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Contents

Federal Register

Vol. 85, No. 30

Thursday, February 13, 2020

Agriculture Department
See Commodity Credit Corporation
See Forest Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8245

Centers for Medicare & Medicaid Services
NOTICES
Medicare and Medicaid Programs:
Quarterly Listing of Program Issuances; October through December 2019, 8282–8296

Civil Rights Commission
NOTICES
Meetings:
New Jersey Advisory Committee, 8245–8246

Coast Guard
RULES
Drawbridge Operations:
Northeast Cape Fear River, Wilmington, NC, 8173–8175
Navigation and Navigable Waters, and Shipping:
Technical, Organizational, and Conforming Amendments for U.S. Coast Guard Field Districts 5, 8, 9, 11, 13, 14, and 17, 8169–8173
Safety Zone:
Pacific Ocean, Hilo Harbor, HI—Lightering Operations, 8175–8177
Security Zone:
Cooper River, Charleston, SC, 8177–8180
PROPOSED RULES
Safety Zone:
Tanapag Harbor, Saipan, CNMI, 8225–8227

Commerce Department
See Industry and Security Bureau
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration

Commodity Credit Corporation
RULES
Regional Conservation Partnership Program, 8131–8145

Consumer Product Safety Commission
NOTICES
Meetings; Sunshine Act, 8255

Education Department
NOTICES
Applications for New Awards:
Opportunity Scholarship Program, 8262–8266
Personnel Development to Improve Services and Results for Children with Disabilities—Leadership Development Programs: Increasing the Capacity of Leaders to Improve Systems Serving Children with Disabilities, 8255–8262

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
California; Imperial County Air Pollution Control District, Reasonably Available Control Technology, 8181–8185
Texas; Revisions to Control of Air Pollution by Permits for New Construction or Modification, 8185–8188
PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Missouri; Control of Emissions from Batch Process Operations, 8227–8228
Missouri; Control of Emissions from the Manufacturing of Paints, Varnishes, Lacquers, Enamels, and Other Allied Surface Coating Products, 8229–8230
Missouri; Removal of Control of Emissions from the Application of Automotive Underbody Deadeners, 8230–8233
Nebraska; Approval of State Implementation Plan and Operating Permits Program, 8240–8241
New York; Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standards in the New York Metropolitan Area Moderate Nonattainment Area, 8233–8240
NOTICES
Privacy Act; Systems of Records, 8280–8281
Proposed Cost Recovery Settlement:
CERCLA; Mariners Marsh Site on Staten Island, Richmond County, NY, 8280

Federal Aviation Administration
RULES
Airworthiness Directives:
Airbus Helicopters, 8150–8153
Airbus SAS Airplanes, 8148–8150
Bombardier, Inc. Airplanes, 8145–8147
Gulfstream Aerospace Corporation Airplanes, 8153–8155
PROPOSED RULES
Airworthiness Directives:
The Boeing Company Airplanes, 8207–8212
Amendment of Class D Airspace; and Amendment of Class D and Class E Airspace:
Jacksonville NAS, FL and Mayport, FL, 8212–8213

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 8281

Federal Energy Regulatory Commission
RULES
Critical Infrastructure Protection Reliability Standard CIP–012–1—Cyber Security—Communications between Control Centers, 8161–8169
Transmission Planning Reliability Standard TPL–001–5, 8155–8161
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8278–8279
Application:
Brookfield White Pine Hydro, LLC, 8275–8276

Transcontinental Gas Pipe Line Co., LLC, 8266
Combined Filings, 8269–8271, 8273–8275
Environmental Assessments; Availability, etc.:
National Fuel Gas Supply Corp.; Transcontinental Gas Pipe Line Co., LLC; FM100 Project and the Leidy South Projects, 8276–8278
Port Arthur Pipeline, LLC; Louisiana Connector Amendment Project, 8267–8269
Texas Eastern Transmission, LP; Middlesex Extension Project, 8271–8273
Filing:
City of Boulder, CO, 8276
Meetings:
Reliability Technical Conference, 8278

Federal Highway Administration
NOTICES
Environmental Impact Statements; Availability, etc.:
Christian, Shelby, Fayette, Marion, Clinton, Jefferson and Washington Counties, IL, 8334

Federal Motor Carrier Safety Administration
RULES
Fees for the Unified Carrier Registration Plan and Agreement, 8192–8198
NOTICES
Qualification of Drivers; Exemption Applications:
Vision, 8334–8335

Federal Reserve System
NOTICES
Change in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 8282
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 8281–8282

Federal Transit Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8341–8342
Fiscal Years 2018 Competitive Research Funding Opportunity:
FTA's Public Transportation Innovation Program, 8335–8341

Food and Drug Administration
NOTICES
Guidance:
Peripheral Vascular Atherectomy Devices—Premarket Notification Submissions, 8296–8297
Pre-Submission Consultation Process for Animal Food Additive Petitions or Generally Recognized as Safe Notices, 8297–8298
Meetings:
Blood Products Advisory Committee, 8299–8300
Request for Nominations:
Individuals and Industry Organizations for the Patient Engagement Advisory Committee, 8298–8299

Forest Service
RULES
Conveyance of Small Tracts, 8180–8181

Health and Human Services Department
See Centers for Medicare & Medicaid Services
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8305–8306
Delegation of Authority:
Assistant Secretary for Administration, 8305
Office of the Assistant Secretary for Preparedness and Response; Statement of Organization, Functions and Delegations of Authority, 8302–8304

Health Resources and Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Membership Forms for Organ Procurement and Transplantation Network, 8300–8302

Homeland Security Department
See Coast Guard
See U.S. Customs and Border Protection

Housing and Urban Development Department
PROPOSED RULES
Equal Participation of Faith-Based Organizations in HUD Programs and Activities, 8215–8225

Industry and Security Bureau
NOTICES
Impact of the Implementation of the Chemical Weapons Convention on Legitimate Commercial Chemical, Biotechnology, and Pharmaceutical Activities, 8246–8247

Interior Department
See Land Management Bureau
RULES
Civil Penalties Inflation Adjustments, 8189–8190

Internal Revenue Service
PROPOSED RULES
Income Tax Withholding from Wages, 8344–8372

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Polyethylene Retail Carrier Bags from Malaysia, 8251–8252
Final Determination of Sales at Less Than Fair Value:
Acetone from Belgium, 8249–8251
Acetone from the Republic of Korea, 8252–8254
Acetone from the Republic of South Africa, 8247–8249

