998, the FCC issued a Notice of Proposed Rulemaking seeking comments on the requirements of that section. In June 2000, based on responses to the Notice of Proposed Rulemaking, the Commission clarified that DTV-only television stations, in the context of auctioning analog channels 59–69, will ultimately have must-carry rights. In January of 2001, the Commission issued a First Report and Order and Further Notice of Proposed Rulemaking resolving a number of technical and legal issues, including clarification that digital-only TV stations are entitled to mandatory carriage. In the Second Report and Order and First Order on Reconsideration, adopted in February 2005, the Commission affirmed its tentative conclusion not to impose dual carriage and affirmed its prior determination that broadcasters were entitled to carriage of one digital programming stream. In the Third Report and Order and Third Further Notice of Proposed Rulemaking adopted in September 2007, the Commission addressed issues concerning the carriage of digital broadcast television signals after the conclusion of the digital television transition. The Commission adopted rules to ensure that cable subscribers will continue to be able to view broadcast stations after the transition. In the Fourth Report and Order, the carriage obligations of small cable systems were addressed. In the Fifth Report and Order, the Commission sunset some of the initial rules adopted to accommodate the broadcast DTV transition, based on changes in the marketplace and technology that have occurred since the transition.

The Sixth Report and Order granted certain small cable systems an exemption from the requirement to carry high-definition broadcast signals.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/07/98	63 FR 42330
MO&O and FNPRM.	07/12/00	65 FR 42879
FNPRM .....	03/26/01	66 FR 16523
First R&O .....	03/26/01	66 FR 16533

Action	Date	FR Cite
Second R&O and First Order on Recon.	03/22/05	70 FR 14412
Second FNPRM .. Second FNPRM Comment Period End.	06/06/07 07/16/07	72 FR 31244
Third R&O and Third FNPRM.	02/01/08	73 FR 6043
Fourth R&O .....	10/17/08	73 FR 61742
Declaratory Order	10/29/08	73 FR 64260
Fourth FNPRM ....	02/26/12	77 FR 9187
FNPRM Comment Period End.	04/12/12	
Fifth R&O .....	06/18/12	77 FR 36178
Withdrawn .....	07/29/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Evan Baranoff, Attorney, Policy Division, Federal Communications Commission, Media Bureau, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7142, *Email:* evan.baranoff@fcc.gov.

*RIN:* 3060-AG91

**447. Enhanced and Standardized Disclosure (MM Docket No. 00-168; MB Docket No. 11-189)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 154(i); 47 U.S.C. 303; 47 U.S.C. 307; 47 U.S.C. 309; 47 U.S.C. 336

*Abstract:* This proceeding concerns rules and policies on how commercial television broadcast station licensees provide public interest information to the public. The 2000 NPRM proposed amendments to the public inspection file rules that would standardize the format used for providing public interest information to the public and make information contained in public inspection files available on the internet. The intended effect of this action is to propose rules that would make information regarding how television broadcast stations meet their fundamental public interest obligation to serve the needs and interests of their communities of license easier to understand or more accessible to the public. In the 2008 Report and Order, a standardized form was adopted and a requirement was imposed obligating stations to place a portion of its public inspection file on the internet. In 2011, on reconsideration, the Commission vacated the prior Report and Order and sought comment on proposals intended to make broadcaster information more accessible to the public. Comment was also sought on proposals to streamline the standardized disclosure form. The Second Report and Order modernized the procedures television broadcasters



use to inform the public about how they are serving their communities by establishing a requirement that stations post their public files online in a Commission-hosted database.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/19/00	65 FR 62683
R&O .....	03/13/08	73 FR 13452
Order on Recon ..	11/17/11	76 FR 71267
FNPRM .....	11/22/11	76 FR 72144
Notice of Inquiry (NOI).	12/15/11	76 FR 77999
2nd R&O .....	05/11/12	77 FR 27631
Withdrawn .....	07/29/19	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Mary Beth Murphy, Chief, Policy Division, Media Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-2132, Email: marybeth.murphy@fcc.gov.

RIN: 3060-AH71

**448. Digital Television Distributed Transmission System Technologies (MB Docket No. 05-312)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i) to (j); 47 U.S.C. 157; 47 U.S.C. 301; . . .

*Abstract:* A digital television transmission system (DTS) employs multiple synchronized transmitters spread around a station's service area. Such distributed transmitters fill in unserved areas in the parent station's coverage area. The Notice of Proposed Rulemaking (NPRM) examines issues related to the use of DTS and proposes rules for future DTS operation. The Report and Order adopts the technical and licensing rules necessary to implement DTS service.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/07/05	70 FR 72763
NPRM Comment Period End.	02/06/06	
R&O .....	12/05/08	73 FR 74047
Withdrawn .....	07/29/19	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Evan Baranoff, Attorney, Policy Division, Federal Communications Commission, Media Bureau, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-7142, Email: evan.baranoff@fcc.gov.

RIN: 3060-AI68

**449. An Inquiry Into the Commission's Policies and Rules Regarding AM Radio Service Directional Antenna Performance Verification (MM Docket No. 93-177)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 303; 47 U.S.C. 308

*Abstract:* This proceeding is part of a streamlining initiative to simplify the Media Bureau's licensing procedures. The Report and Order in this proceeding simplified traditional proof of performance requirements for directional AM stations. The Second Report and Order further reduces regulatory burdens on AM broadcasters by permitting the use of computer modeling. The Second Further Notice seeks comment on proposals to synchronize rules regarding tower construction near AM antennas.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/27/99	64 FR 40539
R&O .....	04/25/01	66 FR 20752
FNPRM .....	04/25/01	66 FR 20779
Second R&O .....	10/30/08	73 FR 64558
Second FNPRM ..	12/11/08	73 FR 75376
Second FNPRM Comment Period End.	01/12/09	
Withdrawn .....	07/29/19	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Ann Gallagher, Audio Division, Media Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-2716, Email: ann.gallagher@fcc.gov.

RIN: 3060-AJ17

**FEDERAL COMMUNICATIONS COMMISSION (FCC)**

*Office of Managing Director*

Long-Term Actions

**450. Assessment and Collection of Regulatory Fees**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 159

*Abstract:* Section 9 of the Communications Act of 1934, as amended (47 U.S.C. 159), requires the Federal Communications Commission to recover the cost of its activities by assessing and collecting annual regulatory fees from beneficiaries of the activities.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/06/17	82 FR 26019
R&O .....	09/22/17	82 FR 44322
NPRM .....	06/14/18	83 FR 27846
NPRM Comment Period End.	06/21/18	
R&O .....	09/18/18	83 FR 47079
NPRM .....	06/05/19	84 FR 26234
NPRM Comment Period End.	06/07/19	
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Roland Helvajian, Office of the Managing Director, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-0444, Email: roland.helvajian@fcc.gov.

RIN: 3060-AK64

**FEDERAL COMMUNICATIONS COMMISSION (FCC)**

*Public Safety and Homeland Security Bureau*

Long-Term Actions

**451. Wireless E911 Location Accuracy Requirements: PS Docket No. 07-114**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 332

*Abstract:* This rulemaking is related to the proceedings in which the FCC previously acted to improve the quality of all emergency services. Wireless carriers must provide specific automatic location information in connection with 911 emergency calls to Public Safety Answering Points (PSAPs). Wireless licensees must satisfy enhanced 911 location accuracy standards at either a county-based or a PSAP-based geographic level.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/20/07	72 FR 33948
R&O .....	02/14/08	73 FR 8617
Public Notice .....	09/25/08	73 FR 55473
FNPRM; NOI .....	11/02/10	75 FR 67321
Public Notice .....	11/18/09	74 FR 59539
2nd R&O .....	11/18/10	75 FR 70604
Second NPRM .....	08/04/11	76 FR 47114
Second NPRM Comment Period End.	11/02/11	
Final Rule .....	04/28/11	76 FR 23713
NPRM, 3rd R&O, and 2nd FNPRM.	09/28/11	76 FR 59916
3rd FNPRM .....	03/28/14	79 FR 17820
Order Extending Comment Period.	06/10/14	79 FR 33163



Action	Date	FR Cite
3rd FNPRM Comment Period End.	07/14/14	
Public Notice (Release Date).	11/20/14	
Public Notice Comment Period End.	12/17/14	
4th R&O .....	03/04/15	80 FR 11806
Final Rule .....	08/03/15	80 FR 45897
Order Granting Waiver.	07/10/17	
NPRM .....	09/26/18	83 FR 54180
4th NPRM .....	03/18/19	84 FR 13211
Next Action Undetermined.		

*Regulatory Flexibility Analysis*  
Required: Yes.

*Agency Contact:* Brenda Boykin, Attorney Advisor, Public Safety and Homeland Security Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-2062, Email: [brenda.boykin@fcc.gov](mailto:brenda.boykin@fcc.gov).

RIN: 3060-AJ52

**452. Proposed Amendments to Service Rules Governing Public Safety Narrowband Operations in the 769-775 and 799-805 MHz Bands; PS Docket No. 13-87**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 160; 47 U.S.C. 201; 47 U.S.C. 303; 47 U.S.C. 337(a); 47 U.S.C. 403

*Abstract:* This proceeding seeks to amend the Commission's rules to promote spectrum efficiency, interoperability, and flexibility in 700 MHz public safety narrowband operations (769-775 and 799-805 MHz).

*Timetable:*

Action	Date	FR Cite
NPRM .....	04/19/13	78 FR 23529
Final Rule .....	12/20/14	79 FR 71321
Final Rule Effective.	01/02/15	
FNPRM .....	09/29/16	81 FR 65984
Order on Recon ..	09/29/16	81 FR 66830
2nd R&O and Order on Recon.	07/30/18	83 FR 30364
Next Action Undetermined.		

*Regulatory Flexibility Analysis*  
Required: Yes.

*Agency Contact:* Brian Marenco, Electronics Engineer, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-0838, Email: [brian.marenco@fcc.gov](mailto:brian.marenco@fcc.gov).

RIN: 3060-AK19

**453. Improving Outage Reporting for Submarine Cables and Enhancing Submarine Cable Outage Data; GN Docket No. 15-206**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 34 to 39; 47 U.S.C. 301

*Abstract:* This proceeding takes steps toward assuring the reliability and resiliency of submarine cables, a critical piece of the Nation's communications infrastructure, by proposing to require submarine cable licensees to report to the Commission when outages occur and communications are disrupted. The Commission's intent is to enhance national security and emergency preparedness by these actions.

*Timetable:*

Action	Date	FR Cite
NPRM (Release Date).	09/17/15	
R&O .....	06/24/16	81 FR 52354
Petitions for Recon.	09/08/16	
Petitions for Recon—Public Comment.	10/31/16	81 FR 75368
Next Action Undetermined.		

*Regulatory Flexibility Analysis*  
Required: Yes.

*Agency Contact:* Brenda Villanueva, Attorney Advisor, Public Safety and Homeland Security Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-7005, Email: [brenda.villanueva@fcc.gov](mailto:brenda.villanueva@fcc.gov).

RIN: 3060-AK39

**454. Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications: PS Docket No. 15-80**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 CFR 0; 47 CFR 4; 47 CFR 63

*Abstract:* The 2004 Report and Order (R&O) extended the Commission's communication disruptions reporting rules to non-wireline carriers and streamlined reporting through a new electronic template (see docket ET Docket 04-35). In 2015, this proceeding, PS Docket 15-80, was opened to amend the original communications disruption reporting rules from 2004 in order to reflect technology transitions observed throughout the telecommunications sector. The Commission seeks to further study the possibility to share the reporting database information and access with State and other Federal

entities. In May 2016, the Commission released a Report and Order, FNPRM, and Order on Reconsideration (see also Dockets 11-82 and 04-35). The R&O adopted rules to update the part 4 requirements to reflect technology transitions. The FNPRM sought comment on sharing information in the reporting database. Comments and replies were received by the Commission in August and September 2016.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/16/15	80 FR 34321
NPRM Comment Period End.	07/31/15	
FNPRM .....	07/12/16	81 FR 45095
R&O .....	07/12/16	81 FR 45055
FNPRM Comment Period End.	09/12/16	
Order Denying Reply Comment Deadline Extension Request.	09/18/16	
Announcement of Effective Date for Rule Changes in R&O.	06/22/17	82 FR 28410
Next Action Undetermined.		

*Regulatory Flexibility Analysis*  
Required: Yes.

*Agency Contact:* Robert Finley, Attorney Advisor, Public Safety and Homeland Security Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-7835, Email: [robert.finley@fcc.gov](mailto:robert.finley@fcc.gov).

RIN: 3060-AK40

**455. New Part 4 of the Commission's Rules Concerning Disruptions to Communications; ET Docket No. 04-35**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 154 and 155; 47 U.S.C. 201; 47 U.S.C. 251; 47 U.S.C. 307; 47 U.S.C. 316

*Abstract:* The proceeding creates a new part 4 in title 47 and amends part 63.100. The proceeding updates the Commission's communication disruptions reporting rules for wireline providers formerly in 47 CFR 63.100 and extends these rules to other non-wireline providers. Through this proceeding, the Commission streamlines the reporting process through an electronic template. The Report and Order received several petitions for reconsideration, of which two were eventually withdrawn. In 2015, seven were addressed in an Order on Reconsideration and in 2016 another petition was addressed in an Order on

Reconsideration. One petition (CPUC Petition) remains pending regarding NORS database sharing with States, which is addressed in a separate proceeding, PS Docket 15–80. To the extent the communication disruption rules cover VoIP, the Commission studies and addresses these questions in a separate docket, PS Docket 11–82.

In May 2016, the Commission released a Report and Order, FNPRM, and Order on Reconsideration (see Dockets 11–82 and 15–80). The Order on Reconsideration addressed outage reporting for events at airports, and the FNPRM sought comment on database sharing. The Commission received comments and replies in August and September 2016.

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/26/04	69 FR 15761
R&O .....	11/26/04	69 FR 68859
Denial for Petition for Partial Stay.	12/02/04	
Seek Comment on Petition for Recon.	02/02/10	
Reply Period End	03/19/10	
Seek Comment on Broadband and Inter-connected VOIP Service Providers.	07/02/10	
Reply Period End	08/16/12	
R&O and Order on Recon.	06/16/15	80 FR 34321
FNPRM .....	07/12/16	81 FR 45095
R&O .....	07/12/16	81 FR 45055
Order Denying Extension of Time to File Reply Comments.	09/08/16	
Announcement of Effective Date for Rule Changes in R&O.	06/22/17	82 FR 28410
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Robert Finley, Attorney Advisor, Public Safety and Homeland Security Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–7835, *Email:* robert.finley@fcc.gov, *RIN:* 3060–AK41

**456. Wireless Emergency Alerts (WEA): PS Docket No. 15–91**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* Pub. L. 109–347, title VI; 47 U.S.C. 151; 47 U.S.C. 154(i)

*Abstract:* This proceeding was initiated to improve Wireless Emergency Alerts (WEA) messaging, ensure that WEA alerts reach only those individuals to whom they are relevant, and establish an end-to-end testing program based on advancements in technology.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/19/15	80 FR 77289
NPRM Comment Period End.	01/13/16	
NPRM Reply Comment Period End.	02/12/16	
Order .....	11/01/16	81 FR 75710
FNPRM .....	11/08/16	81 FR 78539
Comment Period End.	12/08/16	
Petition for Recon	12/19/16	81 FR 91899
Order on Recon ..	12/04/17	82 FR 57158
2nd R&O and 2nd Order on Recon.	02/28/18	83 FR 8619
Public Notice .....	04/26/18	83 FR 18257
Public Notice Comment Period End.	05/29/18	
Public Notice Reply Comment Period End.	06/11/18	
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Elizabeth Cuttner, Attorney Advisor, Policy and Licensing Div, PSHSB, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–2145, *Email:* elizabeth.cuttner@fcc.gov, *RIN:* 3060–AK54

**457. Blue Alert EAS Event Code**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 and 152; 47 U.S.C. 154(i) and 154(o); 47 U.S.C. 301; 47 U.S.C. 303(r) and (v); 47 U.S.C. 307; 47 U.S.C. 309; 47 U.S.C. 335; 47 U.S.C. 403; 47 U.S.C. 544(g); 47 U.S.C. 606 and 615

*Abstract:* In 2015, Congress adopted the Blue Alert Act to help the States provide effective alerts to the public and law enforcement when police and other law enforcement officers are killed or are in danger. To ensure that these State plans are compatible and integrated throughout the United States as envisioned by the Blue Alert Act, the Blue Alert Coordinator made a series of recommendations in a 2016 Report to Congress. Among these recommendations, the Blue Alert Coordinator identified the need for a dedicated EAS event code for Blue Alerts, and noted the alignment of the

EAS with the implementation of the Blue Alert Act. On June 22, 2017, the FCC released an NPRM proposing to revise the EAS rules to adopt a new event code, which would allow transmission of Blue Alerts to the public over the EAS and thus satisfy the stated need for a dedicated EAS event code. On December 14, 2017, the Commission released an Order adopting a new Blue Alert EAS Code-BLU. EAS participants must be able to implement the BLU code by January 19, 2019. BLU alerts must be available to wireless emergency alerts by July, 2019.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/30/17	82 FR 29811
NPRM Comment Period End.	07/31/17	
NPRM Reply Comment Period End.	08/29/17	
Order .....	12/14/18	83 FR 2557
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Linda Pintro, Attorney Advisor, Policy and Licensing Division, PSHSB, Federal Communications Commission, 445 12th Street SW, Washington, DC 21043, *Phone:* 202 418–7490, *Email:* linda.pintro@fcc.gov, *RIN:* 3060–AK63

**FEDERAL COMMUNICATIONS COMMISSION (FCC)**

*Wireless Telecommunications Bureau*

*Long-Term Actions*

**458. Universal Service Reform Mobility Fund (WT Docket No. 10–208)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 155; 47 U.S.C. 160; 47 U.S.C. 201; 47 U.S.C. 205; 47 U.S.C. 225; 47 U.S.C. 254; 47 U.S.C. 301; 47 U.S.C. 303; 47 U.S.C. 303(c); 47 U.S.C. 303(f); 47 U.S.C. 303(r); 47 U.S.C. 303(y); 47 U.S.C. 309; 47 U.S.C. 310

*Abstract:* This proceeding establishes the Mobility Fund, which the Commission is implementing in two phases. Mobility Fund Phase I consisted of two reverse auctions that provided initial infusions of funds toward solving persistent gaps in mobile services through targeted, one-time support for the build-out of current and next-generation wireless infrastructure in areas where these services are

unavailable. The Mobility Fund Phase II (MF–II) reverse auction aims to provide support funds over a 10-year term to support build-out of current and next-generation wireless infrastructure in areas where unsubsidized services are unavailable. MF–II began with a one-time collection of existing wireless broadband coverage data from current providers to determine the areas in which qualified service has been deployed, which data was used to create a map of areas presumptively eligible for MF–II support. Entities could challenge asserted unsubsidized 4G LTE coverage through the Mobility Fund Phase II challenge process, and providers may file response data countering challenges. The results of the challenge process will determine the final list of areas eligible for funding through the MF–II auction.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/14/10	75 FR 67060
NPRM Comment Period End.	01/18/11	
R&O .....	11/29/11	76 FR 73830
FNPRM .....	12/16/11	76 FR 78384
R&O .....	12/28/11	76 FR 81562
2nd R&O .....	07/03/12	77 FR 39435
4th Order on Recon.	08/14/12	77 FR 48453
FNPRM .....	07/09/14	79 FR 39196
R&O, Declaratory Ruling, Order, MO&O, and 7th Order on Recon.	07/09/14	79 FR 39163
FNPRM Comment Period End.	09/08/14	
R&O .....	10/07/16	81 FR 69696
FNPRM .....	10/07/16	81 FR 69772
FNPRM .....	03/13/17	82 FR 13413
R&O .....	03/28/17	82 FR 15422
R&O Correction ...	04/04/17	82 FR 16297
Order on Recon and 2nd R&O.	09/08/17	82 FR 42473
2nd Order on Recon.	04/25/18	83 FR 17934
Order and MO&O	08/30/18	83 FR 44241
NPRM .....	08/30/18	83 FR 44254
3rd R&O .....	03/06/19	84 FR 8003
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Audra Hale-Maddox, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–2109, *Email:* [audra.hale-maddox@fcc.gov](mailto:audra.hale-maddox@fcc.gov).

*RIN:* 3060–AJ58

**459. Improving Spectrum Efficiency Through Flexible Channel Spacing and Bandwidth Utilization for Economic Area-Based 800 MHz Specialized Mobile Radio Licensees (WT Docket Nos. 12–64 and 11–110)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 to 152; 47 U.S.C. 154; 47 U.S.C. 301; 47 U.S.C. 302(a); 47 U.S.C. 303; 47 U.S.C. 307 to 308

*Abstract:* This proceeding was initiated to allow Economic Area-based 800 MHz SMR licensees in 813.5–824/858.5–869 MHz to exceed the channel spacing and bandwidth limitation in section 90.209 of the Commission's rules, subject to conditions.

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/29/12	77 FR 18991
NPRM Comment Period End.	04/13/12	
R&O .....	05/24/12	77 FR 33972
Petition for Recon Public Notice.	08/16/12	77 FR 53163
Petition for Recon PN Comment Period End.	09/27/12	
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Linda Chang, Associate Chief, Mobility Division, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–1339, *Fax:* 202 418–7447, *Email:* [linda.chang@fcc.gov](mailto:linda.chang@fcc.gov). *RIN:* 3060–AJ71

**460. Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions (GN Docket No. 12–268)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 309(j)(8)(G); 47 U.S.C. 1452

*Abstract:* In February 2012, the Middle Class Tax Relief and Job Creation Act was enacted (Pub. L. 112–96, 126 Stat. 156 (2012)). Title VI of that statute, commonly known as the Spectrum Act, provides the Commission with the authority to conduct incentive auctions to meet the growing demand for wireless broadband. Pursuant to the Spectrum Act, the Commission may conduct incentive auctions that will offer new initial spectrum licenses subject to flexible-use service rules on spectrum made available by licensees that voluntarily relinquish some or all of their spectrum usage rights in exchange

for a portion, based on the value of the relinquished rights as determined by an auction, of the proceeds of bidding for the new licenses. In addition to granting the Commission general authority to conduct incentive auctions, the Spectrum Act requires the Commission to conduct an incentive auction of broadcast TV spectrum and sets forth special requirements for such an auction.

The Spectrum Act requires that the incentive auction consist of a reverse auction “to determine the amount of compensation that each broadcast television licensee would accept in return for voluntarily relinquishing some or all of its spectrum usage rights and a forward auction” that would allow mobile broadband providers to bid for licenses in the reallocated spectrum. Broadcast television licensees who elected to voluntarily participate in the auction had three basic options: Voluntarily go off the air, share spectrum, or move channels in exchange for receiving part of the proceeds from auctioning that spectrum to wireless providers.

In June 2014, the Commission adopted a Report and Order that laid out the general framework for the incentive auction. The incentive auction started on March 29, 2016, with the submission of initial commitments by eligible broadcast licensees that had submitted timely and complete applications. The incentive auction officially ended on April 13, 2017, with the release of the Auction Closing and Channel Reassignment Public Notice that also marked the start of the 39-month transition period during which full power and Class A television stations will transition their stations to their post-auction channel assignments in the reorganized television bands. Pursuant to Congress' directive, the Commission will reimburse those stations for the reasonable costs associated with relocating to their post-auction channel assignments and will reimburse multichannel video programming distributors for their costs associated with continuing to carry the signals of those stations.

The March 2018 Consolidated Appropriations Act (Pub. L. 115–141, 132 Stat. 348 (2018)) authorizes the Commission to reimburse eligible entities for costs associated with the post-incentive auction transition through July 3, 2023, and also directed the Commission to reimburse costs reasonably incurred by low-power television stations, TV translator stations, and FM broadcast stations as a result of the post-auction reorganization of the television band. The Commission

will initiate a new rulemaking to establish eligibility requirements and develop procedures for reimbursing these additional entities, and to identify reasonable costs for reimbursement. The Notice of Proposed Rulemaking and Order was adopted at the Commission's August 2018 meeting. A Report and Order adopting rules for the reimbursement of eligible costs to those newly eligible entities was adopted by the Commission on March 15, 2019.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/21/12	77 FR 69933
R&O .....	08/15/14	79 FR 48441
Final Rule .....	10/11/17	82 FR 47155
NPRM .....	08/27/18	83 FR 43613
R&O .....	03/26/19	84 FR 11233
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Charles Eberle, Senior Counsel, Incentive Auctions Task Force, Federal Communications Commission, 445 12th Street, Washington, DC 20554, *Phone:* 202 418-2248, *Email:* charles.eberle@fcc.gov.

*RIN:* 3060-AJ82

**461. Amendment of Parts 1, 2, 22, 24, 27, 90, and 95 of the Commission's Rules To Improve Wireless Coverage Through the Use of Signal Boosters (WT Docket No. 10-4)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 79; 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 155; 47 U.S.C. 157; 47 U.S.C. 225; 47 U.S.C. 227; 47 U.S.C. 303(r)

*Abstract:* This action adopts new technical, operational, and registration requirements for signal boosters. It creates two classes of signal boosters—consumer and industrial—with distinct regulatory requirements for each, thereby establishing a two-step transition process for equipment certification for both consumer and industrial signal boosters sold and marketed in the United States.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/10/11	76 FR 26983
R&O .....	04/11/13	78 FR 21555
Petition for Reconsideration.	06/06/13	78 FR 34015
Order on Reconsideration.	11/08/14	79 FR 70790
FNPRM .....	11/28/14	79 FR 70837
2nd R&O and 2nd FNPRM.	03/23/18	83 FR 17131

Action	Date	FR Cite
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Amanda Huetinck, Attorney Advisor, WTB, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7090, *Email:* amanda.huetinck@fcc.gov.

*RIN:* 3060-AJ87

**462. Amendment of the Commission's Rules Governing Certain Aviation Ground Station Equipment (Squitter) (WT Docket Nos. 10-61 and 09-42)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 48 Stat. 1066, 1082 as amended; 47 U.S.C. 154; 47 U.S.C. 303; 47 U.S.C. 307(e); 47 U.S.C. 151 to 156; 47 U.S.C. 301

*Abstract:* This action amends part 87 rules to authorize new ground station technologies to promote safety and allow use of frequency 1090 MHz by aeronautical utility mobile stations for airport surface detection equipment (commonly referred to as "squitters") to help reduce collisions between aircraft and airport ground vehicles.

*Timetable:*

Action	Date	FR Cite
NPRM .....	04/28/10	75 FR 22352
R&O .....	03/01/13	78 FR 61023
NPRM (release date).	06/07/19	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Tim Maguire, Electronics Engineer, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-2155, *Fax:* 202 418-7247, *Email:* tim.maguire@fcc.gov.

*RIN:* 3060-AJ88

**463. Promoting Technological Solutions To Combat Wireless Contraband Device Use in Correctional Facilities; GN Docket No. 13-111**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 to 152; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 301; 47 U.S.C. 303(a); 47 U.S.C. 303(b); 47 U.S.C. 307 to 310; 47 U.S.C. 332; 47 U.S.C. 302(a)

*Abstract:* In the Report and Order, the Commission addresses the problem of illegal use of contraband wireless devices by inmates in correctional

facilities by streamlining the process of deploying contraband wireless device interdiction systems (CIS)—systems that use radio communications signals requiring Commission authorization—in correctional facilities. In particular, the Commission eliminates certain filing requirements and provides for immediate approval of the lease applications needed to operate these systems.

In the Further Notice, the Commission seeks comment on a process for wireless providers to disable contraband wireless devices once they have been identified. The Commission also seeks comment on additional methods and technologies that might prove successful in combating contraband device use in correctional facilities, and on various other proposals related to the authorization process for CISs and their deployment.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/18/13	78 FR 36469
NPRM Comment Period End.	08/08/13	
FNPRM .....	05/18/17	82 FR 22780
R&O .....	05/18/17	82 FR 22742
Final Rule Effective (Except for Rules Requiring OMB Approval).	06/19/17	
FNPRM Comment Period End.	07/17/17	
Final Rule Effective for 47 CFR 1.9020(n), 1.9030(m), 1.9035 (o), and 20.23(a).	10/20/17	82 FR 48773
Final Rule Effective for 47 CFR 1.902(d)(8), 1.9035(d)(4), 20.18(a), and 20.18(r).	02/12/18	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Melissa Conway, Attorney Advisor, Mobility Div., Wireless Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-2887, *Email:* melissa.conway@fcc.gov.

*RIN:* 3060-AK06

**464. Promoting Investment in the 3550-3700 MHz Band; GN Docket No. 17-258**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 and 152; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 302(a); 47 U.S.C. 303 and 304; 47 U.S.C. 307(e); 47 U.S.C. 316

**Abstract:** The Report and Order and Second Further Notice of Proposed Rulemaking (NPRM) adopted by the Commission established a new Citizens Broadband Radio Service for shared wireless broadband use of the 3550 to 3700 MHz band. The Citizens Broadband Radio Service is governed by a three-tiered spectrum authorization framework to accommodate a variety of commercial uses on a shared basis with incumbent Federal and non-Federal users of the band. Access and operations will be managed by a dynamic spectrum access system. The three tiers are: Incumbent Access, Priority Access, and General Authorized Access. Rules governing the Citizens Broadband Radio Service are found in part 96 of the Commission's rules.

The Order on Reconsideration and Second Report and Order addressed several Petitions for Reconsideration submitted in response to the Report and Order and resolved the outstanding issues raised in the Second Further Notice of Proposed Rulemaking.

The 2017 NPRM sought comment on limited changes to the rules governing Priority Access Licenses in the band, adjacent channel emissions limits, and public release of base station registration information.

**Timetable:**

Action	Date	FR Cite
NPRM .....	01/08/13	78 FR 1188
NPRM Comment Period End.	03/19/13	
FNPRM .....	06/02/14	79 FR 31247
FNPRM Comment Period End.	08/15/14	
R&O and 2nd FNPRM.	06/15/15	80 FR 34119
2nd FNPRM Comment Period End.	08/14/15	
Order on Recon and 2nd R&O.	07/26/16	81 FR 49023
NPRM .....	11/28/17	82 FR 56193
NPRM Comment Period End.	01/29/18	
R&O .....	12/07/18	83 FR 6306
Next Action Undetermined.		

**Regulatory Flexibility Analysis Required:** Yes.

**Agency Contact:** Paul Powell, Assistant Chief, Mobility Division, WTB, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-1613, *Email:* paul.powell@fcc.gov.

*RIN:* 3060-AK12

**465. 800 MHz Cellular Telecommunications Licensing Reform; Docket No. 12-40**

**E.O. 13771 Designation:** Independent agency.

**Legal Authority:** 47 U.S.C. 151 to 152; 47 U.S.C. 154(i) to 154(j); 47 U.S.C. 301 to 303; 47 U.S.C. 307 to 309; 47 U.S.C. 332

**Abstract:** The proceeding was launched to revisit and update rules governing the 800 MHz Cellular Radiotelephone Service (Cellular Service). On November 10, 2014, the FCC released a Report and Order (R&O) and Further Notice of Proposed Rulemaking (FNPRM). In the R&O, the FCC eliminated or streamlined numerous regulatory requirements; in the FNPRM, the FCC sought comment on additional reforms of the Cellular rules, including radiated power and other technical rules, to promote flexibility and help foster deployment of new technologies such as LTE. On March 24, 2017, the FCC released a Second Report and Order (2d R&O) and Second Further Notice of Proposed Rulemaking (2d FNPRM). In the 2d R&O, the FCC revised the Cellular radiated power rules to permit compliance with limits based on power spectral density as an option for licensees deploying wideband technologies such as LTE, made conforming revisions to related technical rules, and adopted additional licensing reforms. In the 2d FNPRM, the FCC sought comment on other measures to give Cellular and other Part 22 commercial mobile radio service licensees more flexibility and administrative relief, and on ways to consolidate and simplify the rules for the Cellular Service and other geographically licensed wireless services. On July 13, 2018, the FCC released a Third Report and Order (3d R&O) in which it deleted certain Part 22 rules that imposed needless recordkeeping and reporting obligations; it also deleted certain Cellular Service-specific and Part 22 rules that are duplicative of other rules and are thus no longer necessary. These revisions reduce regulatory burdens for Cellular and other Part 22 licensees and provide them with enhanced flexibility, thereby freeing up more resources for investment in new technologies and greater spectrum efficiency to meet increasing consumer demand for advanced wireless services. On March 22, 2019, the FCC released an Order on Reconsideration addressing a petition for reconsideration of a rule deletion in the 3d R&O. The FCC denied the

petition, thus affirming its decision in the 3d R&O.

**Timetable:**

Action	Date	FR Cite
NPRM .....	03/16/12	77 FR 15665
NPRM Comment Period End.	05/15/12	
NPRM Reply Comment Period End.	06/14/12	
R&O .....	12/05/14	79 FR 72143
FNPRM .....	12/22/14	79 FR 76268
Final Rule Effective (With 3 Exceptions).	01/05/15	
FNPRM Comment Period End.	01/21/15	
FNPRM Reply Comment Period End.	02/20/15	
2nd R&O .....	04/12/17	82 FR 17570
2nd FNPRM .....	04/14/17	82 FR 17959
Final Rule Effective (With 9 Exceptions).	05/12/17	
2nd FNPRM Comment Period End.	05/15/17	
2nd FNPRM Reply Comment Period End.	06/14/17	
3rd R&O .....	08/02/18	83 FR 37760
Final Rule Effective (With 1 Exception).	09/04/18	
Order on Reconsideration.	04/09/19	84 FR 14080
Next Action Undetermined.		

**Regulatory Flexibility Analysis Required:** Yes.

**Agency Contact:** Nina Shafran, Attorney Advisor, Wireless Bureau, Mobility Div., Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-2781, *Email:* nina.shafran@fcc.gov. *RIN:* 3060-AK13

**466. Updating Part 1 Competitive Bidding Rules (WT Docket No. 14-170)**

**E.O. 13771 Designation:** Independent agency.

**Legal Authority:** 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 303(r); 47 U.S.C. 309(j); 47 U.S.C. 316

**Abstract:** This proceeding was initiated to revise some of the Commission's general part 1 rules governing competitive bidding for spectrum licenses to reflect changes in the marketplace, including the challenges faced by new entrants, as well as to advance the statutory directive to ensure that small businesses, rural telephone companies, and businesses owned by members of minority groups and women are given the opportunity to participate in the provision of spectrum-based services. In

July 2015, the Commission revised its competitive bidding rules, specifically adopting revised requirements for eligibility for bidding credits, a new rural service provider bidding credit, a prohibition on joint bidding agreements and other changes.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/14/14	79 FR 68172
Public Notice .....	03/16/15	80 FR 15715
Public Notice .....	04/23/15	80 FR 22690
R&O .....	09/18/15	80 FR 56764
Public Notice on Petitions for Re- consideration.	11/10/15	80 FR 69630
Order on Recon ..	To Be Determined	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Kelly Quinn, Assistant Chief, Auctions and Spectrum Access Division, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-0660, Email: kelly.quinn@fcc.gov, RIN: 3060-AK28

**467. Use of Spectrum Bands Above 24 GHz for Mobile Services—Spectrum Frontiers: WT Docket 10-112**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 to 154; 47 U.S.C. 157; 47 U.S.C. 160; 47 U.S.C. 201; 47 U.S.C. 225; 47 U.S.C. 227; 47 U.S.C. 301 and 302; 47 U.S.C. 302(a); 47 U.S.C. 303 and 304; 47 U.S.C. 307; 47 U.S.C. 309 and 310; 47 U.S.C. 316; 47 U.S.C. 319; 47 U.S.C. 332; 47 U.S.C. 336; 47 U.S.C. 1302

*Abstract:* In this proceeding, the Commission adopted service rules for licensing of mobile and other uses for millimeter wave (mmW) bands. These high frequencies previously have been best suited for satellite or fixed microwave applications; however, recent technological breakthroughs have newly enabled advanced mobile services in these bands, notably including very high speed and low latency services. This action will help facilitate Fifth Generation mobile services and other mobile services. In developing service rules for mmW bands, the Commission will facilitate access to spectrum, develop a flexible spectrum policy, and encourage wireless innovation.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/13/16	81 FR 1802
NPRM Comment Period End.	02/26/16	

Action	Date	FR Cite
FNPRM .....	08/24/16	81 FR 58269
Comment Period End.	09/30/16	
FNPRM Reply Comment Pe- riod End.	10/31/16	
R&O .....	11/14/16	81 FR 79894
R&O .....	01/02/18	83 FR 37
FNPRM .....	01/02/18	83 FR 85
FNPRM Comment Period End.	01/23/18	
R&O .....	07/20/18	83 FR 34478
FNPRM .....	07/20/18	83 FR 34520
FNPRM Comment Period End.	09/28/18	
R&O .....	02/05/19	84 FR 1618
R&O .....	05/01/19	84 FR 18405
Next Action Under- terminated.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* John Schauble, Deputy Chief, Broadband Division, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-0797, Email: john.schauble@fcc.gov, RIN: 3060-AK44

**468. Transforming the 2.5 GHz Band**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 to 153; 47 U.S.C. 154(i); 47 U.S.C. 157; 47 U.S.C. 201; 47 U.S.C. 301 and 302; 47 U.S.C. 304; 47 U.S.C. 307 to 310; 47 U.S.C. 1302

*Abstract:* The 2.5 GHz band (2496–2690 MHz) constitutes the single largest band of contiguous spectrum below 3 GHz and has been identified as prime spectrum for next generation mobile operations, including 5G uses. Significant portions of this band, however, currently lie fallow across approximately one-half of the United States, primarily in rural areas. Moreover, access to the Educational Broadband Service (EBS) has been strictly limited since 1995, and current licensees are subject to a regulatory regime largely unchanged from the days when educational TV was the only use envisioned for this spectrum. The Commission proposes to allow more efficient and effective use of this spectrum band by providing greater flexibility to current EBS licensees as well as providing new opportunities for additional entities to obtain unused 2.5 GHz spectrum to facilitate improved access to next generation wireless broadband, including 5G. The Commission also seeks comment on additional approaches for transforming the 2.5 GHz band, including by moving

directly to an auction for some or all of the spectrum.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/07/18	83 FR 26396
NPRM Comment Period Ex- tended.	06/21/18	83 FR 31515
NPRM Comment Period End. Next Action Under- terminated.	09/07/18	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* John Schauble, Deputy Chief, Broadband Division, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-0797, Email: john.schauble@fcc.gov, RIN: 3060-AK75

**469. Expanding Flexible Use of the 3.7 to 4.2 GHz Band: GN Docket No. 18-122**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 to 153; 47 U.S.C. 154(i); 47 U.S.C. 157; 47 U.S.C. 201; 47 U.S.C. 301 to 304; 47 U.S.C. 307 to 310; 47 U.S.C. 1302; . . .