International Trade Commission
NOTICES
Investigations; Determinations, Modifications, and Rulings, etc.:
Certain Footwear Products, 8322–8324
Fabricated Structural Steel from Canada, 8321
Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden, and Taiwan; Full Five-year Reviews, 8325
Meetings; Sunshine Act, 8321–8322, 8324

Justice Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Criminal Cases in State Courts, Previously Posted as Analysis of Publicly Available Court Data, 8325–8326

Land Management Bureau
NOTICES
Meetings:
California Desert District Advisory Council, 8320–8321

Legal Services Corporation
RULES
Income Level for Individuals Eligible for Assistance, 8190–8191

National Institute of Standards and Technology
NOTICES
Meetings:
Advisory Committee on Earthquake Hazards Reduction, 8254–8255

National Institutes of Health
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery, (National Cancer Institute), 8309–8310
National Cancer Institute Genomic Data Commons Data Submission Request Form, 8307–8308
Government-Owned Inventions; Availability for Licensing, 8306
Meetings:
National Eye Institute, 8311
National Human Genome Research Institute, 8309, 8311
Office of Research Infrastructure Programs Special Emphasis Panel, 8306–8307
Request for Information:
Inviting Comments and Suggestions on a Framework for the NIH-Wide Strategic Plan for FYs 2021–2025, 8310–8311
Stakeholder Input on Opportunities for Increased Collaboration to Advance Prevention Research, 8308–8309

National Oceanic and Atmospheric Administration
RULES
Atlantic Surfclam and Ocean Quahog Fisheries:
2020 Fishing Quotas for Atlantic Surfclams and Ocean Quahogs; and Suspension of Minimum Atlantic Surfclam Size Limit, 8199–8200
Fisheries Off West Coast States:
Pacific Coast Groundfish Fishery; 2019–2020 Biennial Specifications and Management Measures; Inseason Adjustments; Correction, 8200–8204
International Fisheries:
Pacific Tuna Fisheries; Procedures for the Active and Inactive Vessel Register; Correction, 8198–8199
PROPOSED RULES
Initiation of Review of Management Plan for Stellwagen Bank National Marine Sanctuary; Intent to Conduct Scoping and Prepare Draft Environmental Analysis and Management Plan, 8213–8215

Nuclear Regulatory Commission
NOTICES
Guidance:
Instrument Sensing Lines, 8326–8327

Personnel Management Office
PROPOSED RULES
Prevailing Rate Systems; Redefinition of the Little Rock, Arkansas, and Tulsa, Oklahoma, Appropriated Fund Federal Wage System Wage Areas, 8205–8207

Postal Regulatory Commission
NOTICES
FY 2019 Annual Compliance Report, 8327

Presidential Documents
ADMINISTRATIVE ORDERS
Balanced Budget and Emergency Deficit Control Act; Sequestration Order for Fiscal Year 2021 (Order of February 10, 2020), 8129

Securities and Exchange Commission
NOTICES
Self-Regulatory Organizations; Proposed Rule Changes:
Cboe EDGX Exchange, Inc., 8327–8331

Small Business Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 8331–8333

State Department
NOTICES
Determination under the Foreign Assistance Act of 1961, 8333–8334

Substance Abuse and Mental Health Services Administration
NOTICES
Meetings:
Advisory Committee for Women's Services, 8312

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Motor Carrier Safety Administration
See Federal Transit Administration

Treasury Department
See Internal Revenue Service

U.S. Customs and Border Protection
NOTICES
Commercial Gaugers and Laboratories; Accreditation and Approval:
Inspectorate America Corp. (Davie, FL), 8318–8319
Inspectorate America Corp. (Ferndale, WA), 8312–8313
Inspectorate America Corp. (Mobile, AL), 8320
Inspectorate America Corp. (Romeoville, IL), 8316
Inspectorate America Corp. (Tampa, FL), 8314
Inspectorate America Corp. (Texas City, TX), 8313–8314
Inspectorate America Corp. (Vancouver, WA), 8315–8316
Intertek USA, Inc. (Chelsea, MA), 8317–8318
Intertek USA, Inc. (Nederland, TX), 8316–8317
Intertek USA, Inc. (Romeoville, IL), 8319–8320
Commercial Gaugers; Approval:
Barrios Measurement Services LLC (Cut Off, LA), 8314–8315

Veterans Affairs Department
PROPOSED RULES
Acquisition Regulation:
Administrative Matters; Publicizing Contract Actions; and Termination of Contracts, 8242–8244

Separate Parts In This Issue

Part II
Treasury Department, Internal Revenue Service, 8344–8372

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Administrative Orders:

Order of February 10, 2020 8129

5 CFR

Proposed Rules:

532 8205

7 CFR

1464 8131

14 CFR

39 (4 documents) ...8145, 8148, 8150, 8153

Proposed Rules:

39 (2 documents) 8207, 8209

71 8212

15 CFR

Proposed Rules:

922 8213

18 CFR

40 (2 documents) 8155, 8161

24 CFR

Proposed Rules:

5 8215

92 8215

578 8215

26 CFR

Proposed Rules:

31 8344

33 CFR

1 8169

100 8169

110 8169

117 8173

165 (3 documents) 8169, 8175, 8177

Proposed Rules:

165 8225

36 CFR

254 8180

40 CFR

52 (2 documents) 8181, 8185

Proposed Rules:

52 (5 documents) ...8227, 8229, 8230, 8233, 8240

70 8240

43 CFR

10 8189

45 CFR

1611 8190

48 CFR

Proposed Rules:

804 8242

805 8242

849 8242

852 8242

49 CFR

367 8192

50 CFR

300 8198

648 8199

660 8200

Federal Register
Vol. 85, No. 30
Thursday, February 13, 2020

Presidential Documents

Title 3—

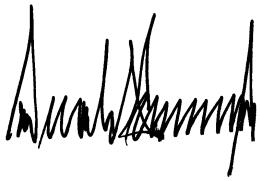
The President

Order of February 10, 2020

Sequestration Order for Fiscal Year 2021 Pursuant to Section 251A of the Balanced Budget and Emergency Deficit Control Act, as Amended

By the authority vested in me as President by the laws of the United States of America, and in accordance with section 251A of the Balanced Budget and Emergency Deficit Control Act (the ''Act''), as amended, 2 U.S.C. 901a, I hereby order that, on October 1, 2020, direct spending budgetary resources for fiscal year 2021 in each non-exempt budget account be reduced by the amount calculated by the Office of Management and Budget in its report to the Congress of February 10, 2020.

All sequestrations shall be made in strict accordance with the requirements of section 251A of the Act and the specifications of the Office of Management and Budget's report of February 10, 2020, prepared pursuant to section 251A(9) of the Act.



THE WHITE HOUSE,
February 10, 2020.

[FR Doc. 2020–03044
Filed 2–12–20; 8:45 am]
Billing code 3295–F0–P

Rules and Regulations

Federal Register
Vol. 85, No. 30
Thursday, February 13, 2020

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

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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1464

[Docket ID NRCS–2019–0012]

RIN 0578–AA70

Regional Conservation Partnership Program

AGENCY: Natural Resources Conservation Service (NRCS) and the Commodity Credit Corporation (CCC), United States Department of Agriculture (USDA).

ACTION: Interim rule.

SUMMARY: This interim rule with request for public comment adds a new part to our regulations to implement the Regioinal Conservation Partnership Program (RCPP). RCPP enhances conservation and promotes coordination between NRCS and its partners to help producers and landowners increase the restoration and sustainable use of soil, water, and wildlife on a regional or watershed scale. NRCS, an agency of the USDA, administers RCPP, which is funded through CCC. RCCP is reauthorized by the Agriculture Improvement Act of 2018 (the 2018 Farm Bill), which streamlined RCPP administration, including elimination of ''covered program'' financial transfers and replacement of covered program contracts with RCPP contracts and programmatic partnership agreements. Section 2504 of the 2018 Farm Bill authorizes NRCS to implement RCPP through an Availability of Program Funding (APF) announcement in FY 2019 without issuing a regulation. This interim administration authority expired September 30, 2019, and section 1271E(e) of the RCPP statute, as amended, requires NRCS to administer RCPP through a regulation going forward. Therefore, NRCS is publishing this interim rule to incorporate the 2018 Farm Bill changes to RCPP program administration.

DATES:

Effective date: February 13, 2020.

Comment date: Submit comments on or before April 13, 2020.

Comment date for Environmental Review: Submit comments on the draft Environmental Analysis (EA) and Finding of No Significant Impact (FONSI) on or before March 16, 2020.

ADDRESSES: We invite you to submit comments on this notice. In your comments, include the date, volume, and page number of this issue of the **Federal Register**, and the title of notice. You may submit comments by the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID NRCS–2019–0012. Follow the online instructions for submitting comments.

All written comments received will be publicly available on *http://www.regulations.gov.*

A copy of the draft Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) may be obtained from the following website: *https://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/national/programs/farmbill/?cid=stelprdb1263599.* A hard copy may also be requested in one of the following ways:

- *Via mail: karen.fullen@usda.gov* with ''Request for EA'' in the subject line; or
- A written request: Karen Fullen, Environmental Compliance Specialist, Natural Resources Conservation Service, 9173 W Barnes Dr., Suite C, Boise, ID 83709.

FOR FURTHER INFORMATION CONTACT: Michael Whitt; (202) 690–2267; email: *michael.whitt@usda.gov.* Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

Section 2401 of the Agricultural Act of 2014 (the 2014 Farm Bill) originally established the Regional Conservation Partnership Program (RCPP) through adding a new subtitle I to Title XII of the Food Security Act of 1985. The 2014 Farm Bill authorized $100 million in each fiscal year (FY) from FY 2014 through 2018 and made resources available through reserving seven percent of the funds or acres made available each year from covered programs, including the Agricultural Conservation Easement Program (ACEP), the Conservation Stewardship Program (CSP), the Environmental Quality Incentives Program (EQIP), and the Healthy Forests Reserve Program (HFRP).

RCPP promotes coordination between NRCS and its partners to deliver conservation assistance to producers and landowners. Under the 2014 Farm Bill, NRCS administered RCPP through APF notices posted to *grants.gov.* NRCS published APF notices in May 2014 for FY 2014–15 implementation, and then additional APFs for FY 2016, FY 2017, and FY 2018 utilizing funds that were made available under the 2014 Farm Bill. Eligible partners submitted proposals to one of three funding pools—the national pool, the State pool, and the Critical Conservation Area (CCA) pool. The Secretary of Agriculture designated eight CCAs in 2014.

Subtitle G of Title II of the Agriculture Improvement Act of 2018 (2018 Farm Bill; Pub. L. 115–334) made the following changes to RCPP program requirements:

- Increases RCPP funding to $300 million for each fiscal year (FY 2019–23) in mandatory funding and removes the seven percent covered program funding authority.
- Authorizes RCPP program contracts rather than implementation of RCPP funding through covered program contracts, making RCPP a stand-alone program.
- Eliminates the national funding pool, thereby simplifying the application process for partners. NRCS will allocate 50 percent of the annual funding to State and multistate pools and allocate the remaining 50 percent of annual funding to CCAs.
- Adds and simplifies the definitions of ''eligible land'' and ''eligible activities.'' NRCS incorporates eligible activities available into its participant awards.
- Expands the scope of the program by including the authorities of the Conservation Reserve Program (16 U.S.C. 3831–3835) and the Watershed Protection and Flood Prevention Program (Pub. L. 566), excluding the

Watershed Rehabilitation Program, in the definition of ''covered programs.''

• Adds authority to enter into alternative funding arrangements or grant agreements with eligible partners depending on the specific requirements of the project. However, the 2018 Farm Bill limits NRCS to entering no more than 15 alternative funding arrangements each fiscal year.

• Expands the purpose of the program to include protection of drinking water and ground water on eligible land.

• Updates the definition of ''eligible partners'' to identify conservation districts and acequias specifically.

• Allows partnership agreements to be longer than 5 years in select situations, as determined by NRCS, to further purposes of the program.

• Allows partnership agreement renewals for a period of time not to exceed 5 years that in select situations may be funded through an expedited noncompetitive process.

• Allows a partnership agreement, or a renewal partnership agreement, to be extended one time for up to 12 months.

• Specifies that a project should: Achieve one or more conservation benefits; specify the eligible activities to achieve those conservation benefits; and state the timeline for carrying out the project, including interim milestones and related conservation outcomes.

• Requires guidance for partners on how to quantify and report project outcomes, including achievement of conservation benefits.

• Updates reporting requirements and emphasizes the importance of reporting progress in achieving conservation benefits on a regular basis.

• Requires reporting publicly at the time of selection the amount of technical assistance (TA) that will be set aside for project implementation.

• Limits TA costs to those costs specific and necessary to carry out the objectives of the program and to develop and implement strategies to encourage third-party technical service providers (TSPs) to provide TA to eligible partners pursuant to a partnership agreement.

• Clarifies how eligible partners may make contributions, including through direct funding, in-kind support, or a combination of direct funding and in-kind support.

• Clarifies that, upon agency approval, amounts expended by an eligible partner for staff salaries or development of the partnership agreement between the announcement of the project award and the signing of the partnership agreement may be counted toward the partner contribution.