*Abstract:* In this proceeding, the Commission is pursuing the joint goals of making spectrum available for new wireless uses, while balancing desired speed to the market, efficiency of use, and effectively accommodating incumbent Fixed Satellite Service (FSS) and Fixed Service (FS) operations in the band. To gain a clearer understanding of the operations of current users in the band, the Commission collects information on current FSS uses. The Commission then seeks comment on various proposals for transitioning all or part of the band for flexible use, terrestrial mobile spectrum, with clearing for flexible use beginning at 3.7 GHz and moving higher up in the band as more spectrum is cleared. The Commission also seeks comment on potential changes to the Commission's rules to promote more efficient and intensive fixed use of the band on a shared basis starting in the top segment of the band and moving down the band. To add a mobile, except aeronautical mobile, allocation and to develop rules that would enable the band to be transitioned for more intensive fixed and flexible uses, the Commission encourages commenters to discuss and quantify the costs and benefits associated with any proposed approach along with other helpful technical or procedural details.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/29/18	83 FR 44128
NPRM Comment Period End.	11/27/18	
Public Notice .....	05/20/19	84 FR 22733
Certifications and Data Filing Deadline.	05/28/19	
Public Notice .....	06/03/19	84 FR 22514
Public Notice Comment Period End.	07/03/19	
Public Notice Reply Comment Period End.	07/18/19	
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Peter Daronco, Deputy Division Chief, Broadband Division, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7235, *Email:* [peter.daronco@fcc.gov](mailto:peter.daronco@fcc.gov), *RIN:* 3060-AK76

#### **470. • Amendment of the Commission's Rules To Promote Aviation Safety: WT Docket No. 19-140**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 154; 47 U.S.C. 303; 307(e)

*Abstract:* The Federal Communications Commission regulates the Aviation Radio Service, a family of services using dedicated spectrum to enhance the safety of aircraft in flight, facilitate the efficient movement of aircraft both in the air and on the ground, and otherwise ensure the reliability and effectiveness of aviation communications. Recent technological advances have prompted the Commission to open this new rulemaking proceeding to ensure the timely deployment and use of today's state-of-the-art safety-enhancing technologies. With this Notice of Proposed Rulemaking, the Commission proposes changes to its part 87 Aviation Radio Service rules to support the deployment of more advanced avionics technology, increase the efficient use of limited spectrum resources, and generally improve aviation safety.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/02/19	84 FR 31542
NPRM Comment Period End.	09/03/19	
NPRM Reply Comment Period End.	09/30/19	

Action	Date	FR Cite
Next Action Undetermined.		

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Jeff Tobias, Attorney Advisor, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-1617, *Email:* [jeff.tobias@fcc.gov](mailto:jeff.tobias@fcc.gov), *RIN:* 3060-AK92

#### **FEDERAL COMMUNICATIONS COMMISSION (FCC)**

*Wireless Telecommunications Bureau*

Completed Actions

#### **471. Review of Part 87 of the Commission's Rules Concerning Aviation (WT Docket No. 01-289)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 154; 47 U.S.C. 303; 47 U.S.C. 307(e)

*Abstract:* This proceeding is intended to streamline, consolidate, and revise our part 87 rules governing the Aviation Radio Service. The rule changes are designed to ensure these rules reflect current technological advances.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/16/01	66 FR 64785
NPRM Comment Period End.	03/14/02	
R&O and FNPRM	10/16/03	
FNPRM .....	04/12/04	69 FR 19140
FNPRM Comment Period End.	07/12/04	
R&O .....	06/14/04	69 FR 32577
NPRM .....	12/06/06	71 FR 70710
NPRM Comment Period End.	03/06/07	
Final Rule .....	12/06/06	71 FR 70671
3rd R&O .....	03/29/11	76 FR 17347
Stay Order .....	03/29/11	76 FR 17353
3rd FNPRM .....	01/30/13	78 FR 6276
R&O .....	12/12/18	83 FR 63806
Withdrawn .....	07/29/19	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Jeff Tobias, Attorney Advisor, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-1617, *Email:* [jeff.tobias@fcc.gov](mailto:jeff.tobias@fcc.gov), *RIN:* 3060-AI35

#### **472. Amendment of Part 101 of the Commission's Rules for Microwave Use and Broadcast Auxiliary Service Flexibility**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 and 152; 47 U.S.C. 154(i) and 157; 47 U.S.C. 160 and 201; 47 U.S.C. 214; 47 U.S.C. 301 to 303; 47 U.S.C. 307 to 310; 47 U.S.C. 319 and 324; 47 U.S.C. 332 and 333

*Abstract:* In this document, the Commission commences a proceeding to remove regulatory barriers to the use of spectrum for wireless backhaul and other point-to-point and point-to-multipoint communications.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/05/10	75 FR 52185
NPRM Comment Period End.	11/22/10	
R&O .....	09/27/11	76 FR 59559
FNPRM .....	09/27/11	76 FR 59614
FNPRM Comment Period End.	10/25/11	
R&O .....	09/05/12	77 FR 54421
FNPRM .....	09/05/12	77 FR 54511
FNPRM Comment Period End.	10/22/12	

*Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* John Schauble, Deputy Chief, Broadband Division, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-0797, *Email:* [john.schauble@fcc.gov](mailto:john.schauble@fcc.gov), *RIN:* 3060-AJ47

#### **473. Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 and 154; 47 U.S.C. 303 and 310

*Abstract:* The Commission proposes steps making additional spectrum available for new investment in mobile broadband networks, while ensuring that the United States maintains robust mobile satellite service capabilities. Mobile broadband is emerging as one of America's most dynamic innovation and economic platforms. Yet tremendous demand growth soon will test the limits of spectrum availability. Some 90 megahertz of spectrum, allocated to the Mobile Satellite Service (MSS) in the 2 GHz band, Big LEO band, and L-band, are potentially available for terrestrial



mobile broadband use. The Commission seeks to remove regulatory barriers to terrestrial use and to promote additional investments, such as those recently made possible by a transaction between Harbinger Capital Partners and SkyTerra Communications, while retaining sufficient market-wide MSS capability. The Commission proposes to add co-primary Fixed and Mobile allocations to the 2 GHz band, consistent with the International Table of Allocations. This allocation modification is a precondition for more flexible licensing of terrestrial services within the band. Second, the Commission proposes to apply the Commission's secondary market policies and rules applicable to terrestrial services to all transactions involving the use of MSS bands for terrestrial services to create greater predictability and regulatory parity with bands licensed for terrestrial mobile broadband service. The Commission also requests comment on further steps we can take to increase the value, utilization, innovation, and investment in MSS spectrum generally.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/15/10	75 FR 49871
NPRM Comment Period End.	09/30/10	
R&O .....	04/06/11	76 FR 31252

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Blaise Scinto, Chief, Broadband Division, WTB, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-1380, *Email:* [blaise.scinto@fcc.gov](mailto:blaise.scinto@fcc.gov).

*RIN:* 3060-AJ59

**FEDERAL COMMUNICATIONS COMMISSION (FCC)**

*Wireline Competition Bureau*

*Long-Term Actions*

**474. Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information (CC Docket No. 96-115)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 222; 47 U.S.C. 272; 47 U.S.C. 303(r)

*Abstract:* The Commission adopted rules implementing the new statutory framework governing carrier use and disclosure of customer proprietary network information (CPNI) created by section 222 of the Communications Act

of 1934, as amended. CPNI includes, among other things, to whom, where, and when a customer places a call, as well as the types of service offerings to which the customer subscribes and the extent to which the service is used.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/28/96	61 FR 26483
Public Notice .....	02/25/97	62 FR 8414
Second R&O and FNPRM.	04/24/98	63 FR 20364
Order on Recon ..	10/01/99	64 FR 53242
Final Rule, Announcement of Effective Date.	01/26/01	66 FR 7865
Clarification Order and Second NPRM.	09/07/01	66 FR 50140
Third R&O and Third FNPRM.	09/20/02	67 FR 59205
NPRM .....	03/15/06	71 FR 13317
NPRM .....	06/08/07	72 FR 31782
Final Rule, Announcement of Effective Date.	06/08/07	72 FR 31948
Public Notice .....	07/13/12	77 FR 35336
Final Rule .....	09/21/17	82 FR 44188
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Melissa Kinkel, Attorney Advisor, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7958, *Fax:* 202 418-1413, *Email:* [melissa.kinkel@fcc.gov](mailto:melissa.kinkel@fcc.gov).

*RIN:* 3060-AG43

**475. Numbering Resource Optimization**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 201 *et seq.*; 47 U.S.C. 251(e)

*Abstract:* In 1999, the Commission released the Numbering Resource Optimization Notice of Proposed Rulemaking (Notice) in CC Docket 99-200. The Notice examined and sought comment on several administrative and technical measures aimed at improving the efficiency with which telecommunications numbering resources are used and allocated. It incorporated input from the North American Numbering Council (NANC), a Federal advisory committee, which advises the Commission on issues related to number administration.

In the Numbering Resource Optimization First Report and Order and Further Notice of Proposed Rulemaking (NRO First Report and Order), released on March 31, 2000, the Commission adopted a mandatory

utilization data reporting requirement, a uniform set of categories of numbers for which carriers must report their utilization, and a utilization threshold framework to increase carrier accountability and incentives to use numbers efficiently. In addition, the Commission adopted a single system for allocating numbers in blocks of 1,000, rather than 10,000, wherever possible, and established a plan for national rollout of thousands-block number pooling. The Commission also adopted numbering resource reclamation requirements to ensure that unused numbers are returned to the North American Numbering Plan (NANP) inventory for assignment to other carriers. Also, to encourage better management of numbering resources, carriers are required, to the extent possible, to first assign numbering resources within thousands blocks (a form of sequential numbering).

In the NRO Second Report and Order, the Commission adopted a measure that requires all carriers to use at least 60 percent of their numbering resources before they may get additional numbers in a particular area. That 60 percent utilization threshold increases to 75 percent over the next three years. The Commission also established a 5-year term for the national pooling administrator and an auditing program to verify carrier compliance with the Commission's rules. Furthermore, the Commission declined to amend the existing Federal rules for area code relief or specify any new Federal guidelines for the implementation of area code relief. The Commission also declined to state a preference for either all-services overlays or geographic splits as a method of area code relief. Regarding mandatory nationwide 10-digit dialing, the Commission declined to adopt this measure at the present time. Furthermore, the Commission declined to mandate nationwide expansion of the "D digit" (the "N" of an NXX or central office code) to include zero or one, or to grant State commissions the authority to implement the expansion of the "D" digit as a numbering resource optimization measure presently.

In the NRO Third Report and Order, the Commission addressed national thousands-block number pooling administration issues, including declining to alter the implementation date for covered CMRS carriers to participate in pooling. The Commission also addressed Federal cost recovery for national thousands-block number pooling, and continued to require States to establish cost recovery mechanisms for costs incurred by carriers



participating in pooling trials. The Commission reaffirmed the Months-To-Exhaust (MTE) requirement for carriers. The Commission declined to lower the utilization threshold established in the Second Report and Order, and declined to exempt pooling carriers from the utilization threshold. The Commission also established a safety valve mechanism to allow carriers that do not meet the utilization threshold in a given rate center to obtain additional numbering resources. In the NRO Third Report and Order, the Commission lifted the ban on technology-specific overlays (TSOs) and delegated authority to the Common Carrier Bureau, in consultation with the Wireless Telecommunications Bureau, to resolve any such petitions. Furthermore, the Commission found that carriers who violate its numbering requirements, or fail to cooperate with an auditor conducting either a “for cause” or random audit, should be denied numbering resources in certain instances. The Commission also reaffirmed the 180-day reservation period, declined to impose fees to extend the reservation period, and found that State commissions should be allowed password-protected access to the NANP Administrator database for data pertaining to NPAs located within their State. The measures adopted in the NRO orders will allow the Commission to monitor more closely the way numbering resources are used within the NANP, and will promote more efficient allocation and use of NANP resources by tying a carrier’s ability to obtain numbering resources more closely to its actual need for numbers to serve its customers.

In NRO Third Order on Recon in CC Docket No. 99–200, Third Further Notice of Proposed Rulemaking in CC Docket No. 99–200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 95–116, the Commission reversed its clarification that those requirements extend to all carriers in the largest 100 MSAs, regardless of whether they have received a request from another carrier to provide LNP. The Commission also sought comment on whether the Commission should again extend the LNP requirements to all carriers in the largest 100 MSAs, regardless of whether they receive a request to provide LNP. The Commission also sought comment on whether all carriers in the top 100 MSAs should be required to participate in thousands-block number pooling, regardless of whether they are required to be LNP capable. In addition, the Commission sought comment on

whether all MSAs included in Combined Metropolitan Statistical Areas (CMSAs) on the Census Bureau’s list of the largest 100 MSAs should be included on the Commission’s list of the top 100 MSAs.

In the NRO Fourth Report and Order and Further Notice of Proposed Rulemaking, the Commission reaffirmed that carriers must deploy LNP in switches within the 100 largest Metropolitan Statistical Areas (MSAs) for which another carrier has made a specific request for the provision of LNP. The Commission delegated the authority to State commissions to require carriers operating within the largest 100 MSAs that have not received a specific request for LNP from another carrier to provide LNP, under certain circumstances and on a case-by-case basis. The Commission concluded that all carriers, except those specifically exempted, are required to participate in thousands-block number pooling in accordance with the national rollout schedule, regardless of whether they are required to provide LNP, including commercial mobile radio service (CMRS) providers that were required to deploy LNP as of November 24, 2003. The Commission specifically exempted from the pooling requirement rural telephone companies and Tier III CMRS providers that have not received a request to provide LNP. The Commission also exempted from the pooling requirement carriers that are the only service provider receiving numbering resources in a given rate center. Additionally, the Commission sought further comment on whether these exemptions should be expanded to include carriers where there are only two service providers receiving numbering resources in the rate center. Finally, the Commission reaffirmed that the 100 largest MSAs are identified in the 1990 U.S. Census reports, as well as those areas included on any subsequent U.S. Census report of the 100 largest MSAs.

In the NRO Order and Fifth Further Notice of Proposed Rulemaking, the Commission granted petitions for delegated authority to implement mandatory thousands-block pooling filed by the Public Service Commission of West Virginia, the Nebraska Public Service Commission, the Oklahoma Corporation Commission, the Michigan Public Service Commission, and the Missouri Public Service Commission. In granting these petitions, the Commission permitted these States to optimize numbering resources and further extend the life of the specific numbering plan areas. In the Further Notice of Proposed Rulemaking, the

Commission sought comment on whether it should delegate authority to all States to implement mandatory thousands-block number pooling consistent with the parameters set forth in the NRO Order.

In its 2013 Notice of Proposed Rulemaking, the Commission proposed to allow interconnected Voice over internet Protocol (VOIP) providers to obtain telephone numbers directly from the North American Numbering Plan Administrator and the Pooling Administrator, subject to certain requirements. The Commission also sought comment on a forward-looking approach to numbers for other types of providers and uses, including telematics and public safety, and the benefits and number exhaust risks of granting providers other than interconnected VoIP providers direct access.

In its 2015 Report and Order, the Commission established an authorization process to enable interconnected VoIP providers that choose to obtain access to North American Numbering Plan telephone numbers directly from the North American Numbering Plan Administrator and/or the Pooling Administrator (Numbering Administrators), rather than through intermediaries. The Order also set forth several conditions designed to minimize number exhaust and preserve the integrity of the numbering system. Specifically, the Commission required interconnected VoIP providers obtaining numbers to comply with the same requirements applicable to carriers seeking to obtain numbers. The requirements included any State requirements pursuant to numbering authority delegated to the States by the Commission, as well as industry guidelines and practices, among others. The Commission also required interconnected VoIP providers to comply with facilities readiness requirements adapted to this context, and with numbering utilization and optimization requirements. In addition, as conditions to requesting and obtaining numbers directly from the Numbering Administrators, the Commission required interconnected VoIP providers to (1) provide the relevant State commissions with regulatory and numbering contacts when requesting numbers in those States, (2) request numbers from the Numbering Administrators under their own unique OCN, (3) file any requests for numbers with the relevant State commissions at least 30 days prior to requesting numbers from the Numbering Administrators, and (4) provide customers with the opportunity to

access all abbreviated dialing codes (N11 numbers) in use in a geographic area. Finally, the Order also modified Commission's rules in order to permit VoIP Positioning Center providers to obtain pseudo-Automatic Number Identification codes directly from the Numbering Administrators for purposes of providing E911 services.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/17/99	64 FR 32471
R&O and FNPRM	06/16/00	65 FR 37703
Second R&O and	02/08/01	66 FR 9528
Second FNPRM.		
Third R&O and	02/12/02	67 FR 643
Second Order		
on Recon.		
Third R&O on	04/05/02	67 FR 16347
Recon and		
Third FNPRM.		
Fourth R&O and	07/21/03	68 FR 43003
Fourth NPRM.		
Order and Fifth	03/15/06	71 FR 13393
FNPRM.		
Order .....	06/19/13	78 FR 36679
NPRM & NOI .....	06/19/13	78 FR 36725
R&O .....	10/29/15	80 FR 66454
Next Action Under-		
terminated.		

*Regulatory Flexibility Analysis*

*Required: Yes.*

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*RIN:* 3060-AH80

**476. Jurisdictional Separations**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i) and 154(j); 47 U.S.C. 205; 47 U.S.C. 221(c); 47 U.S.C. 254; 47 U.S.C. 403; 47 U.S.C. 410

*Abstract:* Jurisdictional separations is the process, pursuant to part 36 of the Commission's rules, by which incumbent local exchange carriers apportion regulated costs between the intrastate and interstate jurisdictions. In 1997, the Commission initiated a proceeding seeking comment on the extent to which legislative changes, technological changes, and marketplace changes warrant comprehensive reform of the separations process. In 2001, the Commission adopted the Federal-State Joint Board on Jurisdictional Separations' Joint Board's recommendation to impose an interim freeze on the part 36 category relationships and jurisdictional cost allocation factors for a period of 5 years, pending comprehensive reform of the

part 36 separations rules. In 2006, the Commission issued an Order and Further Notice of Proposed Rulemaking that extended the separations freeze for a period of 3 years and sought comment on comprehensive reform. In 2009, the Commission issued a Report and Order extending the separations freeze an additional year to June 2010. In 2010, the Commission issued a Report and Order extending the separations freeze for an additional year to June 2011. In 2011, the Commission adopted a Report and Order extending the separations freeze for an additional year to June 2012. In 2012, the Commission issued a Report and Order extending the separations freeze for an additional 2 years to June 2014. In 2014, the Commission issued a Report and Order extending the separations freeze for an additional 3 years to June 2017.

In 2016, the Commission issued a Report and Order extending the separations freeze for an additional 18 months until January 1, 2018. In 2017, the Joint Board issued a Recommended Decision recommending changes to the part 36 rules designed to harmonize them with the Commission's previous amendments to its part 32 accounting rules. In February 2018, the Commission issued a Notice of Proposed Rulemaking proposing amendments to part 36 consistent with the Joint Board's recommendations. In October 2018, the Commission issued a Report and Order adopting each of the Joint Board's recommendations and amending the Part 36 consistent with those recommendations. In July 2018, the Commission issued a Notice of Proposed Rulemaking proposing to extend the separations freeze for an additional 15 years and to provide rate-of-return carriers that had elected to freeze their category relationships a time limited opportunity to opt out of that freeze. In December 2018, the Commission issued a Report and Order extending the freeze for up to 6 years until December 31, 2024, and granting rate-of-return carriers that had elected to freeze their category relationships a one-time opportunity to opt out of that freeze.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/05/97	62 FR 59842
NPRM Comment	12/10/97	
Period End.		
Order .....	06/21/01	66 FR 33202
Order and	05/26/06	71 FR 29882
FNPRM.		
Order and	08/22/06	
FNPRM Com-		
ment Period		
End.		