• Requires the Secretary to: Establish a timeline for carrying out the duties under the program; identify a State program coordinator who will assist partners; establish guidance to assist partners with assessment requirements; provide partners (other than grant agreement partners) a semiannual report that contains the status of each pending and obligated contract under the project and an annual report describing how the Secretary used that fiscal year's TA; and ensure that any eligible activity effectively achieves the conservation benefits identified in an approved partnership agreement.

• Requires NRCS to implement RCPP through a simplified application process.

• Prohibits use of adjusted gross income criteria to determine eligibility for eligible partners.

• Gives high priority to partners that build new partnerships with local, State, and private entities or implement the project consistent with existing watershed, habitat, or other area restoration plans.

• Outlines the partner responsibilities under a grant agreement including contributing significant resources to achieving project goals, carrying out eligible activities on eligible land in agreement with producers to achieve conservation benefits on a regional or watershed scale, and providing an annual report to NRCS that describes the status of the project.

• Includes outreach provisions for historically underserved producers and for eligible partners and producers in designated CCAs.

• Requires identification of one or more priority resource concerns that apply to each CCA.

• Requires selection of applications for partnership agreements under CCAs that address one or more priority resource concerns for which the CCA is designated.

Overview of Program Administration

RCPP provides NRCS a valuable tool for coordinating the delivery of conservation assistance with that provided by partners. RCPP promotes coordination of NRCS conservation activities with partners that offer value-added contributions to expand the collective ability to address on-farm, watershed, and regional natural resource concerns. Through RCPP, NRCS seeks to co-invest with partners to implement projects that demonstrate innovative solutions to conservation challenges and provide measurable improvements and outcomes tied to the resource concerns they seek to address. The 2018 Farm Bill made substantive changes to the program, and RCPP is now a stand-alone program with authorized conservation activities as those offered by other NRCS programs, but with modifications and flexibilities unique to RCPP. These modifications and flexibilities enhance NRCS' ability to tailor its conservation assistance to the objectives of RCPP partners to a greater extent than is available through NRCS' other conservation programs.

NRCS provides RCPP assistance through partnership agreements, supplemental agreements, and program contracts. This interim rule provides information about RCPP and guidelines related to submitting proposals and applications for participation in RCPP. Project approval and development of partnership agreements are based on competitive evaluation, selection, and post-selection negotiations, on the basis of criteria established in this interim rule and any future notice of funding opportunity.

In particular, eligible partners must submit complete proposals through a competitive process. The following partners are eligible to submit a proposal and enter into a partnership agreement with NRCS: Agricultural or silvicultural producer associations or other group of producers; States or units of local government; Indian Tribes; farmer cooperatives; institutions of higher education; conservation districts; water districts; irrigation districts; acequias; rural water districts or associations or other organizations with specific water delivery authority to producers on agricultural land; municipal water or wastewater treatment entities; organizations or other nongovernmental entities with an established history of working cooperatively with producers on agricultural land, as determined by the Chief of NRCS; and an organization described in section 1265A(3)(B) of the ACEP statute. The Agency will make available project summaries including partner contributions via the RCPP website at *https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/financial/rcpp/.*

NRCS reviews and evaluates the proposals based on the criteria set forth in this interim rule and as detailed in the annual APF. Consistent with statutory direction of the 2018 Farm Bill, priority consideration will be given to proposals that provide for outreach to and engagement of beginning farmers or ranchers, socially disadvantaged farmers or ranchers, limited resource farmers or ranchers, veteran farmers and ranchers, and Indian Tribes within the area covered by the project. This interim rule

also includes other statutory priorities, including projects that—

- Assist producers in meeting or avoiding the need for a natural resource regulatory requirement;
- Have a high percentage of producers in the area to be covered by the agreement;
- Significantly leverage non-Federal financial and technical resources and coordinate with other local, State, or national efforts;
- Build new partnerships with local, State, and private entities to include a diversity of stakeholders in the project;
- Deliver a high percentage of applied conservation to achieve conservation benefits or address the priority resource concern within a CCA;
- Implement projects consistent with existing watershed, habitat, or other area restoration plans;
- Provide innovation in conservation methods and delivery, including outcome-based performance measures and methods; or
- Meet other factors that are important for achieving the purposes of the program, as determined by NRCS.

Proposals may not be adjusted after they have been submitted to NRCS for review and ranking. After a proposal is selected, NRCS enters into a negotiation with the lead partner to develop a partnership agreement that serves as an agreement governing the overall approach of the project. The identity of the lead partner, the overall funding amount, the general activity types (*e.g.,* land management, rental, entity-held easements) to be offered and the resource concerns addressed by the project are not subject to negotiation. Details on activities specific to a project (*e.g.,* delineated practices under the land management activity type) and details on the approach for reporting on project outcomes are examples of items that are subject to negotiation.

There is no funding obligated through the partnership agreement unless the partnership agreement is an alternative funding arrangement or grant (collectively referred to as ''alternative funding arrangement''). Consistent with the RCPP statute, any project management and producer outreach activities between the announcement of awards and the execution of partnership agreements can be counted as partner contributions, if such activities are included in the application. Based on available funding and agency priorities, NRCS may offer reduced funding from the amount requested in the application.

Under the partnership agreement, NRCS may enter into additional agreements under the project framework, including RCPP program contracts with producers and supplemental agreements with the lead partners or other eligible partners. Supplemental agreements include agreements for the delivery of technical assistance, easement agreements with eligible entities, and project-style agreements. These contracts and agreements are entered into separately in support of the approved project. The terms set by NRCS are not subject to negotiation. NRCS will manage these agreements according to NRCS-developed terms and conditions necessary to ensure program and financial integrity.

Following execution of the partnership agreement, producers within the approved project areas may apply directly to NRCS to enter into an RCPP program contract that encompasses eligible land or apply indirectly through the project partner. Producer participation is subject to competitive ranking, availability of funds, and NRCS reporting requirements. Eligible land includes any agricultural or nonindustrial private forest land or associated land on which NRCS determines an eligible activity would help achieve conservation benefits defined for each approved RCPP project's programmatic agreement.

Producers interested in applying for RCPP participation in an approved RCPP project must establish and maintain records about their operation at their local USDA service center. The NRCS designated conservationist or a partner representative may assist a producer to determine which implementation actions are appropriate based on the eligible activities the applicant seeks to install or perform to compete in an RCPP project funding opportunity, as detailed in the APF.