Action	Date	FR Cite
R&O .....	05/15/09	74 FR 23955
R&O .....	05/25/10	75 FR 30301
R&O .....	05/27/11	76 FR 30840
R&O .....	05/23/12	77 FR 30410
R&O .....	06/13/14	79 FR 36232
R&O .....	06/02/17	82 FR 25535
Recommended	10/27/17	
Decision.		
NPRM .....	03/13/18	83 FR 10817
NPRM Comment	04/27/18	
Period End.		
NPRM .....	07/27/18	83 FR 35589
NPRM Comment	09/10/18	
Period End.		
R&O .....	12/11/18	83 FR 63581
R&O .....	02/15/19	84 FR 4351
Announcement of	03/01/19	84 FR 6977
OMB Approval.		
Next Action Under-		
terminated.		

*Regulatory Flexibility Analysis*

*Required: Yes.*

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*RIN:* 3060-AJ06

**477. Service Quality Measurement Plan for Interstate Special Access (WC Docket No. 02-112; CC Docket No. 00-175; WC Docket No. 06-120)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 and 152; 47 U.S.C. 154(i) and (j); 47 U.S.C. 201 to 204; 47 U.S.C. 214; 47 U.S.C. 220(a); 47 U.S.C. 251 and 252; 47 U.S.C. 272; 47 U.S.C. 303(r)

*Abstract:* Pursuant to the Communications Act of 1934, as amended, the Commission imposed two information collections as conditions of substantial regulatory relief granted to the Bell Operating Companies (BOCs), including their independent incumbent local exchange carrier affiliates. The first information collection requires the BOCs, including their independent incumbent local exchange carrier (LEC) affiliates, to report special access performance metrics on a quarterly basis. The second information collection required the BOCs, and their independent incumbent LEC affiliates, to provide their residential customers with the total number of long distance telecommunications service minutes they use each month. The second information collection expired in 2011.

On May 4, 2018, USTelecom filed a forbearance petition in which it sought forbearance from, among other things, obligations under section 272 of the Communications Act, including special

access performance metrics reporting requirements for all carriers. See Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. 160(c) to Accelerate Investment in Broadband and Next-Generation Networks, WC Docket No. 18–141 (filed May 4, 2018).

The Commission has sought comment on the USTelecom petition—Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. 160(c) to Accelerate Investment in Broadband and Next-Generation Networks, WC Docket No. 18–141, Order, DA 18–574 (June 1, 2018).

Comments and oppositions were due June 7, 2018, and replies by June 22, 2018 (DA18–475). These dates were extended until August 6, 2018, and September 5, 2018 (DA–18–574). The Commission extended the date by which the petition would be deemed granted in the absence of a Commission decision that the petition fails to meet the standards for forbearance under section 10(a) of the Act by 90 days until August 2, 2019. (DA 19–75).

The Commission terminated these two information collections. See Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. 160(c) to Accelerate Investment in Broadband and Next-Generation Networks, Memorandum Opinion and Order, WC Docket No. 18–141, FCC 19–31 (April 15, 2019).

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/02/01	66 FR 50139
NPRM Comment Period End.	11/01/01	
NPRM .....	05/29/03	68 FR 32007
NPRM Comment Period End.	06/30/03	
R&O .....	10/12/07	72 FR 58021
NPRM .....	01/22/13	78 FR 4369
R&O .....	11/13/13	78 FR 67956
FNPRM .....	11/13/13	78 FR 68005
FNPRM Comment Period End.	12/20/13	
FNPRM Reply Comment Period End.	01/13/14	
OMB Approval .....	06/12/14	79 FR 33709
Inactive per Maura McGowan.	03/31/16	
Notice and Request for Comment.	05/16/17	82 FR 22545
Comment Period End.	07/17/17	
OMB Approval .....	09/06/17	
US Telecom Petition for Forbearance Comment Period End.	08/06/18	

Action	Date	FR Cite
US Telecom Petition for Forbearance Reply Comment Period End. Next Action Undetermined.	09/05/18	

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Heather Hendrickson, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–7295, *Email:* heather.hendrickson@fcc.gov.

*RIN:* 3060–AJ08

**478. Development of Nationwide Broadband Data To Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 251; 47 U.S.C. 252; 47 U.S.C. 257; 47 U.S.C. 271; 47 U.S.C. 1302; 47 U.S.C. 160(b); 47 U.S.C. 161(a)(2)

*Abstract:* The Report and Order streamlined and reformed the Commission's Form 477 Data Program, which is the Commission's primary tool to collect data on broadband and telephone services.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/16/07	72 FR 27519
Order .....	07/02/08	73 FR 37861
Order .....	10/15/08	73 FR 60997
NPRM .....	02/08/11	76 FR 10827
Order .....	06/27/13	78 FR 49126
NPRM .....	08/24/17	82 FR 40118
NPRM Comment Period End.	09/25/17	
NPRM Reply Comment Period End.	10/10/17	
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Suzanne Mendez, Program Analyst, OEA, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–0941, *Email:* suzanne.mendez@fcc.gov.

*RIN:* 3060–AJ15

**479. Local Number Portability Porting Interval and Validation Requirements (WC Docket No. 07–244)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 251; 47 U.S.C. 303(r)

*Abstract:* In 2007, the Commission released a Notice of Proposed Rulemaking in WC Docket No. 07–244. The Notice sought comment on whether the Commission should adopt rules specifying the length of the porting intervals or other details of the porting process. It also tentatively concluded that the Commission should adopt rules reducing the porting interval for wireline-to-wireline and intermodal simple port requests, specifically, to a 48-hour porting interval.

In the Local Number Portability Porting Interval and Validation Requirements First Report and Order and a further Notice of Proposed Rulemaking, released on May 13, 2009, the Commission reduced the porting interval for simple wireline and simple intermodal port requests, requiring all entities subject to its local number portability (LNP) rules to complete simple wireline-to-wireline and simple intermodal port requests within one business day. In a related further Notice of Proposed Rulemaking (NPRM), the Commission sought comment on what further steps, if any, the Commission should take to improve the process of changing providers.

In the LNP Standard Fields Order, released on May 20, 2010, the Commission adopted standardized data fields for simple wireline and intermodal ports. The Order also adopts the NANC's recommendations for porting process provisioning flows and for counting a business day in the context of number porting.

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/21/08	73 FR 9507
R&O and NPRM	07/02/09	74 FR 31630
R&O .....	06/22/10	75 FR 35305
Public Notice .....	12/21/11	76 FR 79607
Public Notice .....	06/06/13	78 FR 34015
R&O .....	05/26/15	80 FR 29978
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required: Yes.*

*Agency Contact:* Michelle Sclater, Attorney, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–0388, *Email:* michelle.sclater@fcc.gov.

*RIN:* 3060–AJ32

**480. Rural Call Completion; WC Docket No. 13–39**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 154; 47 U.S.C. 217; 47 U.S.C. 201; 47 U.S.C. 202; 47 U.S.C. 218; 47 U.S.C. 220; 47 U.S.C.

262; 47 U.S.C. 403(b)(2)(B); 47 U.S.C. 251(a); 47 U.S.C. 225; 47 U.S.C. 620; 47 U.S.C. 251; 47 U.S.C. 251(e); 47 U.S.C. 254(k); 47 U.S.C. 616; 47 U.S.C. 226; 47 U.S.C. 227; 47 U.S.C. 228; 47 U.S.C. 1401–1473

**Abstract:** The Third RCC Order began implementation of the Improving Rural Call Quality and Reliability Act of 2017 (RCC Act), by adopting rules designed to ensure the integrity of our nation's telephone network and prevent unjust or unreasonable discrimination among areas of the United States in the delivery of telephone service. In particular, the Third RCC Order adopted rules to establish a registry for intermediate providers entities that transmit, but do not originate or terminate, voice calls. The Order requires intermediate providers to register with the Commission before offering to transmit covered voice communications, and requires covered providers entities that select the initial long-distance route for a large number of lines to use only registered intermediate providers to transmit covered voice communications.

The Fourth RCC Order completed the Commission's implementation of the RCC Act by adopting service quality standards for intermediate providers, as well as an exception to those standards for intermediate providers that qualify for the covered provider safe harbor in our existing rules. The Order also set forth procedures to enforce our intermediate provider requirements. Finally, the Fourth RCC Order adopted provisions to sunset the rural call completion data recording and retention requirements adopted in the First RCC Order one year after the effective date of the new intermediate provider service quality standards.

**Timetable:**

Action	Date	FR Cite
NPRM .....	04/12/13	78 FR 21891
Public Notice .....	05/07/13	78 FR 26572
NPRM Comment Period End.	05/28/13	
R&O and FNPRM PRA 60 Day Notice.	12/17/13	78 FR 76218
	12/30/13	78 FR 79448
FNPRM Comment Period End.	02/18/14	
PRA Comments Due.	03/11/14	
Public Notice .....	05/06/14	79 FR 25682
Order on Reconsideration.	12/10/14	79 FR 73227
Erratum .....	01/08/15	80 FR 1007
Public Notice .....	03/04/15	80 FR 11593
2nd FNPRM .....	07/27/17	82 FR 34911
2nd FNPRM Comment Period End.	08/28/17	
Reply Comment Period End.	09/25/17	

Action	Date	FR Cite
2nd Order .....	04/17/18	83 FR 21723
3rd FNPRM .....	04/17/18	83 FR 21983
3rd FNPRM Comment Period End.	06/04/18	
3rd FNPRM Reply Comment Period End.	06/19/18	
3rd Order .....	08/13/18	83 FR 47296
4th Order .....	03/15/19	84 FR 25692
Next Action Undetermined.		

**Regulatory Flexibility Analysis Required: Yes.**

**Agency Contact:** Zachary Ross, Attorney Advisor, Competition Policy Division, WCB, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–1033, *Email:* zachary.ross@fcc.gov, *RIN:* 3060–AJ89

**481. Rates for Inmate Calling Services; WC Docket No. 12–375**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 and 152; 47 U.S.C. 154(i) and (j); 47 U.S.C. 225; 47 U.S.C. 276; 47 U.S.C. 303(r); 47 CFR 64

**Abstract:** In the Second Report and Order, the Federal Communications Commission adopted rule changes to ensure that rates for both interstate and intrastate inmate calling services (ICS) are fair, just, and reasonable limits on ancillary service charges imposed by ICS providers. In the Second Report and Order, the Commission set caps on all interstate and intrastate calling rates for ICS, established a tiered rate structure based on the size and type of facility being served, limited the types of ancillary services that ICS providers may charge for and capped the charges for permitted fees, banned flat-rate calling, facilitated access to ICS by people with disabilities by requiring providers to offer free or steeply discounted rates for calls using TTY, and imposed reporting and certification requirements to facilitate continued oversight of the ICS market. In the Third Further Notice portion of the item, the Commission sought comment on ways to promote competition for ICS, video visitation, and rates for international calls, and considered an array of solutions to further address areas of concern in the ICS industry. In an Order on Reconsideration, the Commission amended its rate caps and the definition of “mandatory tax or mandatory fee.”

On June 13, 2017, the D.C. Circuit vacated the rate caps adopted in the Second Report and Order, as well as

reporting requirements related to video visitation. The court held that the Commission lacked jurisdiction over intrastate ICS calls and that the rate caps the Commission adopted for interstate calls were arbitrary and capricious. The court also remanded the Commission's caps on ancillary fees. On September 26, 2017, the court denied a petition for rehearing en banc. On December 21, 2017, the court issued two separate orders: One vacating the 2016 Order on Reconsideration insofar as it purports to set rate caps on inmate calling services, and one dismissing as moot challenges to the Commission's First Report and Order on ICS.

**Timetable:**

Action	Date	FR Cite
NPRM .....	01/22/13	78 FR 4369
FNPRM .....	11/13/13	78 FR 68005
R&O .....	11/13/13	78 FR 67956
FNPRM Comment Period End.	12/20/13	
Announcement of Effective Date.	06/20/14	79 FR 33709
2nd FNPRM .....	11/21/14	79 FR 69682
2nd FNPRM Comment Period End.	01/15/15	
2nd FNPRM Reply Comment Period End.	01/20/15	
3rd FNPRM .....	12/18/15	80 FR 79020
2nd R&O .....	12/18/15	80 FR 79136
3rd FNPRM Comment Period End.	01/19/16	
3rd FNPRM Reply Comment Period End.	02/08/16	
Order on Reconsideration.	09/12/16	81 FR 62818
Announcement of OMB Approval.	03/01/17	82 FR 12182
Correction to Announcement of OMB Approval.	03/08/17	82 FR 12922
Next Action Undetermined.		

**Regulatory Flexibility Analysis Required: Yes.**

**Agency Contact:** William Kehoe, Assistant Division Chief, PPD, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–7122, *Fax:* 202 418–1413, *Email:* william.kehoe@fcc.gov, *RIN:* 3060–AK08

**482. Comprehensive Review of the Part 32 Uniform System of Accounts (WC Docket No. 14–130)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 201(b); 47 U.S.C. 219 and 220

**Abstract:** The Commission initiates a rulemaking proceeding to review the Uniform System of Accounts (USOA) to consider ways to minimize the compliance burdens on incumbent local exchange carriers while ensuring that the Agency retains access to the information it needs to fulfill its regulatory duties. In light of the Commission's actions in areas of price cap regulation, universal service reform, and intercarrier compensation reform, the Commission stated that it is likely appropriate to streamline the existing rules even though those reforms may not have eliminated the need for accounting data for some purposes. The Commission's analysis and proposals are divided into three parts. First, the Commission proposes to streamline the USOA accounting rules while preserving their existing structure. Second, the Commission seeks more focused comment on the accounting requirements needed for price cap carriers to address our statutory and regulatory obligations. Third, the Commission seeks comment on several related issues, including state requirements, rate effects, implementation, continuing property records, and legal authority.

On February 23, 2017, the Commission adopted a Report and Order that revised the part 32 USOA to substantially reduce accounting burdens for both price cap and rate-of-return carriers. First, the Order streamlines the USOA for all carriers. In addition, the USOA will be aligned more closely with generally accepted accounting principles, or GAAP. Second, the Order allows price cap carriers to use GAAP for all regulatory accounting purposes as long as they comply with targeted accounting rules, which are designed to mitigate any impact on pole attachment rates. Alternatively, price cap carriers can elect to use GAAP accounting for all purposes other than those associated with pole attachment rates and continue to use the part 32 accounts for pole attachment rates for up to 12 years. Third, the Order addresses several miscellaneous issues, including referral to the Federal-State Joint Board on Separations the issue of examining jurisdictional separations rules in light of the reforms adopted to part 32.

**Timetable:**

Action	Date	FR Cite
NPRM .....	09/15/14	79 FR 54942
NPRM Comment Period End.	11/14/14	
NPRM Reply Comment Period End.	12/15/14	

Action	Date	FR Cite
R&O .....	04/04/17	82 FR 20833
Next Action Under-terminated.		

**Regulatory Flexibility Analysis Required: Yes.**

**Agency Contact:** Robin Cohn, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-2747, Email: robin.cohn@fcc.gov.  
RIN: 3060-AK20

**483. Restoring Internet Freedom (WC Docket No. 17-108); Protecting and Promoting the Open Internet (GN Docket No. 14-28)**

**E.O. 13771 Designation:** Independent agency.

**Legal Authority:** 47 U.S.C. 151; 47 U.S.C. 154(i) and (j); 47 U.S.C. 201(b)

**Abstract:** In December 2017, the Commission adopted the Restoring Internet Freedom Declaratory Ruling, Report and Order, and Order (Restoring Internet Freedom Order), which restored the light-touch regulatory framework under which the internet had grown and thrived for decades by classifying broadband Internet access service as an information service. The Restoring Internet Freedom Order ends title II regulation of the internet and returns broadband internet access service to its long-standing classification as an information service; reinstates the determination that mobile broadband internet access service is not a commercial mobile service and returns it to its original classification as a private mobile service; finds that transparency, Internet Service Providers (ISPs) economic incentives, and antitrust and consumer protection laws will protect the openness of the internet, and that title II regulation is unnecessary to do so; and adopts a transparency rule similar to that in the 2010 Open Internet Order, requiring disclosure of network management practices, performance characteristics, and commercial terms of service. Additionally, the transparency rule requires ISPs to disclose any blocking, throttling, paid prioritization, or affiliate prioritization, and eliminates the internet conduct standard and the bright-line conduct rules set forth in the 2015 title II Order.

**Timetable:**

Action	Date	FR Cite
NPRM .....	07/01/14	79 FR 37448
NPRM Comment Period End.	07/18/14	

Action	Date	FR Cite
NPRM Reply Comment Period End.	09/15/14	80 FR 19737
R&O on Remand, Declaratory Ruling, and Order.	04/13/15	
NPRM .....	06/02/17	82 FR 25568
NPRM Comment Period End.	07/03/17	
Declaratory Ruling, R&O, and Order.	02/22/18	83 FR 7852
Next Action Under-terminated.		

**Regulatory Flexibility Analysis Required: Yes.**

**Agency Contact:** Melissa Kinkel, Attorney Advisor, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-7958, Fax: 202 418-1413, Email: melissa.kinkel@fcc.gov.  
RIN: 3060-AK21

**484. Technology Transitions; GN Docket No. 13-5, WC Docket No. 05-25; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment; WC Docket No. 17-84**

**E.O. 13771 Designation:** Independent agency.

**Legal Authority:** 47 U.S.C. 214; 47 U.S.C. 251

**Abstract:** On April 20, 2017, the Commission adopted a Notice of Proposed Rulemaking, Notice of Inquiry, and Request for Comment (Wireline Infrastructure NPRM, NOI, and RFC) seeking input on a number of actions designed to accelerate: (1) The deployment of next-generation networks and services by removing barriers to infrastructure investment at the Federal, State, and local level; (2) the transition from legacy copper networks and services to next-generation fiber-based networks and services; and (3) the reduction of Commission regulations that raise costs and slow, rather than facilitate, broadband deployment.

On November 16, 2017, the Commission adopted a Report and Order (R&O), Declaratory Ruling, and Further Notice of Proposed Rulemaking (Wireline Infrastructure Order) that takes a number of actions and seeks comment on further actions designed to accelerate the deployment of next-generation networks and services through removing barriers to infrastructure investment.

The Wireline Infrastructure Order took a number of actions. First, the Report and Order revised the pole attachment rules to reduce costs for

attachers, reforms the pole access complaint procedures to settle access disputes more swiftly, and increases access to infrastructure for certain types of broadband providers. Second, the Report and Order revised the section 214(a) discontinuance rules and the network change notification rules, including those applicable to copper retirements, to expedite the process for carriers seeking to replace legacy network infrastructure and legacy services with advanced broadband networks and innovative new services. Third, the Report and Order reversed a 2015 ruling that discontinuance authority is required for solely wholesale services to carrier-customers. Fourth, the Declaratory Ruling abandoned the 2014 “functional test” interpretation of when section 214 discontinuance applications are required, bringing added clarity to the section 214(a) discontinuance process for carriers and consumers alike. Finally, the Further Notice of Proposed Rulemaking sought comment on additional potential pole attachment reforms, reforms to the network change disclosure and section 214(a) discontinuance processes, and ways to facilitate rebuilding networks impacted by natural disasters.

On June 7, 2018, the Commission adopted a Second Report and Order (Wireline Infrastructure Second Report and Order) taking further actions designed to expedite the transition from legacy networks and services to next generation networks and advanced services that benefit the American public and to promote broadband deployment by further streamlining the section 214(a) discontinuance rules, network change disclosure processes, and part 68 customer notification process.

The Wireline Infrastructure NPRM, NOI, and RFC sought comment on additional issues not addressed in the November Wireline Infrastructure Order or the June Wireline Infrastructure Second Report and Order. It sought comment on changes to the Commission’s pole attachment rules to: (1) Streamline the timeframe for gaining access to utility poles; (2) reduce charges paid by attachers for work done to make a pole ready for new attachments; and (3) establish a formula for computing the maximum pole attachment rate that may be imposed on an incumbent LEC.