Under a program contract, NRCS may make a practice implementation payment, a stewardship payment, a rental payment for targeted conservation benefits, or an easement payment to secure the long-term protection of identified conservation benefits for perpetuity or for 30 years, when so limited under State law. Therefore, as described more fully below, while the term ''program contract'' is used for all such agreements between NRCS and an eligible producer, a program contract may be structured to be analogous to an EQIP contract or an agreement to purchase a conservation easement under ACEP. Additionally, where appropriate, NRCS may include several different types of payments in the same instrument or enter into multiple program contracts for distinct activities implemented by a producer. NRCS will not make duplicative payments for the same conservation benefits on the same land.

Producers seeking to participate in an RCPP project must meet all RCPP eligibility requirements. These requirements vary depending on the producer's objectives and the eligible activities selected for implementation under the program contract. A participant may elect to use a certified TSP for technical assistance associated with conservation planning or practice design and implementation. Information about services that may be available from a certified TSP can be found at: *http://techreg.usda.gov/.*

Types of Program Contracts With Producers

There are five general types of financial assistance activities that encompass the range of eligible activities available in RCPP analogous to those authorized by the covered programs:

(1) Land management contracts that include land improvement, management, or restoration activities, including land treatment activities as authorized by Public Law 83–566;

(2) Land rental contracts;

(3) Conservation easements held by the United States (''US-held easements'');

(4) Conservation easements held by an eligible entity (''entity-held easements''); and

(5) Public works contracts.

1. Land Management Contracts

Land management contracts are based on an EQIP/CSP-like contracting model between NRCS and an eligible producer, including private landowners, committed to addressing RCPP project resource concerns on eligible lands. The conservation activities included under this category also include restoration and land management practices authorized under ACEP-Wetland Reserve Easement (WRE), HFRP, and Public Law 83–566 (land treatment). Land management contracts will utilize proven aspects of NRCS planning, implementation, and contracting methodology, and are expected to be based principally on NRCS conservation practice standards, existing CSP enhancements, stewardship activities, and existing payment schedules. However, producer and land eligibility restrictions tied to specific EQIP and CSP regulatory requirements, such as CSP ''whole operation'' requirements or EQIP irrigation history requirements do not apply to these land management contracts. Payment rates for land management contracts are expected to mimic similar rates under the covered

programs. However, payment rates are among the requirements which NRCS may negotiate at the project (vs participant contract) level. NRCS may approve payment schedules that provide increased payment rates when the agency determines that offsetting features of the project (for example, partner contributions) support requested payment rates and scenarios.

2. Land Rental Activities

NRCS will offer land rental activities through a rental contract that will be based on a combination of the CRP rental contract and a land management contract as described above. The contract document for land rental activities between NRCS and an eligible producer will address RCPP project resource concerns on eligible lands. Application, ranking, and contracting will emulate applicable aspects of NRCS ranking processes, to include use of ranking tools to assess expected conservation benefits on a project by project basis, and standard NRCS contracting processes like those employed in similar NRCS conservation activity based programs to help ensure conservation delivery and financial accountability. However, unlike the traditional CRP program administered by USDA's Farm Service Agency, RCPP land rental authority is not generally expected to be used for landscape-scale soil erosion protection. Rather, NRCS expects that land rental contracts will focus on short-term, targeted rental needs in the context of a larger RCPP project. Examples include paying 1–3 years of forgone income to incentivize adoption of an innovative cropping system or to transition to an organic production system. RCPP rental contracts will be based on proven aspects of NRCS planning, implementation, and contracting methodology, which may include an estimate of forgone income.

3. U.S.-Held Conservation Easements

RCPP conservation easement enrollment opportunities will be offered to eligible landowners to execute conservation easements on a diversity of land uses. U.S.-held easements are in general permanent easements with exceptions for Tribes (that is, 30-year contracts) or States where State law prohibits permanent easements (duration set at the longest duration allowable under State law). Under current NRCS covered programs, U.S.-held easements are only available for wetlands (ACEP–WRE) and forestland (HFRP). For RCPP, U.S.-held easements will be available for any agriculturally linked land use, such as cropland, grasslands, natural wetlands, or riparian areas buffering agricultural lands. RCPP easements are driven by ties to RCPP project resource concerns and conservation benefits, not land use or other covered program eligibility factors.

Application, ranking, easement acquisition processes, and contracting will emulate applicable aspects of ACEP and HFRP. RCPP easements will use new template deeds based on the level of restriction warranted by the easement in the specific context of a RCPP project, which will be a foundational component of landowner application, evaluation, and ranking. The more restrictive the terms of the easement, the higher the percentage of the easement value that may be provided under RCPP.

4. Entity-Held RCPP Conservation Easements

ACEP-Agricultural Land Easement (ALE) authorizes entity-held agricultural land easements. For RCPP, entity-held easements are eligible for any land use and driven by conservation benefits and resource concerns identified in the RCPP project. Therefore, in addition to entity-held easements to protect working agricultural lands (as allowed under ALE), entity-held easements under RCPP may be enrolled on other eligible land, including forest land, wetlands, and riparian areas. Entity-held easements under RCPP require collaboration between NRCS, a qualified entity, and an eligible landowner. Given the statutory structure, NRCS will utilize a supplemental agreement with a qualified entity to establish the terms and conditions under which NRCS will provide financial assistance for the qualified eligible entity to purchase a conservation easement from an eligible producer. Application, ranking, easement acquisition processes, matching, and contracting will emulate applicable aspects of ACEP–ALE.

5. Public Works Supplemental Agreements

Through the public works component of RCPP, eligible partners may receive financial assistance awards to support implementation of structural works of improvement to address watershed-scale issues on eligible land, similar to projects currently carried out under Public Law 83–566. Unlike other RCPP contract types, RCPP project proposals must detail proposed public works activities (that is, detailed plan of work) to provide project reviewers information needed to assess project viability. Financial assistance for works of improvement will be awarded through a supplemental agreement. Under the supplemental agreement, unlike for other types of RCPP activities, partners lead the planning, design, and installation of works of improvement. However, NRCS retains watershed plan and design approval authority consistent with Federal infrastructure projects and informed by NRCS watershed and engineering directives and related Public Law 83–566 policy.

Summary of Regulatory Framework

The RCPP regulation has four subparts:

- Subpart A provides the general framework for the program and provides the purposes, scope, definitions, fund allocations, and basic program requirements.
- Subpart B provides the framework for the proposal, selection, and administration of RCPP partnership agreements, including supplemental agreements to facilitate the provision of program assistance to producers. This subpart also includes general provisions related to third party contracts.
- Subpart C provides the framework under which NRCS provides program assistance to producers to implement eligible activities.
- Subpart D provides the standard programmatic information about appeals, assignments, and related matters.

Effective Date, Notice and Comment, and Paperwork Reduction Act

In general, the Administrative Procedure Act (APA) (5 U.S.C. 553) requires that a notice of proposed rulemaking be published in the **Federal Register** and interested persons be given an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation, except when the rule involves a matter relating to public property, loans, grants, benefits, or contracts. This rule involved matters relating to benefits and is therefore exempt from APA requirements. Further, the regulations to implement the programs of Chapter 58 of Title 16 of the U.S. Code, as specified in 16 U.S.C. 3846, and the administration of those programs are—

- To be made as an interim rule effective on publication, with an opportunity for notice and comment;
- Exempt from the Paperwork Reduction Act (44 U.S.C. chapter 35); and
- To use the authority under 5 U.S.C. 808 related to Congressional review and avoid any potential delay in the effective date.

For major rules, the Congressional Review Act requires a delay in the effect date of 60-days after publication to allow for Congressional Review. This rule is a major under the Congressional Review Act, as defined by 5 U.S.C. 804(2). The authority in 5 U.S.C. 808 provides that when an agency finds for good cause that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, that the rule may take effect at such time as the agency determines. Due to the nature of the rule, the mandatory requirements of the 2018 Farm Bill changes to RCPP, and the need to implement the RCPP regulations expeditiously to provide assistance to producers, NRCS and CCC find that notice and public procedure are contrary to the public interest. Therefore, even though this rule is a major rule for purposes of the Congressional Review Act of 1996, NRCS and CCC are not required to delay the effective date for 60 days from the date of publication to allow for Congressional review. Therefore, this rule is effective on the date of publication in the **Federal Register**.

NRCS invites interested persons to participate in this rulemaking by submitting written comments or views about changes made by this interim rule. The most helpful comments reference a specific portion of the regulation, explain the reason for any recommended changes, and include supporting data and references to the relevant section of either the 2018 Farm Bill or the 1985 Farm Bill. All comments received on or before the closing date for comments will be considered. NRCS will review and respond to the public comments in the RCPP final rule.

NRCS is especially interested in obtaining public comment on the following topics:

- CCAs and their associated priority resource concerns;
- How best to develop and report project outcomes;
- Ideas on how to implement RCPP easements;
- How to incorporate land rental authorities into program implementation;
- Alternative Funding Arrangements; and
- Project renewal criteria.

Executive Orders 12866, 13563, 13771, and 13777

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive Order 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' established a Federal policy to alleviate unnecessary regulatory burdens on the American people.

The Office of Management and Budget (OMB) designated this rule as economically significant under Executive Order 12866, and therefore, OMB has reviewed this rule. The costs and benefits of this proposed rule are summarized below. The full cost benefit analysis is available on *https://www.regulations.gov/.*

Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' requires that, to manage the private costs required to comply with Federal regulations for every new significant or economically significant regulation issued, the new costs must be offset by the elimination of at least two prior regulations. This rule involves transfer payments and does not rise to the level required to comply with Executive Order 13771.

Clarity of the Regulation

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

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

Summary of Economic Impacts

RCPP is a voluntary collaborative program that provides financial and technical assistance to partner organizations to help agricultural producers plan and implement conservation activities to address natural resource concerns on private or Tribal agricultural, nonindustrial private forest and certain associated lands. RCPP was first authorized by Congress in the Agricultural Act of 2014 (the 2014 Farm Bill). To date, 375 projects have been selected across the United States and Puerto Rico leveraging $1 billion in NRCS technical and financial assistance with approximately $1.3 billion in partner contributions. The 2014 Farm Bill provided $100 million annually in RCPP mandatory funding. Furthermore, under the 2014 Farm Bill, conservation activities were undertaken through partnership agreements (between NRCS and a lead partner) and contracts or agreements with eligible landowners, entities, and individuals under one or more covered programs (EQIP, CSP, ACEP, HFRP, and the Watershed Protection and Flood Prevention Act). EQIP, CSP, and ACEP each contributed seven percent of their annual funding toward RCPP projects.

The 2018 Farm Bill reauthorizes RCPP with significant changes to how the program is funded. Specifically, contributions from ''covered programs'' are eliminated and ''covered program contracts'' are replaced with RCPP contracts and programmatic partnership agreements.

The 2018 Farm Bill repeals the seven percent reserved resources from the covered programs, provides $300 million in annual mandatory Commodity Credit Corporation (CCC) funding, and establishes RCPP standalone contracts. Federal transfers under the 2014 Farm Bill totaled slightly more than $1 billion for FY 2014 through 2018, or $200 million on an annual basis. The $300 million in mandatory annual funding increases RCPP funding by approximately $100 million annually, taking into account the past contribution of the ''covered programs'' during FY 2014 through 18.

The 2018 Farm Bill also changes the ''funding pool'' structure by streamlining from three pools to two pools and providing that 50 percent of funds go to a Critical Conservation Areas pool and 50 percent of funds go to a state or multi-state pool. It also allows project renewals and creates new programmatic authorities and expectations for the administration of agreements with partners. In addition, application and renewal processes are simplified to encourage participation by both producers and project partners. NRCS intends that the majority of funds awarded each year will be awarded under a competitive process. If the lead

partner makes such a request, NRCS may renew a partnership agreement. To ensure that only the most successful of projects qualify for renewal on a non-competitive basis, NRCS has identified in this rule that a partner must meet or exceed the objectives of the original project in order to be considered for renewal.

Most of this rule's impact consists of transfer payments from the Federal Government to producers or to partners for the benefit of producers. Conservation benefits of RCPP financial and technical assistance funding delivered to date have been directly comparable to that provided by covered programs (EQIP, CSP, ACEP, etc.), and similar benefits are expected from RCPP funding under the 2018 Farm Bill.

Additionally, conservation benefits of partner contributions and collaboration in RCPP projects is expected to magnify the benefits of RCPP funding over each project's life, offsetting initial delays in obligation and implementation. NRCS will discuss methods to quantify the incremental benefits obtained from RCPP with lead partners, but due to the 5 year life of a typical RCPP project, only limited data are available at this time to support this conclusion. Therefore, NRCS and partners may use various mechanisms such as modeling to predict long-term outcomes. Despite these data limitations, RCPP is expected to positively affect natural resource concerns—through both the $300 million in funding provided annually by Congress and by the leverage of partner contributions.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally requires an agency to prepare a regulatory analysis of any rule whenever an agency is required by the APA or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because no law requires that a proposed rule be published for this rulemaking initiative. Despite the Regulatory Flexibility Act not applying to this rule, the action only affects those entities who voluntarily participate in RCPP and in doing so receive its benefits. Compliance with the provisions of RCPP regulations is only required for those entities who choose to participate in this voluntary program.