The Wireline Infrastructure NPRM, NOI, and RFC also sought comment on whether the Commission should enact rules, consistent with its authority under section 253 of the Act, to promote the deployment of broadband

infrastructure by preempting State and local laws that inhibit broadband deployment. It also sought comment on whether there are State laws governing the maintenance or retirement of copper facilities that serve as a barrier to deploying next-generation technologies and services that the Commission might seek to preempt.

Previously, in November 2014, the Commission adopted a Notice of Proposed Rulemaking and Declaratory Ruling that: (1) Proposed new backup power rules; (2) proposed new or revised rules for copper retirements and service discontinuances; and (3) adopted a functional test in determining what constitutes a service for purposes of section 214(a) discontinuance review. In August 2015, the Commission adopted a Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking that: (i) Lengthened and revised the copper retirement process; (ii) determined that a carrier must obtain Commission approval before discontinuing a service used as a wholesale input if the carrier’s actions will discontinue service to a carrier-customer’s retail end users; (iii) adopted an interim rule requiring incumbent LECs that seek to discontinue certain TDM-based wholesale services to commit to certain rates, terms, and conditions; (iv) proposed further revisions to the copper retirement discontinuance process; and (v) upheld the November 2014 Declaratory Ruling. In July 2016, the Commission adopted a Second Report and Order, Declaratory Ruling, and Order on Reconsideration that: (i) Adopted a new test for obtaining streamlined treatment when carriers seek Commission authorization to discontinue legacy services in favor of services based on newer technologies; (ii) set forth consumer education requirements for carriers seeking to discontinue legacy services in favor of services based on newer technologies; (iii) allowed notice to customers of discontinuance applications by email; (iv) required carriers to provide notice of discontinuance applications to Tribal entities; (v) made a technical rule change to create a new title for copper retirement notices and certifications; and (vi) harmonized the timeline for competitive LEC discontinuances caused by incumbent LEC network changes.

On August 2, 2018, the Commission adopted a Third Report and Order and Declaratory Ruling (Wireline Infrastructure Third Report and Order) establishing a new framework for the vast majority of pole attachments governed by Federal law by instituting

a one-touch make-ready regime, in which a new attacher may elect to perform all simple work to prepare a pole for new wireline attachments in the communications space. This new framework includes safeguards to promote coordination among parties and ensures that new attachers perform work safely and reliably. The Commission retained its multi-party pole attachment process for attachments that are complex or above the communications space of a pole, but made significant modifications to speed deployment, promote accurate billing, expand the use of self-help for new attachers when attachment deadlines are missed, and reduce the likelihood of coordination failures that lead to unwarranted delays. The Commission also improved its pole attachment rules by codifying and redefining Commission precedent that requires utilities to allow attachers to overlash existing wires, thus maximizing the usable space on the pole; eliminating outdated disparities between the pole attachment rates that incumbent carriers must pay compared to other similarly-situated cable and telecommunications attachers; and clarifying that the Commission will preempt, on an expedited case-by-case basis, State and local laws that inhibit the rebuilding or restoration of broadband infrastructure after a disaster. The Commission also adopted a Declaratory Ruling that interpreted section 253(a) of the Communications Act to prohibit State and local express and *de facto* moratoria on the deployment of telecommunications services or facilities and directed the Wireline Competition and Wireless Telecommunications Bureaus to act promptly on petitions challenging specific alleged moratoria.

#### *Timetable:*

Action	Date	FR Cite
NPRM .....	01/06/15	80 FR 450
NPRM Comment Period End.	02/05/15	
NPRM Reply Comment Period End.	03/09/15	
FNPRM .....	09/25/15	80 FR 57768
R&O .....	09/25/15	80 FR 57768
FNPRM Comment Period End.	10/26/15	
FNPRM Reply Comment Period End.	11/24/15	
2nd R&O .....	09/12/16	81 FR 62632
NPRM .....	05/16/17	82 FR 224533
NPRM Comment Period End.	06/15/17	

Action	Date	FR Cite
NPRM Reply Comment Pe- riod End.	07/17/17	
R&O .....	12/28/17	82 FR 61520
FNPRM Comment Period End.	01/17/18	
FNPRM Reply Comment Pe- riod End.	02/16/18	
2nd R&O .....	07/09/18	83 FR 31659
3rd R&O .....	09/14/18	83 FR 46812
Next Action Unde- termined.		

*Regulatory Flexibility Analysis  
Required: Yes.*

*Agency Contact:* Michele Levy Berlove, Special Counsel, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-1477, *Email:* michele.berlove@fcc.gov.  
*RIN:* 3060-AK32

**485. Numbering Policies for Modern Communications, WC Docket No. 13-97**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151; 47 U.S.C. 153 to 154; 47 U.S.C. 201 to 205; 47 U.S.C. 251; 47 U.S.C. 303(r)

*Abstract:* This Order establishes a process to authorize interconnected VoIP providers to obtain North American Numbering Plan (NANP) telephone numbers directly from the numbering administrators, rather than through intermediaries. Section 52.15(g)(2)(i) of the Commission's rules limits access to telephone numbers to entities that demonstrate they are authorized to provide service in the area for which the numbers are being requested. The Commission has interpreted this rule as requiring evidence of either a State certificate of public convenience and necessity (CPCN) or a Commission license. Neither authorization is typically available in practice to interconnected VoIP providers. Thus, as a practical matter, generally only telecommunications carriers are able to provide the proof of authorization required under our rules, and thus able to obtain numbers directly from the numbering administrators. This Order establishes an authorization process to enable interconnected VoIP providers that choose direct access to request numbers directly from the numbering administrators. Next, the Order sets forth several conditions designed to minimize number exhaust and preserve the integrity of the numbering system.

The Order requires interconnected VoIP providers obtaining numbers to comply with the same requirements

applicable to carriers seeking to obtain numbers. These requirements include any State requirements pursuant to numbering authority delegated to the States by the Commission, as well as industry guidelines and practices, among others. The Order also requires interconnected VoIP providers to comply with facilities readiness requirements adapted to this context, and with numbering utilization and optimization requirements. As conditions to requesting and obtaining numbers directly from the numbering administrators, interconnected VoIP providers are also required to: (1) Provide the relevant State commissions with regulatory and numbering contacts when requesting numbers in those states; (2) request numbers from the numbering administrators under their own unique OCN; (3) file any requests for numbers with the relevant State commissions at least 30 days prior to requesting numbers from the numbering administrators; and (4) provide customers with the opportunity to access all abbreviated dialing codes (N11 numbers) in use in a geographic area.

Finally, the Order also modifies Commission's rules in order to permit VoIP Positioning Center (VPC) providers to obtain pseudo-Automatic Number Identification (p-ANI) codes directly from the numbering administrators for purposes of providing E911 services.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/19/13	78 FR 36725
NPRM Comment Period End.	07/19/13	
R&O .....	10/29/15	80 FR 66454
Next Action Unde- termined.		

*Regulatory Flexibility Analysis  
Required: Yes.*

*Agency Contact:* Michelle Sclater, Attorney, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-0388, *Email:* michelle.sclater@fcc.gov.  
*RIN:* 3060-AK36

**486. Implementation of the Universal Service Portions of the 1996 Telecommunications Act**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 47 U.S.C. 151 *et seq.*

*Abstract:* The Telecommunications Act of 1996 expanded the traditional goal of universal service to include increased access to both telecommunications and advanced services such as high-speed internet for

all consumers at just, reasonable and affordable rates. The Act established principles for universal service that specifically focused on increasing access to evolving services for consumers living in rural and insular areas, and for consumers with low-incomes. Additional principles called for increased access to high-speed internet in the nation's schools, libraries, and rural healthcare facilities. The FCC established four programs within the Universal Service Fund to implement the statute: Connect America Fund (formally known as High-Cost Support) for rural areas; Lifeline (for low-income consumers), including initiatives to expand phone service for Native Americans; Schools and Libraries (E-rate); and Rural Healthcare.

The Universal Service Fund is paid for by contributions from telecommunications carriers, including wireline and wireless companies, and interconnected Voice over Internet Protocol (VoIP) providers, including cable companies that provide voice service, based on an assessment on their interstate and international end-user revenues. The Universal Service Administrative Company, or USAC, administers the four programs and collects monies for the Universal Service Fund under the direction of the FCC.

On April 19, 2018, the Commission decided the legacy support issue arising from the ongoing reform and modernization of the universal service fund and intercarrier compensation systems.

On May 29, 2018, the Commission approved additional funding to restore communications networks in Puerto Rico and the Virgin Islands and sought comment on almost \$900 million in long-term funding for network expansion.

On June 25, 2018, the Commission addressed the current funding shortfall in the Rural Healthcare Program by raising the annual program budget cap to \$571 million.

On January 31, 2019, the Commission temporarily waived the E-Rate amortization requirement and proposed to eliminate the requirement.

*Timetable:*

Action	Date	FR Cite
R&O and FNPRM NPRM Comment Period End.	01/13/17 02/13/17	82 FR 4275
NPRM Reply Comment Pe- riod End.	02/27/17	
R&O and Order on Recon.	03/21/17	82 FR 14466
Order on Recon ..	05/19/17	82 FR 22901

Action	Date	FR Cite
Order on Recon .. Memorandum, Opinion & Order. Next Action Under- terminated.	06/08/17 06/21/17	82 FR 26653 82 FR 228224

*Regulatory Flexibility Analysis  
Required: Yes.*

*Agency Contact:* Nakesha Woodward,  
Program Support Assistant, Federal  
Communications Commission, 445 12th  
Street SW, Washington, DC 20554,  
*Phone:* 202 418–1502, *Email:*  
*kesha.woodward@fcc.gov.*  
*RIN:* 3060–AK57

**487. • Toll Free Assignment  
Modernization and Toll Free Service  
Access Codes: WC Docket No. 17–192,  
CC Docket No. 95–155**

*E.O. 13771 Designation:* Independent  
agency.

*Legal Authority:* 47 U.S.C. 151; 47  
U.S.C. 154(i); 47 U.S.C. 201(b); 47 U.S.C.  
251(e)(1)

*Abstract:* In this Report and Order  
(Order), the Federal Communications  
Commission (FCC) initiates an auction  
to distribute certain toll free numbers.  
The numbers to be auctioned will be in  
the new 833 toll free code for which

there have been multiple, competing  
requests.

By using an auction, the FCC will  
ensure that sought-after numbers are  
awarded to the parties that value them  
most. In addition, the FCC will reserve  
certain 833 numbers for distribution to  
government and non-profit entities that  
request them for public health and  
safety purposes. The FCC will study the  
results of the auction to determine how  
to best use the mechanism to distribute  
toll-free numbers equitably and  
efficiently in the future as well.  
Revenues from the auction will be used  
to defray the cost of toll-free numbering  
administration, reducing the cost of  
numbering for all users. The Order  
establishing the toll-free number auction  
will also authorize and accommodate  
the use of a secondary market for  
numbers awarded at auction to further  
distribute these numbers to the entities  
that value them most. The Order also  
adopted several definitional and  
technical updates to improve clarity and  
flexibility in toll-free number  
assignment.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/13/17	82 FR 47669

Action	Date	FR Cite
NPRM Comment Period End.	11/13/17	
Final Rule .....	10/23/18	83 FR 53377
Next Action Under- terminated.		

*Regulatory Flexibility Analysis  
Required: Yes.*

*Agency Contact:* Matthew Collins,  
Attorney Advisor, Federal  
Communications Commission, 445 12th  
Street SW, Washington, DC 20554,  
*Phone:* 202 418–7141, *Email:*  
*matthew.collins@fcc.gov.*

*RIN:* 3060–AK91

[FR Doc. 2019–26556 Filed 12–23–19; 8:45 am]

**BILLING CODE 6712–01–P**





# FEDERAL REGISTER

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Vol. 84

Thursday,

No. 247

December 26, 2019

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Part XXVI

Federal Reserve System

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Semiannual Regulatory Agenda

**FEDERAL RESERVE SYSTEM****12 CFR Ch. II****Regulatory Agenda; Semiannual Regulatory Agenda**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** The Board is issuing this agenda under the Regulatory Flexibility Act and the Board's Statement of Policy Regarding Expanded Rulemaking Procedures. The Board anticipates having under consideration regulatory matters as indicated below during the period October 1, 2019, through March 31, 2020. The next agenda will be published in spring 2020.

**DATES:** Comments about the form or content of the agenda may be submitted any time during the next 6 months.

**ADDRESSES:** Comments should be addressed to Ann E. Misback, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, DC 20551.

**FOR FURTHER INFORMATION CONTACT:** A staff contact for each item is indicated with the regulatory description below.

**SUPPLEMENTARY INFORMATION:** The Board is publishing its fall 2019 agenda as part of the Fall 2019 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget under Executive Order 12866. The agenda also identifies rules the Board has selected for review under section 610(c) of the Regulatory Flexibility Act, and public comment is invited on those entries. The complete Unified Agenda will be available to the public at the following website: [www.reginfo.gov](http://www.reginfo.gov). Participation by the Board, as an independent

Agency, in the Unified Agenda is on a voluntary basis.

The Board's agenda is divided into four sections. The first, Proposed Rule Stage, reports on matters the Board may consider for public comment during the next 6 months. The second section, Final Rule Stage, reports on matters that have been proposed and are under Board consideration. The third section, Long-Term Actions, reports on matters where the next action is undetermined, 00/00/0000, or will occur more than 12 months after publication of the Agenda. And a fourth section, Completed Actions, reports on regulatory matters the Board has completed or is not expected to consider further. A dot (•) preceding an entry indicates a new matter that was not a part of the Board's previous agenda.

**Yao-Chin Chao,**

*Assistant Secretary of the Board.*

**FEDERAL RESERVE SYSTEM—LONG-TERM ACTIONS**

Sequence No.	Title	Regulation Identifier No.
488 .....	Source of Strength ( <b>Section 610 Review</b> ) .....	7100-AE73
489 .....	Regulation LL—Savings and Loan Holding Companies and Regulation MM—Mutual Holding Companies (Docket No: R-1429).	7100-AD80

**FEDERAL RESERVE SYSTEM—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
490 .....	Regulation CC—Availability of Funds and Collection of Checks (Docket No: R-1409) .....	7100-AD68
491 .....	Reduced Reporting for Covered Depository Institutions (Docket No: R-1618) .....	7100-AF12

**FEDERAL RESERVE SYSTEM (FRS)****Long-Term Actions****488. Source of Strength (Section 610 Review)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 12 U.S.C. 1831(o)

*Abstract:* The Board of Governors of the Federal Reserve System (Board), the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC) plan to issue a proposed rule to implement section 616(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Section 616(d) requires that bank holding companies, savings and loan holding companies, and other companies that directly or indirectly control an insured depository institution serve as a source of strength for the insured depository institution.

*Timetable:*

Action	Date	FR Cite
Next Action Undetermined.	To Be Determined	

*Regulatory Flexibility Analysis Required:* Undetermined.

*Agency Contact:* Conni Allen, Special Counsel, Federal Reserve System, Division of Supervision and Regulation, Washington, DC 20551, *Phone:* 202 912-4334.

Melissa Clark, Lead Financial Institution Policy Analyst, Federal Reserve System, Division of Supervision and Regulation, Washington, DC 20551, *Phone:* 202 452-2277.

Barbara Bouchard, Senior Associate Director, Federal Reserve System, Division of Supervision and Regulation, Washington, DC 20551, *Phone:* 202 452-3072.

Jay Schwarz, Special Counsel, Federal Reserve System, Legal Division, Washington, DC 20551, *Phone:* 202 452-2970.

Claudia Von Pervieux, Senior Counsel, Federal Reserve System, Legal Division, Washington, DC 20551, *Phone:* 202 452-2552.

*RIN:* 7100-AE73

**489. Regulation LL—Savings and Loan Holding Companies and Regulation MM—Mutual Holding Companies (Docket No: R-1429)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 5 U.S.C. 552; 5 U.S.C. 559; 5 U.S.C. 1813; 5 U.S.C. 1817; 5 U.S.C. 1828

*Abstract:* The Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) transferred responsibility for supervision of Savings and Loan Holding Companies (SLHCs) and their non-depository subsidiaries from the Office of Thrift Supervision (OTS) to the Board of Governors of the Federal Reserve System (the Board), on July 21, 2011. The Act also transferred supervisory functions related to Federal savings associations and State savings

associations to the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC), respectively. The Board on August 12, 2011, approved an interim final rule for SLHCs, including a request for public comment. The interim final rule transferred from the OTS to the Board the regulations necessary for the Board to supervise SLHCs, with certain technical and substantive modifications. The interim final rule has three components: (1) New Regulation LL (part 238), which sets forth regulations generally governing SLHCs; (2) new Regulation MM (part 239), which sets forth regulations governing SLHCs in mutual form; and (3) technical amendments to existing Board regulations necessary to accommodate the transfer of supervisory authority for SLHCs from the OTS to the Board. The structure of interim final Regulation LL closely follows that of the Board's Regulation Y, which governs bank holding companies, in order to provide an overall structure to rules that were previously found in disparate locations. In many instances, interim final Regulation LL incorporated OTS regulations with only technical modifications to account for the shift in supervisory responsibility from the OTS to the Board. Interim final Regulation LL also reflects statutory changes made by the Dodd-Frank Act with respect to SLHCs, and incorporates Board precedent and practices with respect to applications processing procedures and control issues, among other matters. Interim final Regulation MM organized existing OTS regulations governing SLHCs in mutual form (MHCs) and their subsidiary holding companies into a single part of the Board's regulations. In many instances, interim final Regulation MM incorporated OTS regulations with only technical modifications to account for the shift in supervisory responsibility from the OTS to the Board. Interim final Regulation MM also reflects statutory changes made by the Dodd-Frank Act with respect to MHCs. The interim final rule also made technical amendments to Board rules to facilitate supervision of SLHCs, including to rules implementing Community Reinvestment Act requirements and to Board procedural and administrative rules. In addition, the Board made technical amendments to implement section 312(b)(2)(A) of the Act, which transfers to the Board all rulemaking authority under section 11 of the Home Owner's Loan Act relating to transactions with affiliates and extensions of credit to executive officers, directors, and principal

shareholders. These amendments include revisions to parts 215 (Insider Transactions) and part 223 (Transactions with Affiliates) of Board regulations.

*Timetable:*

Action	Date	FR Cite
Board Requested Comment.	09/13/11	76 FR 56508
Board Expects Further Action.	12/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Keisha Patrick, Senior Counsel, Federal Reserve System, Legal Division, Washington, DC 20551, *Phone:* 202 452–3559.

*RIN:* 7100–AD80

## FEDERAL RESERVE SYSTEM (FRS)

### Completed Actions

#### 490. Regulation CC—Availability of Funds and Collection of Checks (Docket No: R-1409)

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 12 U.S.C. 4001 to 4010; 12 U.S.C. 5001 to 5018

*Abstract:* The Board of Governors of the Federal Reserve System (the Board) is amending Regulation CC, which implements the Expedited Funds Availability Act (EFA Act), which governs the availability of funds after a check deposit, as well as check collection and return. In March 2011, the Board proposed amendments to Regulation CC to facilitate the banking industry's ongoing transition to fully electronic interbank check collection and return, including proposed amendments to subpart C to encourage depository banks to receive and paying banks to send returned checks electronically and proposed amendments to subpart B's funds availability schedule provisions. Subsequently, section 1086 of the Dodd-Frank Wall Street Reform and Consumer Protection Act amended the EFA Act to provide the Consumer Financial Protection Bureau (CFPB) with joint rulemaking authority with the Board over certain EFA Act provisions, including those implemented by subpart B of Regulation CC. Based on its analysis of comments received, the Board revised its proposed amendments to subpart C of Regulation CC. The Board finalized its proposed amendments to subpart C in June 2017.