Environmental Review

The environmental impacts of this rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the NRCS regulations for compliance with NEPA (7 CFR part 650). The 2018 Farm Bill requires minor changes to NRCS conservation programs, and there are no changes to the basic structure of the programs. The analysis has determined there will not be a significant impact to the human environment and as a result, an environmental impact statement (EIS) is not required to be prepared (40 CFR 1508.13). While OMB has designated this rule as ''economically significant'' under Executive Order 12866, ''. . . economic or social effects are not intended by themselves to require preparation of an environmental impact statement'' (40 CFR 1508.14), when not interrelated to natural or physical environmental effects. The Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) are available for review and comment for 30 days from the date of publication of this interim rule in the **Federal Register**. NRCS will consider this input and determine whether there is any new information provided that is relevant to environmental concerns and bearing on the proposed action or its impacts that warrant supplementing or revising the current available draft of the RCPP EA and FONSI.

A copy of the EA and FONSI may be obtained from *https://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/national/programs/farmbill/?cid=stelprdb1263599.* Follow the instructions in the **ADDRESSES** section above for submitting comments.

Executive Order 12372

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

Executive Order 12988

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

Executive Order 13132

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. It does not impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a Government-to-Government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

The USDA's Office of Tribal Relations (OTR) has assessed the impact of this rule on Indian Tribes and determined that this rule does not, to our knowledge, have Tribal implication that requires Tribal consultation under Executive Order 13175. Tribal consultation for this rule was included in the 2018 Farm Bill Tribal consultation held on May 1, 2019, at the National Museum of the American Indian in Washington, DC. The portion of the Tribal consultation relative to this rule was conducted by Bill Northey, USDA Under Secretary for the Farm Production and Conservation mission area, as part of the Title II session. There were no specific comments from Tribes

on the RCPP rule during the Tribal consultation. If a tribe requests additional consultation, NRCS will work with OTR to ensure meaningful consultation is provided where changes, additions, and modifications identified in this rule are not expressly mandated by legislation.

Separate from Tribal consultation, communication and outreach efforts are in place to assure that all producers, including Tribes (or their members), are provided information about this regulation. Specifically, NRCS obtains input through Tribal Conservation Advisory Councils. A Tribal Conservation Advisory Council may be an existing Tribal committee or department and may also constitute an association of member Tribes organized to provide direct consultation to NRCS at the State, regional, and national levels to provide input on NRCS rules, policies, programs, and impacts on Tribes. Tribal Conservation Advisory Councils provide a venue for agency leaders to gather input on Tribal interests. Additionally, NRCS held several sessions with Indian Tribes and Tribal entities across the country in fiscal year 2019 to describe the 2018 Farm Bill changes to NRCS conservation programs, obtain input about how to improve Tribal and Tribal member access to NRCS conservation assistance, and make any appropriate adjustments to the regulations that will foster such improved access. NRCS will continue to reach out to Indian Tribes and Tribal entities to obtain input about how to improve NRCS delivery of RCPP and our other conservation programs.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4), requires Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal Governments or the private sector. Agencies generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal Governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost-effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined under title II of UMRA, for State, local, and Tribal Governments or the private sector. Therefore, this rule is not subject to the requirements of UMRA.

Federal Assistance Programs

The title and number of the Federal Domestic Assistance Programs in the Catalog of Federal Domestic Assistance to which this rule applies is: 10.932—Regional Conservation Partnership Program.

E-Government Act Compliance

NRCS and CCC are committed to complying with the E-Government Act of 2002 (44 U.S.C. 101), to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to government information and services, and for other purposes.

List of Subjects in 7 CFR Part 1464

Agricultural operations, Conservation payments, Conservation practices, Eligible activities, Environmental credits, Forestry management, Natural resources, Resource concern, Soil and water conservation, Wildlife.

■ For the reasons stated in the preamble, CCC adds part 1464 to Title 7 of the Code of Federal Regulations to read as follows:

PART 1464—REGIONAL CONSERVATION PARTNERSHIP PROGRAM

Subpart A—General Provisions

Sec.
1464.1 Applicability.
1464.2 Administration.
1464.3 Definitions.
1464.4 Funding pool allocations.
1464.5 Program requirements.

Subpart B—Partnership Agreements

1464.20 Proposal procedures.
1464.21 Ranking considerations and proposal selection.
1464.22 Partnership agreements.
1464.23 Funding.
1464.24 Modifications, noncompliance, termination, and remedies.
1464.25 Alternative funding arrangements or grant agreements.
1464.26 Supplemental agreements.
1464.27 Third-party contracts or agreements.

Subpart C—Program Contracts

1464.30 Application for contracts and selecting applications for funding.
1464.31 Program contract requirements.
1464.32 Modifications and transfers of land.
1464.33 Violations and remedies.

Subpart D—General Administration

1464.40 Appeals.
1464.41 Compliance with regulatory measures.
1464.42 Access to agricultural operation or tract.
1464.43 Equitable relief.
1464.44 Offsets and assignments.
1464.45 Misrepresentation and scheme or device.
1464.46 Environmental credits for conservation improvements.

Authority: 15 U.S.C. 714b and 714c; 16 U.S.C. 3871 *et seq.*

Subpart A—General Provisions

§ 1464.1 Applicability.

(a) The purposes of the Regional Conservation Partnership Program (RCPP) are as follows:

(1) Carry out eligible activities to further the conservation, protection, restoration, and sustainable use of soil, water (including sources of drinking water and ground water), wildlife, agricultural land, and related natural resources on eligible land on a regional or watershed scale;

(2) Encourage eligible partners to cooperate with producers in—

(i) Meeting or avoiding the need for national, State, and local natural resource regulatory requirements related to production on eligible lands, including through alignment of partnership projects with other national, State, and local agencies and programs addressing similar natural resource or environmental concerns, and

(ii) Implementing projects that will result in the adoption, installation, and maintenance of eligible activities that affect multiple agricultural or nonindustrial private forest operations on a local, regional, State, or multistate basis;

(3) Encourage flexible and streamlined delivery of conservation assistance to producers through partnership agreements; and

(4) Engage producers and eligible partners in conservation projects to achieve greater conservation outcomes and benefits for producers than would otherwise be achieved.

(b) Through RCPP, NRCS provides technical and financial assistance to implement eligible activities through partnership and supplemental agreements with eligible partners and program contracts with producers.

(c) RCPP is available in any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(d) Each program contract, partnership agreement, and supplemental agreement is subject to the regulations in place on the date it is executed.

§ 1464.2 Administration.