*Timetable:*

Action	Date	FR Cite
Board Requested Comment.	03/25/11	76 FR 16862
Board Requested Comment on Revised Proposal.	02/04/14	79 FR 6673
Board Published Final Rule on Subpart C.	06/15/17	82 FR 27552
Board Published Final Rule on Subpart B.	07/03/19	84 FR 31687
Final Rule Effective.	07/03/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Gavin Smith, Senior Counsel, Federal Reserve System, Legal Division, Washington, DC 20551, *Phone:* 202 452–3474.

Ian Spear, Manager, Federal Reserve System, Division of Reserve Bank Operations and Payment Systems, Washington, DC 20551, *Phone:* 202 452–3959.

*RIN:* 7100–AD68

#### 491. Reduced Reporting for Covered Depository Institutions (Docket No: R-1618)

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 12 U.S.C. 1817(a)(12)

*Abstract:* The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the Agencies) issued a final rule to implement section 205 of the Economic Growth, Regulatory Relief, and Consumer Protection Act by expanding the eligibility to file the agencies' most streamlined report of condition, the FFIEC 051 Call Report, to include certain insured depository institutions with less than \$5 billion in total consolidated assets that meet other criteria and, establishing reduced reporting on the FFIEC 051 Call Report for the first and third reports of condition for a year. The OCC and Board also are finalizing similar reduced reporting for certain uninsured institutions that they supervise with less than \$5 billion in total consolidated assets that otherwise meet the same criteria. This **Federal Register** notice also includes a Paperwork Reduction Act notice to reduce the amount of data required to be reported on the FFIEC 051 Call Report for the first and third calendar quarters, and other related changes.

*Timetable:*

Action	Date	FR Cite
Board Requested Comments.	11/19/18	83 FR 58432
Board Adopted Final Rule.	06/21/19	84 FR 290053
Final Action Effective.	07/22/19	

Regulatory Flexibility Analysis  
Required: Yes.

Agency Contact: Laura Bain, Senior Attorney, Federal Reserve System, Legal Division, Washington, DC 20551, Phone: 202 736-5546.

Claudia Von Pervieux, Senior Counsel, Federal Reserve System, Legal Division, Washington, DC 20551, Phone: 202 452-2552.

RIN: 7100-AF12  
[FR Doc. 2019-26557 Filed 12-23-19; 8:45 am]  
BILLING CODE 6210-01-P



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Part XXVII

National Labor Relations Board

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Semiannual Regulatory Agenda

**NATIONAL LABOR RELATIONS BOARD****29 CFR Ch. I****Regulatory Agenda; Semiannual Regulatory Agenda**

**AGENCY:** National Labor Relations Board.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** The following agenda of the National Labor Relations Board (NLRB) is published in accordance with Executive Order 12866, "Regulatory Planning and Review," and the

Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, as amended by the Small Business Regulatory Enforcement Fairness Act.

The complete Unified Agenda is available online at [www.reginfo.gov](http://www.reginfo.gov). Publication in the **Federal Register** is mandated only for regulatory flexibility agendas required under the RFA. Because the RFA does not require regulatory flexibility agendas for the regulations proposed and issued by the Board, the Board's agenda appears only on the internet at [www.reginfo.gov](http://www.reginfo.gov).

The Board's agenda refers to [www.regulations.gov](http://www.regulations.gov), the Government website at which members of the public

can find, review, and comment on Federal rulemakings that are published in the **Federal Register** and open for comment.

**FOR FURTHER INFORMATION CONTACT:** For further information concerning the regulatory actions listed in the agenda, contact Farah Z. Qureshi, Associate Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570; telephone 202–273–1949, TTY/TDD 1–800–315–6572; email [Farah.Qureshi@nrlb.gov](mailto:Farah.Qureshi@nrlb.gov).

**Farah Z. Qureshi,**  
Associate Executive Secretary.

**NATIONAL LABOR RELATIONS BOARD—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
492 .....	Blocking Charge, Voluntary Recognition, and 9(a) .....	3142-AA16

**NATIONAL LABOR RELATIONS BOARD—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
493 .....	Joint-Employer Rulemaking .....	3142-AA13

**NATIONAL LABOR RELATIONS BOARD (NLRB)****Proposed Rule Stage****492. Blocking Charge, Voluntary Recognition, and 9(a)**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 29 U.S.C. 156

*Abstract:* The National Labor Relations Board (the Board) will be revising the representation election regulations located at 29 CFR part 103, with a specific focus on revisions of the Board's current election bar policies.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/12/19	84 FR 39930
NPRM Comment Period Extended.	10/10/19	84 FR 54533
NPRM Comment Period Extended End.	12/10/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Farah Qureshi, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570, Phone: 202 273–1949, Email: [farah.qureshi@nrlb.gov](mailto:farah.qureshi@nrlb.gov).

Roxanne Rothschild, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570, Phone: 202 273–2917, Email: [roxanne.rothschild@nrlb.gov](mailto:roxanne.rothschild@nrlb.gov).

RIN: 3142-AA16

**NATIONAL LABOR RELATIONS BOARD (NLRB)****Final Rule Stage****493. Joint-Employer Rulemaking**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 29 U.S.C. 156

*Abstract:* The National Labor Relations Board will be engaging in rulemaking to establish the standard for determining joint-employer status under the National Labor Relations Act.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/14/18	83 FR 46681
NPRM Comment Period Extended.	11/05/18	83 FR 55329
NPRM Comment Period Extended.	12/13/18	83 FR 64053
NPRM Comment Period Extended.	01/11/19	
NPRM Comment Period End.	01/28/19	
Final Rule .....	12/00/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Roxanne Rothschild, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570, Phone: 202 273–2917, Email: [roxanne.rothschild@nrlb.gov](mailto:roxanne.rothschild@nrlb.gov).

Farah Qureshi, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570, Phone: 202 273–1949, Email: [farah.qureshi@nrlb.gov](mailto:farah.qureshi@nrlb.gov).

RIN: 3142-AA13

[FR Doc. 2019–26558 Filed 12–23–19; 8:45 am]

**BILLING CODE 7545–01–P**



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Part XXVIII

Nuclear Regulatory Commission

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Semiannual Regulatory Agenda

**NUCLEAR REGULATORY COMMISSION**

[NRC–2019–0144]

**10 CFR Chapter I****Regulatory Agenda; Semiannual Regulatory Agenda****AGENCY:** Nuclear Regulatory Commission.**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** We are publishing our semiannual regulatory agenda (the Agenda) in accordance with Public Law 96–354, “The Regulatory Flexibility Act,” and Executive Order 12866, “Regulatory Planning and Review.” This Agenda issuance also contains our annual regulatory plan, which contains information on some of the more important regulatory actions that we are considering issuing in proposed or final form during Fiscal Year 2019. NRC’s complete Agenda, available on the Office of Management and Budget’s website at <https://www.reginfo.gov>, is a compilation of all rulemaking activities on which we have recently completed action or have proposed or are considering action. We have completed 6 rulemaking activities since publication of our last Agenda on June 24, 2019 (84 FR 29780). This issuance of our Agenda contains 28 active and 22 long-term rulemaking activities: 2 are Economically Significant; 16 represent Other Significant agency priorities; 28 are Substantive, Nonsignificant rulemaking activities; and 4 are Administrative rulemaking activities. In addition, 3 rulemaking activities impact small entities; the entries for these activities are printed in this document. We are requesting comment on the rulemaking activities as identified in this Agenda.

**DATES:** Submit comments on rulemaking activities as identified in this Agenda by January 27, 2020.

**ADDRESSES:** Submit comments on any rulemaking activity in the Agenda by the date and methods specified in the **Federal Register** notice for the rulemaking activity. Comments received on rulemaking activities for which the comment period has closed will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before the closure date specified in the **Federal Register** notice. You may submit comments on this Agenda through the Federal Rulemaking website by going to <https://www.regulations.gov> and searching for Docket ID NRC–2019–0144. Address questions about NRC

dockets to Carol Gallagher; telephone: 301–415–3463; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:**

Cindy Bladey, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–3280; email: [Cindy.Bladey@nrc.gov](mailto:Cindy.Bladey@nrc.gov). Persons outside the Washington, DC, metropolitan area may call, toll-free: 1–800–368–5642. For further information on the substantive content of any rulemaking activity listed in the Agenda, contact the individual listed under the heading “Agency Contact” for that rulemaking activity.

**SUPPLEMENTARY INFORMATION:****Obtaining Information and Submitting Comments***A. Obtaining Information*

Please refer to Docket ID NRC–2019–0144 when contacting the NRC about the availability of information for this document. You may obtain publicly-available information related to this document by any of the following methods:

- *Federal Rulemaking Website:* Go to <http://www.regulations.gov> and search for Docket ID NRC–2019–0144.

- *NRC’s Public Document Room:* 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.

- *Reginfo.gov:*

- For completed rulemaking activities go to <https://www.reginfo.gov/public/do/eAgendaHistory?showStage=completed>, select “Fall 2019 The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions” from drop-down menu, and select “Nuclear Regulatory Commission” from drop-down menu.

- For active rulemaking activities go to <https://www.reginfo.gov/public/do/eAgendaMain> and select “Nuclear Regulatory Commission” from drop-down menu.

- For long-term rulemaking activities go to <https://www.reginfo.gov/public/do/eAgendaMain>, select link for “Current Long Term Actions”, and select “Nuclear Regulatory Commission” from drop down menu.

*B. Submitting Comments*

Please include Docket ID NRC–2019–0144 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into the Agencywide Documents Access and Management System (ADAMS). The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

**Introduction**

The Agenda is a compilation of all rulemaking activities on which an agency has recently completed action or has proposed or is considering action. The Agenda reports rulemaking activities in three major categories: Completed, active, and long-term. Completed rulemaking activities are those that were completed since publication of an agency’s last Agenda; active rulemaking activities are those that an agency currently plans to have an Advance Notice of Proposed Rulemaking, a Proposed Rule, or a Final Rule issued within the next 12 months; and long-term rulemaking activities are rulemaking activities under development but for which an agency does not expect to have a regulatory action within the 12 months after publication of the current edition of the Unified Agenda.

The NRC assigns a “Regulation Identifier Number” (RIN) to a rulemaking activity when our Commission initiates a rulemaking and approves a rulemaking plan, or when the NRC staff begins work on a Commission delegated rulemaking that does not require a rulemaking plan. The Office of Management and Budget uses this number to track all relevant documents throughout the entire “lifecycle” of a particular rulemaking activity. The NRC reports all rulemaking activities in the Agenda that have been assigned a RIN and meet the definition



for a completed, an active, or a long-term rulemaking activity.

The information contained in this Agenda is updated to reflect any action that has occurred on a rulemaking activity since publication of our last Agenda on June 26, 2019 (84 FR 29780). Specifically, the information in this Agenda has been updated through July 26, 2019. The NRC provides additional information on planned rulemaking and petition for rulemaking activities, including priority and schedule, on our website at <https://www.nrc.gov/about-nrc/regulatory/rulemaking/rules-petitions.html#cprlist>.

The date for the next scheduled action under the heading “Timetable” is the date the next regulatory action for the rulemaking activity is scheduled to be published in the **Federal Register**. The date is considered tentative and is not binding on the Commission or its staff. The Agenda is intended to provide the

public early notice and opportunity to participate in our rulemaking process. However, we may consider or act on any rulemaking activity even though it is not included in the Agenda.

#### Section 610 Periodic Reviews Under the Regulatory Flexibility Act

Section 610 of the Regulatory Flexibility Act (RFA) requires agencies to conduct a review within 10 years of promulgation of those regulations that have or will have a *significant* economic impact on a *substantial* number of small entities. We undertake these reviews to decide whether the rules should be unchanged, amended, or withdrawn. At this time, we do not have any rules that have a *significant* economic impact on a *substantial* number of small entities; therefore, we have not included any RFA Section 610 periodic reviews in this edition of the Agenda. A complete listing of our regulations that impact

small entities and related Small Entity Compliance Guides are available from the NRC’s website at <http://www.nrc.gov/about-nrc/regulatory/rulemaking/flexibility-act/small-entities.html>.

#### Public Comments Received on NRC Unified Agenda

The comment period on the NRC’s last Agenda (published on June 14, 2019 (84 FR 29780)) closed on July 24, 2019. We received one written comment expressing support for the NRC’s semi-annual review.

Dated at Rockville, Maryland, this 26th day of July 2019.

**Cindy Bladey,**

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

### NUCLEAR REGULATORY COMMISSION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
494 .....	Revision of Fee Schedules: Fee Recovery for FY 2020 [NRC–2017–0228] ( <b>Reg Plan Seq No. 164</b> ) .....	3150–AK10

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

### NUCLEAR REGULATORY COMMISSION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
495 .....	Revision of Fee Schedules: Fee Recovery for FY 2021 [NRC–2018–0292] .....	3150–AK24

### NUCLEAR REGULATORY COMMISSION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
496 .....	Revision of Fee Schedules: Fee Recovery for FY 2019 [NRC–2017–0032] .....	3150–AJ99

#### NUCLEAR REGULATORY COMMISSION (NRC)

##### Proposed Rule Stage

#### 494. Revision of Fee Schedules: Fee Recovery for FY 2020 [NRC–2017–0228]

*Regulatory Plan:* This entry is Seq. No. 164 in part II of this issue of the **Federal Register**.

*RIN:* 3150–AK10

#### NUCLEAR REGULATORY COMMISSION (NRC)

##### Long-Term Actions

#### 495. Revision of Fee Schedules: Fee Recovery for FY 2021 [NRC–2018–0292]

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 31 U.S.C. 483; 42 U.S.C. 2201; 42 U.S.C. 2214; 42 U.S.C. 5841

*Abstract:* This rulemaking would amend the NRC’s regulations for fee schedules. The NRC conducts this rulemaking annually to recover approximately 100 percent of the NRC’s FY 2021 budget authority, less excluded activities to implement NEIMA. This rulemaking would affect the fee schedules for licensing, inspection, and annual fees charged to the NRC’s applicants and licensees.

##### *Timetable:*

Action	Date	FR Cite
NPRM .....	01/00/21	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Anthony Rossi, Nuclear Regulatory Commission, Office of the Chief Financial Officer, Washington, DC 20555–0001, *Phone:* 301 415–7341, *Email:* [anthony.rossi@nrc.gov](mailto:anthony.rossi@nrc.gov).

*RIN:* 3150–AK24

#### NUCLEAR REGULATORY COMMISSION (NRC)

##### Completed Actions

#### 496. Revision of Fee Schedules: Fee Recovery for FY 2019 [NRC–2017–0032]

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 31 U.S.C. 483; 42 U.S.C. 2201; 42 U.S.C. 2214; 42 U.S.C. 5841

*Abstract:* This rule would implement the Omnibus Budget Reconciliation Act of 1990 (OBRA-90), as amended, which requires the NRC to recover approximately 90 percent of its budget authority in a given fiscal year, less the amounts appropriated from the Waste Incidental to Reprocessing, generic homeland security activities, and Inspector General services for the Defense Nuclear Facilities Safety Board, through fees assessed to licensees. This rulemaking would amend the Commission's fee schedules for

licensing, inspection, and annual fees charged to its applicants and licensees. The licensing and inspection fees are established under 10 CFR part 170 and recover the NRC's cost of providing services to identifiable applicants and licensees. Examples of services provided by the NRC for which 10 CFR part 170 fees are assessed include license application reviews, license renewals, license amendment reviews, and inspections. The annual fees established under 10 CFR part 171 recover budgeted costs for generic (e.g., research and rulemaking) and other regulatory activities not recovered under 10 CFR part 170 fees.

*Completed:*

Reason	Date	FR Cite
Final Rule .....	05/17/19	84 FR 22331
Final Rule Effective.	07/16/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Anthony Rossi, *Phone:* 301 415-7341, *Email:* anthony.rossi@nrc.gov.

*RIN:* 3150-AJ99

[FR Doc. 2019-26562 Filed 12-23-19; 8:45 am]

**BILLING CODE 7590-01-P**



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Part XXIX

Securities and Exchange Commission

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Semiannual Regulatory Agenda

**SECURITIES AND EXCHANGE COMMISSION****17 CFR Ch. II**

[Release Nos. 33–10674, 34–86748, IA–5328, IC–33607, File No. S7–12–19]

**Regulatory Agenda; Semiannual Regulatory Agenda**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** The Securities and Exchange Commission is publishing the Chairman's agenda of rulemaking actions pursuant to the Regulatory Flexibility Act (RFA) (Pub. L. 96–354, 94 Stat. 1164) (Sep. 19, 1980). The items listed in the Regulatory Flexibility Agenda for Fall 2019 reflect only the priorities of the Chairman of the U.S. Securities and Exchange Commission, and do not necessarily reflect the view and priorities of any individual Commissioner.

Information in the agenda was accurate on August 7, 2019, the date on which the Commission's staff completed compilation of the data. To the extent possible, rulemaking actions by the Commission since that date have been reflected in the agenda. The Commission invites questions and public comment on the agenda and on the individual agenda entries.

The Commission is now printing in the **Federal Register**, along with our preamble, only those agenda entries for which we have indicated that preparation of an RFA analysis is required.

The Commission's complete RFA agenda will be available online at [www.reginfo.gov](http://www.reginfo.gov).

**DATES:** Comments should be received on or before January 27, 2020.

**ADDRESSES:** Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/other.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number S7–12–19 on the subject line.

*Paper Comments*

- Send paper comments to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File No. S7–12–19. This file number should be included on the subject line if email is used. To help us 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/other.shtml>). Comments are also 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. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

**FOR FURTHER INFORMATION CONTACT:** Mykaila DeLesDernier, Office of the General Counsel, 202–551–5129.

**SUPPLEMENTARY INFORMATION:** The RFA requires each Federal agency, twice each year, to publish in the **Federal Register** an agenda identifying rules that the agency expects to consider in the next 12 months that are likely to have a significant economic impact on a substantial number of small entities (5

U.S.C. 602(a)). The RFA specifically provides that publication of the agenda does not preclude an agency from considering or acting on any matter not included in the agenda and that an agency is not required to consider or act on any matter that is included in the agenda (5 U.S.C. 602(d)). The Commission may consider or act on any matter earlier or later than the estimated date provided on the agenda. While the agenda reflects the current intent to complete a number of rulemakings in the next year, the precise dates for each rulemaking at this point are uncertain. Actions that do not have an estimated date are placed in the long-term category; the Commission may nevertheless act on items in that category within the next 12 months. The agenda includes new entries, entries carried over from prior publications, and rulemaking actions that have been completed (or withdrawn) since publication of the last agenda.

The following abbreviations for the acts administered by the Commission are used in the agenda:

“Securities Act”—Securities Act of 1933  
 “Exchange Act”—Securities Exchange Act of 1934  
 “Investment Company Act”—Investment Company Act of 1940  
 “Investment Advisers Act”—Investment Advisers Act of 1940  
 “Dodd Frank Act”—Dodd-Frank Wall Street Reform and Consumer Protection Act  
 “JOBS Act”—Jumpstart Our Business Startups Act  
 “FAST Act”—Fixing America's Surface Transportation Act

The Commission invites public comment on the agenda and on the individual agenda entries.

By the Commission.

Dated: August 23, 2019.

**Vanessa A. Countryman,**  
*Secretary.*

**3 OOD—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
497 .....	Amendments to Certain Provisions of the Auditor Independence Rules .....	3235–AM63

**DIVISION OF CORPORATION FINANCE—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
498 .....	Listing Standards for Recovery of Erroneously Awarded Compensation .....	3235–AK99
499 .....	Filing Fee Processing .....	3235–AL96
500 .....	Accredited Investor Definition .....	3235–AM19
501 .....	Regulation Crowdfunding Amendments .....	3235–AM20
502 .....	Regulation A Amendments .....	3235–AM21
503 .....	Harmonization of Exempt Offerings .....	3235–AM27

## DIVISION OF CORPORATION FINANCE—PROPOSED RULE STAGE—Continued

Sequence No.	Title	Regulation Identifier No.
504 .....	Amendments to Rule 701/Form S-8 .....	3235-AM38
505 .....	Rule 14a-8 Amendments .....	3235-AM49
506 .....	Amendments to Form 13F Filer Threshold .....	3235-AM65

## DIVISION OF CORPORATION FINANCE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
507 .....	Amendments to Financial Disclosures About Acquired Businesses .....	3235-AL77
508 .....	Amendments to the Financial Disclosures for Registered Debt Security Offerings .....	3235-AM12
509 .....	Extending the Testing the Waters Provision to Non-Emerging Growth Companies .....	3235-AM23
510 .....	Accelerated Filer Definition .....	3235-AM41

## DIVISION OF CORPORATION FINANCE—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
511 .....	Pay Versus Performance .....	3235-AL00
512 .....	Universal Proxy .....	3235-AL84
513 .....	Corporate Board Diversity .....	3235-AL91
514 .....	Conflict Minerals Amendments .....	3235-AM14
515 .....	Mandated Electronic Filings .....	3235-AM15

## DIVISION OF CORPORATION FINANCE—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
516 .....	Simplification of Disclosure Requirements for Emerging Growth Companies and Forward Incorporation by Reference on Form S-1 for Smaller Reporting Companies.	3235-AL88
517 .....	Form 10-K Summary .....	3235-AL89
518 .....	Amendments to Implement FAST Act Report .....	3235-AM00

## DIVISION OF INVESTMENT MANAGEMENT—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
519 .....	Use of Derivatives by Registered Investment Companies and Business Development Companies .....	3235-AL60

## DIVISION OF INVESTMENT MANAGEMENT—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
520 .....	Fund of Funds Arrangements .....	3235-AM29
521 .....	Offering Reform for Business Development Companies Under the Small Business Credit Availability Act and Closed-End Funds Under the Economic Growth, Regulatory Relief, and Consumer Protection Act.	3235-AM31

## DIVISION OF INVESTMENT MANAGEMENT—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
522 .....	Reporting of Proxy Votes on Executive Compensation and Other Matters .....	3235-AK67
523 .....	Amendments to the Custody Rules for Investment Companies .....	3235-AM66
524 .....	Amendments to the Family Office Rule .....	3235-AM67
525 .....	Amendments to Rule 17a-7 Under the Investment Company Act .....	3235-AM69

## DIVISION OF INVESTMENT MANAGEMENT—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
526 .....	Form CRS Relationship Summary; Amendments to Form ADV; Required Disclosures to Retail Customers and Restrictions on the Use of Certain Names or Titles.	3235–AL27

## DIVISION OF TRADING AND MARKETS—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
527 .....	Removal of Certain References to Credit Ratings Under the Securities Exchange Act of 1934 .....	3235–AL14

## DIVISION OF TRADING AND MARKETS—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
528 .....	Regulation Best Interest .....	3235–AM35

## OFFICES AND OTHER PROGRAMS—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
529 .....	Auditor Independence With Respect to Loans or Debtor-Creditor Relationships .....	3235–AM01

**SECURITIES AND EXCHANGE COMMISSION (SEC)**

## 3 OOD

## Proposed Rule Stage

**497. • Amendments to Certain Provisions of the Auditor Independence Rules**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77(f); 15 U.S.C. 77(g); 15 U.S.C. 77(h); 15 U.S.C. 77(j); 15 U.S.C. 77(s); 15 U.S.C. 77(z–2); 15 U.S.C. 77(z–3); 15 U.S.C. 77(aa(25)); 15 U.S.C. 77(aa(26)); 15 U.S.C. 77(nn(25)); 15 U.S.C. 77(nn(26)); 15 U.S.C. 78(c); 15 U.S.C. 78(j–1); 15 U.S.C. 78(l); 15 U.S.C. 78(m); 15 U.S.C. 78(n); 15 U.S.C. 78(o(d)); 15 U.S.C. 78(q); 15 U.S.C. 78(u–5); 15 U.S.C. 78(w); 15 U.S.C. 78(ll); 15 U.S.C. 78(mm); 15 U.S.C. 80(a–8); 15 U.S.C. 80(a–20); 15 U.S.C. 80(a–29); 15 U.S.C. 80(a–30); 15 U.S.C. 80(a–31); 15 U.S.C. 80(a–37(a)); 15 U.S.C. 80(b–3); 15 U.S.C. 80(b–11); 15 U.S.C. 7202; 15 U.S.C. 7262; Pub. L. 112–106, sec. 102(c); 126 Stat. 310 (2012)

*Abstract:* The Office of the Chief Accountant is considering recommending that the Commission propose amendments to update certain auditor independence rules to facilitate capital formation, in a manner consistent with investor protection.

*Timetable:*

Action	Date	FR Cite
NPRM .....	04/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Duc Dang, Attorney, Office of Chief Accountant, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551–3386, *Email:* dangd@sec.gov.

*RIN:* 3235–AM63

**SECURITIES AND EXCHANGE COMMISSION (SEC)***Division of Corporation Finance*

## Proposed Rule Stage

**498. Listing Standards for Recovery of Erroneously Awarded Compensation**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* Pub. L. 111–203, sec. 954; 15 U.S.C. 78j–4

*Abstract:* The Commission proposed rules to implement section 954 of the Dodd-Frank Act, which requires the Commission to adopt rules to direct national securities exchanges to prohibit the listing of securities of issuers that have not developed and implemented a policy providing for disclosure of the issuer's policy on incentive-based compensation and mandating the clawback of such compensation in certain circumstances.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/14/15	80 FR 41144
NPRM Comment Period End.	09/14/15	
Second NPRM ....	09/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Anne M. Krauskopf, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551–3500, *Email:* krauskopf@sec.gov.

*RIN:* 3235–AK99

**499. Filing Fee Processing**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77s; 15 U.S.C. 78w; 15 U.S.C. 80a–37

*Abstract:* The Division is considering recommending that the Commission propose rule amendments to modernize the processing of EDGAR filing fees by structuring fee-related information in certain Commission filings.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/00/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Mark W. Green, Division of Corporation Finance,

Securities and Exchange Commission,  
100 F Street NE, Washington, DC  
20549-0301, Phone: 202 551-3430,  
Email: greenm@sec.gov.  
RIN: 3235-AL96

#### 500. Accredited Investor Definition

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77a et seq.

*Abstract:* The Division is considering recommending that the Commission propose amendments to expand the definition of accredited investor under Regulation D of the Securities Act of 1933.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jennifer Zepralka, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551-3430, Email: zepralkaj@sec.gov.

RIN: 3235-AM19

#### 501. Regulation Crowdfunding Amendments

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77a et seq.; 15 U.S.C. 78a et seq.; Pub. L. 112-106; Pub. L. 301-305

*Abstract:* Staff completed, consistent with Release No. 33-9974 (Oct. 30, 2015) 80 FR 71387 (Nov. 16, 2015), a study and submitted a report to the Commission on the impact of Regulation Crowdfunding on capital formation and investor protection. The Division is considering recommending that the Commission propose amendments to Regulation Crowdfunding to address staff recommendations resulting from the staff's report.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jennifer Zepralka, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551-3430, Email: zepralkaj@sec.gov.

RIN: 3235-AM20

#### 502. Regulation A Amendments

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77c(b); 15 U.S.C. 77s; 15 U.S.C. 77z-3; 15 U.S.C. 78l; 15 U.S.C. 77o; 15 U.S.C. 77o; 15 U.S.C. 77mm

*Abstract:* As described in Release No. 33-9741 (Mar. 25, 2015) [80 FR 21805 (Apr. 20, 2015)], the Division staff will undertake to study and submit a report to the Commission on the impact of Regulation A offerings on capital formation and investor protection. The Division is considering recommending that the Commission propose amendments to Regulation A to address staff recommendations resulting from the reviews of the regulation.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jennifer Zepralka, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551-3430, Email: zepralkaj@sec.gov.

RIN: 3235-AM21

#### 503. Harmonization of Exempt Offerings

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77a et seq.

*Abstract:* The Division is considering recommending that the Commission propose rule amendments to harmonize and streamline the Commission's rules for exempt offerings in order to enhance their clarity and ease of use.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	06/26/19	84 FR 30460
ANPRM Comment Period End.	09/24/19	
NPRM .....	09/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Jennifer Zepralka, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551-3430, Email: zepralkaj@sec.gov.

RIN: 3235-AM27

#### 504. Amendments to Rule 701/ Form S-8

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77bb

*Abstract:* The Division is considering recommending that the Commission propose rule amendments to Securities

Act Rule 701, the exemption from registration for securities issued by non-reporting companies pursuant to compensatory arrangements, and Form S-8, the registration statement for compensatory offerings by reporting companies.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	07/24/18	83 FR 34958
ANPRM Comment Period End.	09/24/18	
NPRM .....	04/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Anne M. Krauskopf, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551-3500, Email: krauskopf@sec.gov.

RIN: 3235-AM38

#### 505. Rule 14A-8 Amendments

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* Not Yet Determined

*Abstract:* The Division is considering recommending that the Commission propose rule amendments regarding the thresholds for shareholder proposals under Rule 14a-8.

*Timetable:*

Action	Date	FR Cite
NPRM .....	04/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Dan Greenspan, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551-3623, Email: greenspand@sec.gov.

RIN: 3235-AM49

#### 506. • Amendments to Form 13F Filer Threshold

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 78c(b); 15 U.S.C. 78m(f); 15 U.S.C. 78w; 15 U.S.C. 78x; 15 U.S.C. 78mm

*Abstract:* The Division is considering recommending that the Commission propose rule and related form amendments regarding the thresholds for Form 13F filers.

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Mark Uyeda, Senior Special Counsel, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-6775, *Email:* uyedam@sec.gov.  
RIN: 3235-AM65

## SECURITIES AND EXCHANGE COMMISSION (SEC)

*Division of Corporation Finance*

Final Rule Stage

### 507. Amendments to Financial Disclosures About Acquired Businesses

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77g; 15 U.S.C. 77j; 15 U.S.C. 77s(a); 15 U.S.C. 772-3; 15 U.S.C. 78c(b); 15 U.S.C. 77l; 15 U.S.C. 77m; 15 U.S.C. 77o(d); 15 U.S.C. 77w; 15 U.S.C. 77mm

*Abstract:* The Division is considering recommending that the Commission adopt amendments to Regulation S-X (Rule 3-05) that affect the disclosure of financial information of acquired businesses.

*Timetable:*

Action	Date	FR Cite
ANPRM .....	10/01/15	80 FR 59083
ANPRM Comment Period End.	11/30/15	
NPRM .....	05/28/19	84 FR 24600
NPRM Comment Period End.	07/29/19	
Final Action .....	09/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Todd Hardiman, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3516, *Email:* hardimant@sec.gov.

Patrick Gilmore, Deputy Chief Accountant, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3406, *Email:* gilmorep@sec.gov.  
RIN: 3235-AL77

### 508. Amendments to the Financial Disclosures for Registered Debt Security Offerings

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77c; 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77j; 15 U.S.C. 77h; 15 U.S.C. 77s(a); 15 U.S.C. 77z-3; 15 U.S.C. 78c(b); 15 U.S.C. 78l; 15 U.S.C. 78m; 15 U.S.C. 78o(d); 15 U.S.C. 78w(a)

*Abstract:* The Division is considering recommending that the Commission adopt amendments to Rules 3-10 (guaranteed) and 3-16 (collateralized with affiliate securities) of Regulation S-X.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/02/18	83 FR 49630
NPRM Comment Period End.	12/03/18	
Final Action .....	09/00/20	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* John Fieldsend, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3430, *Email:* fieldsendj@sec.gov.  
RIN: 3235-AM12

### 509. Extending the Testing the Waters Provision to Non-Emerging Growth Companies

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77g; 15 U.S.C. 77j; 15 U.S.C. 77s; 15 U.S.C. 77z-3; 15 U.S.C. 80a-6; 15 U.S.C. 80a-24; 15 U.S.C. 80a-37

*Abstract:* The Division is considering recommending that the Commission adopt amendments to extend the testing of the waters provision to non-emerging growth companies.

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/28/19	84 FR 6713
NPRM Comment Period End.	04/29/19	
Final Action .....	12/00/19	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Maryse Mills-Apenteng, Special Counsel, Office of Information Technologies and Services, Securities and Exchange Commission, Division of Corporation Finance, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3457, *Email:* mills-apentengm@sec.gov.  
RIN: 3235-AM23

### 510. Accelerated Filer Definition

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 78e(h); 15 U.S.C. 78l; 15 U.S.C. 78m; 15 U.S.C. 78o(d); 15 U.S.C. 78w(a)

*Abstract:* The Division is considering recommending that the Commission adopt changes to the "accelerated filer" definition in Exchange Act Rule 12b-2

that would have the effect of reducing the number of registrants that are subject to the Sarbanes-Oxley Act Section 404(b) attestation requirement.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/29/19	84 FR 24876
NPRM Comment Period End.	07/29/19	
Final Action .....	04/00/20	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* John Fieldsend, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3430, *Email:* fieldsendj@sec.gov.  
RIN: 3235-AM41

## SECURITIES AND EXCHANGE COMMISSION (SEC)

*Division of Corporation Finance*

Long-Term Actions

### 511. Pay Versus Performance

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* Pub. L. 111-203, sec. 953(a); 15 U.S.C. 78c(b); 15 U.S.C. 78n; 15 U.S.C. 78w(a); 15 U.S.C. 78mm

*Abstract:* The Commission proposed rules to implement section 953(a) of the Dodd-Frank Act, which added section 14(i) to the Exchange Act to require issuers to disclose information that shows the relationship between executive compensation actually paid and the financial performance of the issuer.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/07/15	80 FR 26329
NPRM Comment Period End.	07/06/15	
Next Action Undetermined.		

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Steven G. Hearne, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3430, *Email:* hearnes@sec.gov.  
RIN: 3235-AL00

### 512. Universal Proxy

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 78n; 15 U.S.C. 78w(a)



**Abstract:** The Commission proposed to amend the proxy rules to expand shareholders' ability to vote by proxy to select among duly-nominated candidates in a contested election of directors.

**Timetable:**

Action	Date	FR Cite
NPRM .....	11/10/16	81 FR 79122
NPRM Comment Period End.	01/09/17	
Next Action Undetermined.		

**Regulatory Flexibility Analysis**

**Required:** Yes.

**Agency Contact:** Ted Yu, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3500, *Email:* yut@sec.gov.

*RIN:* 3235-AL84

**513. Corporate Board Diversity**

*E.O. 13771 Designation:* Independent agency.

**Legal Authority:** 15 U.S.C. 77c(b); 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 78l; 15 U.S.C. 78m

**Abstract:** The Division is considering recommending that the Commission propose amendments to the proxy rules to require additional disclosure about the diversity of board members and nominees.

**Timetable:** Next Action Undetermined.

**Regulatory Flexibility Analysis Required:** Yes.

**Agency Contact:** Felicia H. Kung, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3430, *Email:* kungf@sec.gov.

*RIN:* 3235-AL91

**514. Conflict Minerals Amendments**

*E.O. 13771 Designation:* Independent agency.

**Legal Authority:** Sec. 1502, Pub. L. 111-203, 124 Stat. 1376 and 2213; 15 U.S.C. 77c; 15 U.S.C. 77d; 15 U.S.C. 77g; 15 U.S.C. 77j; 15 U.S.C. 77s; 15 U.S.C. 77z-2; 15 U.S.C. 77z-3; 15 U.S.C. 77eee; 15 U.S.C. 77ggg; 15 U.S.C. 77jjj; 15 U.S.C. 77kkk; 15 U.S.C. 77nnn; 15 U.S.C. 77sss; 15 U.S.C. 77ttt; 15 U.S.C. 78a *et seq.*; 15 U.S.C. 78c; 15 U.S.C. 78i; 15 U.S.C. 78j; 15 U.S.C. 78j-1; 15 U.S.C. 78k; 15 U.S.C. 78k-1; 15 U.S.C. 78l; 15 U.S.C. 78m; 15 U.S.C. 78n; 15 U.S.C. 78n-1; 15 U.S.C. 78o; 15 U.S.C. 78o-4; 15 U.S.C. 78o-8; 15 U.S.C. 78d; 15 U.S.C. 78e; 15 U.S.C. 78f; 15 U.S.C. 78g; 15 U.S.C. 78p; 15 U.S.C. 78q; 15 U.S.C. 78s; 15 U.S.C. 78u-5; 15 U.S.C. 78w; 15 U.S.C. 78x; 15 U.S.C. 78dd(b); 15 U.S.C.

78dd(c); 15 U.S.C. 78ll; 15 U.S.C. 78mm; 15 U.S.C. 80a-20; 15 U.S.C. 80a-23; 15 U.S.C. 80a-29; 15 U.S.C. 80a-37; 15 U.S.C. 80b-3; 15 U.S.C. 80b-4; 15 U.S.C. 80b-11; 15 U.S.C. 7201 *et seq.*; 15 U.S.C. 8302; 18 U.S.C. 1350; 12 U.S.C. 5221(e)(3)

**Abstract:** The Division is considering recommendations for the Commission to address the U.S. District Court for the District of Columbia's final decision (*Nat'l Ass'n of Mfrs., et al. v. SEC*, No. 13-CF-000635 (D.D.C. Apr. 3, 2017)) in the litigation over the conflict minerals rule. The district court set aside those portions of the rule that required companies to report to the Commission and state on their website that any of their products "have not been found to be 'DRC conflict free.'"

**Timetable:**

Action	Date	FR Cite
NPRM .....	12/23/10	75 FR 80947
NPRM Comment Period End.	01/31/11	
NPRM Comment Period Extended.	02/03/11	76 FR 6110
NPRM Comment Period Extended End.	03/02/11	
Final Action .....	09/12/12	77 FR 56273
Final Action Effective.	11/12/12	
Next Action Undetermined.		

**Regulatory Flexibility Analysis**

**Required:** Yes.

**Agency Contact:** John Fieldsend, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3430, *Email:* fieldsendj@sec.gov.

*RIN:* 3235-AM14

**515. Mandated Electronic Filings**

*E.O. 13771 Designation:* Independent agency.

**Legal Authority:** 15 U.S.C. 77d; 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77h; 15 U.S.C. 77j; 15 U.S.C. 77s(a); 15 U.S.C. 78c; 15 U.S.C. 78l; 15 U.S.C. 78m; 15 U.S.C. 78n; 15 U.S.C. 78o(d); 15 U.S.C. 78p; 15 U.S.C. 78w(a); 15 U.S.C. 78ll

**Abstract:** The Division is considering recommending that the Commission propose amendments to Regulation S-T that would update the mandated electronic submissions requirements to include additional filings.

**Timetable:** Next Action Undetermined.

**Regulatory Flexibility Analysis Required:** Yes.

**Agency Contact:** Sean Harrison, Division of Corporation Finance,

Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3430, *Email:* harrisons@sec.gov.

*RIN:* 3235-AM15

**SECURITIES AND EXCHANGE COMMISSION (SEC)**

*Division of Corporation Finance*

**Completed Actions**

**516. Simplification of Disclosure Requirements for Emerging Growth Companies and Forward Incorporation by Reference on Form S-1 for Smaller Reporting Companies**

*E.O. 13771 Designation:* Independent agency.

**Legal Authority:** 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77h; 15 U.S.C. 77j; Pub. L. 114-94, secs. 71003 and 84001; Pub. L. 112-106, sec. 102; 15 U.S.C. 77s

**Abstract:** An interim final rule was adopted on 01/19/2016, and this item is being withdrawn from the agenda.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	01/19/16	81 FR 2743
Interim Final Rule Effective.	01/19/16	
Interim Final Rule Comment Period End.	02/18/16	
Withdrawn .....	08/22/19	

**Regulatory Flexibility Analysis**

**Required:** Yes.

**Agency Contact:** Steven G. Hearne, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3430, *Email:* hearnes@sec.gov.

*RIN:* 3235-AL88

**517. Form 10-K Summary**

*E.O. 13771 Designation:* Independent agency.

**Legal Authority:** Pub. L. 114-94; 15 U.S.C. 78c; 15 U.S.C. 78l; 15 U.S.C. 78m; 15 U.S.C. 78o; 15 U.S.C. 78w

**Abstract:** An interim final rule was adopted on 06/09/2016, and this item is being withdrawn from the agenda.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	06/09/16	81 FR 37132
Interim Final Rule Effective.	06/09/16	
Interim Final Rule Comment Period End.	07/11/16	
Withdrawn .....	08/22/19	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Sean Harrison,  
Division of Corporation Finance,  
Securities and Exchange Commission,  
100 F Street NE, Washington, DC 20549,  
*Phone:* 202 551-3430, *Email:*  
*harrisons@sec.gov.*  
*RIN:* 3235-AL89

**518. Amendments To Implement FAST Act Report***E.O. 13771 Designation:* Independent agency.*Legal Authority:* Pub. L. 114-94; 129 Stat. 1312

*Abstract:* The Commission adopted rule amendments to implement recommendations made in the staff's 2016 Report on Modernization and Simplification of Regulation S-K, a report to Congress required by section 72003 of the FAST Act. As required by the FAST Act, the report included various recommendations on ways to modernize and simplify the disclosure requirements in Regulation S-K in a manner that reduces the costs and burdens on companies while still providing all material information to investors as well as ways to improve the readability and navigability of disclosure documents and discourage repetition and disclosure of immaterial information.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/02/17	82 FR 50988
NPRM Comment Period End.	01/02/18	
Final Action .....	04/02/19	84 FR 12674
Final Action Effective.	05/02/19	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Dan Greenspan,  
Division of Corporation Finance,  
Securities and Exchange Commission,  
100 F Street NE, Washington, DC 20549,  
*Phone:* 202 551-3623, *Email:*  
*greenspand@sec.gov.*  
*RIN:* 3235-AM00

**SECURITIES AND EXCHANGE COMMISSION (SEC)***Division of Investment Management*

Proposed Rule Stage

**519. Use of Derivatives by Registered Investment Companies and Business Development Companies***E.O. 13771 Designation:* Independent agency.*Legal Authority:* 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-31(a); 15 U.S.C. 80a-

12(a); 15 U.S.C. 80a-38(a); 15 U.S.C. 80a-8; 15 U.S.C. 80a-30; 15 U.S.C. 80a-38

*Abstract:* The Division is considering recommending that the Commission re-propose a new rule designed to enhance the regulation of the use of derivatives by registered investment companies, including mutual funds, exchange-traded funds, closed-end funds, and business development companies.

*Timetable:*

Action	Date	FR Cite
NPRM .....	12/28/15	80 FR 80884
NPRM Comment Period End.	03/28/16	
Second NPRM ....	04/00/20	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Brian Johnson,  
Division of Investment Management,  
Securities and Exchange Commission,  
100 F Street NE, Washington, DC 20549,  
*Phone:* 202 551-6740, *Email:*  
*johnsonbm@sec.gov.*  
*RIN:* 3235-AL60

**SECURITIES AND EXCHANGE COMMISSION (SEC)***Division of Investment Management*

Final Rule Stage

**520. Fund of Funds Arrangements***E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 80a-8(b); 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-12(d)(1)(G); 15 U.S.C. 80a-12(d)(1)(J); 15 U.S.C. 80a-17(b); 15 U.S.C. 80a-29(a); 15 U.S.C. 80a-37(a)

*Abstract:* The Division is considering recommending that the Commission adopt new rules and rule amendments to allow funds to acquire shares of other funds (i.e., "fund of funds" arrangements), including arrangements involving exchange-traded funds, without first obtaining exemptive orders from the Commission.

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/01/19	84 FR 1286
NPRM Comment Period End.	05/02/19	
Final Action .....	04/00/20	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Melissa Gainor,  
Division of Investment Management,  
Securities and Exchange Commission,  
100 F Street NE, Washington, DC 20549,

*Phone:* 202 551-6805, *Email:* *gainorm@sec.gov.**RIN:* 3235-AM29**521. Offering Reform for Business Development Companies Under the Small Business Credit Availability Act and Closed-End Funds Under the Economic Growth, Regulatory Relief, and Consumer Protection Act***E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77f to 77i; 15 U.S.C. 77s; 15 U.S.C. 77z-2 and 77z-3; 15 U.S.C. 78b and 78c(b); 15 U.S.C. 78i(a); 15 U.S.C. 78i; 15 U.S.C. 78l; 15 U.S.C. 78m to 78o; 15 U.S.C. 78q(a); 15 U.S.C. 78u-5; 15 U.S.C. 78w; 15 U.S.C. 78ll; 15 U.S.C. 78mm; 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-8; 15 U.S.C. 80a-20(a); 15 U.S.C. 80a-23 and 80a-24; 15 U.S.C. 80a-29 and 80a-30; 15 U.S.C. 80a-36 and 80a-37; Pub. L. 115-141, title VIII, sec. 803(b); Pub. L. 115-174, sec. 509(a)

*Abstract:* The Division is considering recommending that the Commission adopt amendments to existing rules and/or adopt new rules—under the Securities Act of 1933 and the Investment Company Act of 1940 to implement section 803 of the Small Business Credit Availability Act and section 509 of the Economic Growth, Regulatory Relief, and Consumer Protection Act.

*Timetable:*

Action	Date	FR Cite
NPRM .....	04/10/19	84 FR 14448
NPRM Comment Period End.	06/10/19	
Final Action .....	04/00/20	

*Regulatory Flexibility Analysis**Required:* Yes.

*Agency Contact:* Brian Johnson,  
Division of Investment Management,  
Securities and Exchange Commission,  
100 F Street NE, Washington, DC 20549,  
*Phone:* 202 551-6740, *Email:*  
*johnsonbm@sec.gov.*  
*RIN:* 3235-AM31

**SECURITIES AND EXCHANGE COMMISSION (SEC)***Division of Investment Management*

Long-Term Actions

**522. Reporting of Proxy Votes on Executive Compensation and Other Matters***E.O. 13771 Designation:* Independent agency.*Legal Authority:* 15 U.S.C. 78m; 15 U.S.C. 78w(a); 15 U.S.C. 78mm; 15

U.S.C. 78x; 15 U.S.C. 80a–8; 15 U.S.C. 80a–29; 15 U.S.C. 80a–30; 15 U.S.C. 80a–37; 15 U.S.C. 80a–44; Pub. L. 111–203, sec 951

**Abstract:** The Division is considering recommending that the Commission re-propose rule amendments to implement section 951 of the Dodd-Frank Act. The Commission previously proposed amendments to rules and Form N–PX that would require institutional investment managers subject to section 13(f) of the Exchange Act to report how they voted on any shareholder vote on executive compensation or golden parachutes pursuant to sections 14A(a) and (b) of the Exchange Act.

**Timetable:**

Action	Date	FR Cite
NPRM .....	10/28/10	75 FR 66622
NPRM Comment Period End.	11/18/10	
Second NPRM ....	To Be Determined	

**Regulatory Flexibility Analysis Required:** Yes.

**Agency Contact:** Matthew DeLesDernier, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551–6792, *Email:* [delesdernierj@sec.gov](mailto:delesdernierj@sec.gov).  
*RIN:* 3235–AK67

### 523. • Amendments to the Custody Rules for Investment Companies

**E.O. 13771 Designation:** Independent agency.

**Legal Authority:** 15 U.S.C. 80a–6(c); 15 U.S.C. 80a–17(f); 15 U.S.C. 80a–26; 15 U.S.C. 80a–28; 15 U.S.C. 80a–29; 15 U.S.C. 80a–30; 15 U.S.C. 80a–31; 15 U.S.C. 80a–36; 15 U.S.C. 80a–37; 15 U.S.C. 80a–37(a)

**Abstract:** The Division is considering recommending that the Commission propose amendments to rules concerning custody under the Investment Company Act of 1940.

**Timetable:** Next Action Undetermined.

**Regulatory Flexibility Analysis Required:** Yes.

**Agency Contact:** Jacob Krawitz, Branch Chief, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551–4673, *Email:* [krawitzk@sec.gov](mailto:krawitzk@sec.gov).  
*RIN:* 3235–AM66

### 524. • Amendments to the Family Office Rule

**E.O. 13771 Designation:** Independent agency.

**Legal Authority:** 15 U.S.C. 80b–2(a)(11)(G); 15 U.S.C. 80b–6a

**Abstract:** The Division is considering recommending that the Commission propose targeted amendments to the family office rule under section 202(a)(11) of the Investment Advisers Act of 1940.

**Timetable:** Next Action Undetermined.

**Regulatory Flexibility Analysis Required:** Yes.

**Agency Contact:** Thoreau Adrian Bartmann, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551–6745, *Email:* [bartmann@sec.gov](mailto:bartmann@sec.gov).  
*RIN:* 3235–AM67

### 525. • Amendments to Rule 17A–7 Under the Investment Company Act

**E.O. 13771 Designation:** Independent agency.

**Legal Authority:** 15 U.S.C. 80a–6(c); 15 U.S.C. 80a–10(f); 15 U.S.C. 80a–17(d); 15 U.S.C. 80a–37(a)

**Abstract:** The Division is considering recommending that the Commission propose amendments to rule 17a–7 under the Investment Company Act concerning the exemption of certain purchase or sale transactions between an investment company and certain affiliated persons.

**Timetable:** Next Action Undetermined.

**Regulatory Flexibility Analysis Required:** Yes.

**Agency Contact:** Jacob Krawitz, Branch Chief, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551–4673, *Email:* [krawitzk@sec.gov](mailto:krawitzk@sec.gov).  
*RIN:* 3235–AM69

## SECURITIES AND EXCHANGE COMMISSION (SEC)

*Division of Investment Management*

Completed Actions

### 526. Form CRS Relationship Summary; Amendments to Form ADV; Required Disclosures to Retail Customers and Restrictions on the Use of Certain Names or Titles

**E.O. 13771 Designation:** Independent agency.

**Legal Authority:** 15 U.S.C. 80b–11(g); 15 U.S.C. 78c; 15 U.S.C. 78j; 15 U.S.C. 78o; 15 U.S.C. 78o(c)(6); 15 U.S.C. 78o(l); 15 U.S.C. 78q; 15 U.S.C. 78w; 15 U.S.C. 78mm

**Abstract:** The Commission adopted new and amended rules and forms under the Investment Advisers Act of 1940 and the Securities Exchange Act of

1934 to (1) Require registered investment advisers and registered broker-dealers to provide a brief relationship summary to retail investors and (2) reduce investor confusion in the marketplace for firm services.

**Timetable:**

Action	Date	FR Cite
ANPRM .....	03/07/13	78 FR 14848
ANPRM Comment Period End.	07/05/13	
NPRM .....	05/23/18	83 FR 23848
NPRM Comment Period End.	08/07/18	
Final Action .....	07/12/19	84 FR 33492
Final Action Effective.	09/10/19	

**Regulatory Flexibility Analysis Required:** Yes.

**Agency Contact:** Emily Russell, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551–5500, *Email:* [russelle@sec.gov](mailto:russelle@sec.gov).

Jennifer Porter, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551–6739, *Email:* [porterj@sec.gov](mailto:porterj@sec.gov).

*RIN:* 3235–AL27

## SECURITIES AND EXCHANGE COMMISSION (SEC)

*Division of Trading and Markets*

Long-Term Actions

### 527. Removal of Certain References to Credit Ratings Under the Securities Exchange Act of 1934

**E.O. 13771 Designation:** Independent agency.

**Legal Authority:** Pub. L. 111–203, sec. 939A

**Abstract:** Section 939A of the Dodd-Frank Act requires the Commission to remove certain references to credit ratings from its regulations and to substitute such standards of creditworthiness as the Commission determines to be appropriate. The Commission amended certain rules and one form under the Exchange Act applicable to broker-dealer financial responsibility and confirmation of transactions. The Commission has not yet finalized amendments to certain rules regarding the distribution of securities.

**Timetable:**

Action	Date	FR Cite
NPRM .....	05/06/11	76 FR 26550

Action	Date	FR Cite
NPRM Comment Period End.	07/05/11	79 FR 1522
Final Action .....	01/08/14	
Final Action Effective.	07/07/14	
Next Action Undetermined.		

*Regulatory Flexibility Analysis*  
Required: Yes.

*Agency Contact:* John Guidroz, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551-6439, Email: [guidrozj@sec.gov](mailto:guidrozj@sec.gov).

RIN: 3235-AL14

## SECURITIES AND EXCHANGE COMMISSION (SEC)

### Division of Trading and Markets

#### Completed Actions

#### 528. Regulation Best Interest

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 78c; 15 U.S.C. 78j; 15 U.S.C. 78o; 15 U.S.C. 78q; 15 U.S.C. 78w; 15 U.S.C. 78mm

*Abstract:* The Commission adopted rules to establish a standard of conduct for broker-dealers and natural persons who are associated persons of a broker-dealer when making a recommendation of any securities transaction or investment strategy involving securities to a retail customer, as well as to implement related record-making and recordkeeping obligations.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/09/18	83 FR 21574
NPRM Comment Period End.	08/07/18	
Final Action .....	07/12/19	84 FR 33318
Final Action Effective.	09/10/19	

*Regulatory Flexibility Analysis*

Required: Yes.

*Agency Contact:* Lourdes Gonzalez, Assistant Chief Counsel, Sales Practices, Division of Trading and Markets, Securities and Exchange Commission, 100 F St. NE, Washington, DC 20549, Phone: 202 551-5580, Email: [gonzalezl@sec.gov](mailto:gonzalezl@sec.gov).

RIN: 3235-AM35

## SECURITIES AND EXCHANGE COMMISSION (SEC)

### Offices and Other Programs

#### Completed Actions

#### 529. Auditor Independence With Respect to Loans or Debtor-Creditor Relationships

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77h; 15 U.S.C. 77j; 15 U.S.C. 77s; 15 U.S.C. 77z-2; 15 U.S.C. 77z-3; 15 U.S.C. 77aa(25); 15 U.S.C. 77aa(26); 15 U.S.C. 77nn(25); 15 U.S.C. 77nn(26); 15 U.S.C. 78c; 15 U.S.C. 78j-1; 15 U.S.C. 78l; 15 U.S.C. 78m; 15 U.S.C. 78n; 15 U.S.C. 78o(d); 15 U.S.C. 78q; 15 U.S.C. 78u-5; 15 U.S.C. 78w; 15 U.S.C. 78ll; 15 U.S.C. 78mm; 15 U.S.C. 80a-8; 15 U.S.C. 80a-20; 15 U.S.C. 80a-29; 15 U.S.C. 80a-30; 15

U.S.C. 80a-37(a); 15 U.S.C. 80b-3; 15 U.S.C. 80b-11; 15 U.S.C. 7202; 15 U.S.C. 7262

*Abstract:* The Commission amended rule 2-01(c)(1)(ii)(A) of Regulation S-X regarding the independence of an accountant when the accountant has a lending relationship with an entity that holds equity securities of the accountant's audit client. The amendments focus the analysis on beneficial ownership; replace the existing 10 percent bright-line shareholder ownership test with a "significant influence" test; add a "known through reasonable inquiry" standard with respect to identifying beneficial owners of the audit client's equity securities; and exclude from the definition of "audit client," for a fund under audit, any other funds that otherwise would be considered affiliates of the audit client.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/08/18	83 FR 20753
NPRM Comment Period End.	07/09/18	
Final Action .....	07/05/19	84 FR 32040
Final Action Effective.	10/03/19	

*Regulatory Flexibility Analysis*

Required: Yes.

*Agency Contact:* Giles Taffle Cohen, Office of Chief Accountant, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551-2512, Email: [coheng@sec.gov](mailto:coheng@sec.gov).

RIN: 3235-AM01

[FR Doc. 2019-26563 Filed 12-23-19; 8:45 am]

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# FEDERAL REGISTER

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Vol. 84

Thursday,

No. 247

December 26, 2019

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Part XXX

Surface Transportation Board

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Semiannual Regulatory Agenda

**SURFACE TRANSPORTATION BOARD****49 CFR Ch. X****[STB Ex Parte No. 536 (Sub-No. 47)]****Regulatory Agenda; Semiannual  
Regulatory Agenda****AGENCY:** Surface Transportation Board.**ACTION:** Semiannual regulatory agenda.**SUMMARY:** The Chairman of the Surface Transportation Board is publishing the Regulatory Flexibility Agenda for fall 2019.**FOR FURTHER INFORMATION CONTACT:** A contact person is identified for each of the rules listed below.**SUPPLEMENTARY INFORMATION:** The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that, semiannually, each agency shall publish in the **Federal Register** a Regulatory Flexibility Agenda, which shall contain:

(1) A brief description of the subject area of any rule that the agency expects

to propose or promulgate, which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable about the items listed in paragraph (1).

Accordingly, a list of proceedings appears below containing information about subject areas in which the Board is currently conducting rulemaking proceedings or may institute such proceedings in the near future. It also contains information about existing regulations being reviewed to determine whether to propose modifications through rulemaking.

The agenda represents the Chairman's best estimate of rules that may be considered over the next 12 months, but

does not necessarily reflect the views of any other individual Board Member. However, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a Regulatory Flexibility Agenda or requires an agency to consider or act on any matter listed in such agenda."

The Chairman is publishing the agency's Regulatory Flexibility Agenda for fall 2019 as part of the Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda). The Unified Agenda is coordinated by the Office of Management and Budget (OMB), pursuant to Executive Orders 12866 and 13563. The Board is participating voluntarily in the program to assist OMB and has included rulemaking proceedings in the Unified Agenda beyond those required by the RFA.

Dated: July 26, 2019.

By the Board, Chairman Begeman.

**Jeffrey Herzig,***Clearance Clerk.***SURFACE TRANSPORTATION BOARD—LONG-TERM ACTIONS**

Sequence No.	Title	Regulation Identifier No.
530 .....	Review of Commodity, Boxcar, and TOFC/COFC Exemptions, EP 704 (Sub-No. 1) .....	2140-AB29

**SURFACE TRANSPORTATION BOARD  
(STB)****Long-Term Actions****530. Review of Commodity, Boxcar, and  
TOFC/COFC Exemptions, EP 704 (Sub-  
No. 1)***E.O. 13771 Designation:* Independent agency.*Legal Authority:* 49 U.S.C. 10502; 49 U.S.C. 13301*Abstract:* The Board proposed to revoke the class exemptions for the rail transportation of: (1) Crushed or broken stone or riprap; (2) hydraulic cement; and (3) coke produced from coal, primary iron or steel products, and iron or steel scrap, wastes, or tailings. On

March 19, 2019, the Board issued a decision waiving the prohibition on ex parte communications in this proceeding and providing a 90-day period for meetings with Board members.

*Timetable:*

Action	Date	FR Cite
NPRM .....	03/28/16	81 FR 17125
NPRM Comment Period End.	07/26/16	
NPRM Reply Comment Period End.	08/26/16	
Next Action Undetermined.		

*Regulatory Flexibility Analysis  
Required: Yes.**Agency Contact:* Amy Ziehm, Branch Chief, Office of Proceedings, Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001, *Phone:* 202 245-0391, *Email:* amy.ziehm@stb.gov.Francis O'Connor, Section Chief, Chemical & Agricultural Transportation, Office of Economics, Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001, *Phone:* 202 245-0331, *Email:* francis.o'connor@stb.gov.*RIN:* 2140-AB29

[FR Doc. 2019-26564 Filed 12-23-19; 8:45 am]

**BILLING CODE 4915-01-P**

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