(a) The funds, facilities, and authorities of the Commodity Credit Corporation (CCC) are available to NRCS for carrying out RCPP. Accordingly, each reference to NRCS in this part also refers to CCC funds, facilities, and authorities where applicable.

(b) No delegation in this part to lower organizational levels will preclude the Chief of NRCS from making any determinations under this part, redelegating to other organizational levels, or from reversing or modifying any determination made under this part.

(c) NRCS may use other agency-wide authorities, such as 16 U.S.C. 3842 and 31 U.S.C. 1535, to enter into agreements with other Federal or State agencies, Indian Tribes, conservation districts, units of local government, public or private organizations, and individuals to assist NRCS with implementation of the program in this part.

(d) To assist in the implementation of the program, the Chief may waive the applicability of the limitation in section 1001D of the Food Security Act of 1985 for participating producers if the Chief determines that the waiver is necessary to fulfill the objectives of the program. Section 1001D of the Food Security Act of 1985 does not apply to eligible partners.

(e) NRCS will identify in each State a program coordinator who will serve as the primary point of contact for programmatic implementation of RCPP in that State.

(f) NRCS will establish guidance to assist eligible partners with quantifying conservation benefits of RCPP implementation. Due to the diversity of natural resource issues addressed by an RCPP project and the diversity of conservation activities that a project may undertake, NRCS will work with each partner to develop project-specific outcome approach that will be included in the partnership agreement.

§ 1464.3 Definitions.

The following definitions will apply to this part and all documents issued in accordance with this part, unless specified otherwise:

Agricultural operation means a parcel or parcels of land whether contiguous or noncontiguous, that is—

(1) Under the effective control of the producer at the time the producer applies for a program contract; and

(2) That is operated by the producer with equipment, labor, management, and production, forestry, or cultivation practices that are substantially separate from other operations.

Applicant means a producer who has requested in writing to participate in RCPP.

Beginning farmer or rancher means a person, Indian Tribe, Tribal corporation, or legal entity who has not materially and substantially operated a farm, ranch, or nonindustrial private forest land (NIPF), or who has materially and substantially operated a farm, ranch, or NIPF for not more than 10 consecutive years, subject to the following conditions:

(1) In the case of a contract with an individual, individually or with the immediate family, material and substantial participation requires that the individual provide substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the county or State where the farm is located.

(2) In the case of a contract with an entity or joint operation, all members must materially and substantially participate in the operation of the farm or ranch, and no member may have materially and substantially operated a farm, ranch, or NIPF for more than 10 consecutive years, and material and substantial participation requires that each of the members provide some amount of the management, or labor and management necessary for day-to-day activities, such that if each of the members did not provide these inputs, operation of the farm or ranch would be seriously impaired.

Chief means the Chief of NRCS, USDA, or designee.

Conservation benefits means the improvements in the status of resource concerns, priority resource concerns, and similar project goals resulting from the implementation of eligible activities in an RCPP project area.

Covered program means the—

(1) Agricultural Conservation Easement Program administered under 7 CFR part 1468;

(2) Environmental Quality Incentives Program administered under 7 CFR part 1466;

(3) Conservation Stewardship Program administered under 7 CFR part 1470, except for the Grassland Conservation Initiative set forth in section 1240L–1 of the Food Security Act of 1985;

(4) Healthy Forests Reserve Program administered under 7 CFR part 625;

(5) Watershed protection and flood prevention programs administered under 7 CFR part 622, except the Watershed Rehabilitation Program set forth in 16 U.S.C. 1012; and

(6) Conservation Reserve Program administered under 7 CFR part 1410.

Critical conservation area (CCA) means a geographical area designated by the Secretary of Agriculture that contains a critical conservation condition that can be addressed through the program.

Effective control means possession of the land by ownership, written lease, or other legal agreement and authority to act as decision maker for the day-to-day management of the operation from the time of application and for the duration of the program contract or applicable terms of a supplemental agreement.

Eligible activity means a practice, activity, land rental, agreement, easement, or related conservation measure that is available under the statutory authority for a covered program, as determined by NRCS.

Eligible land means any land that NRCS determines is eligible under § 1464.5.

Eligible partner means an agency, organization, or other entity specified in § 1464.5 that NRCS determines the appropriate authority, expertise, and resources necessary to carry out partnership responsibilities.

Historically underserved producer means a person, joint operation, Indian Tribe, or legal entity who is a beginning farmer or rancher, socially disadvantaged farmer or rancher, limited resource farmer or rancher, or veteran farmer or rancher.

Indian Tribe means any Indian Tribe, Band, Nation, Pueblo, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*) that is eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Joint operation means, as defined in part 1400 of this chapter, a general partnership, joint venture, or other similar business arrangement in which the members are jointly and severally liable for the obligations of the organization.

Lead partner means an eligible partner who is the primary signatory of a partnership agreement with NRCS and is identified as the lead partner in that agreement.

Legal entity means, as defined in part 1400 of this chapter, an entity created under Federal or State law that—

(1) Owns land or an agricultural commodity, product, or livestock; or

(2) Produces an agricultural commodity, product, or livestock.

Limited resource farmer or rancher means:

(1) A person who:

(i) Has direct or indirect gross farm sales not more than the current indexed value in each of the previous 2 years (adjusted for inflation using the Prices Paid by Farmer Index as compiled by USDA's National Agricultural Statistical Service), and

(ii) Has a total household income at or below the national poverty level for a family of four, or less than 50 percent of county median household income in each of the previous 2 years (to be determined annually using Commerce Department data); or

(2) A legal entity or joint operation if all individual members independently qualify under paragraph (1) of this definition.

Liquidated damages means a sum of money stipulated that a participant agrees to pay NRCS if the participant fails to fulfill the terms of the program contract. The sum represents an estimate of the expenses incurred by NRCS to service the program contract and reflects the difficulties of proof of loss and the inconvenience or nonfeasibility of otherwise obtaining an adequate remedy.

Natural Resources Conservation Service (NRCS) is an agency of the USDA, which has responsibility for administering RCPP using the funds, facilities, and authorities of the CCC.

Nonlead partner means an eligible partner, other than a lead partner, who has entered into a supplemental agreement with NRCS consistent with the terms of a partnership agreement.

Nonindustrial private forest land (NIPF) means rural land, as determined by NRCS, that has existing tree cover or is suitable for growing trees; and is owned by any nonindustrial private individual, group, association, corporation, Indian Tribe, acequia, or other private legal entity that has definitive decision-making authority over the land.

Participant means a person, legal entity, joint operation, or Indian Tribe who has applied for participation and is receiving a financial assistance payment or is responsible for implementing the terms and conditions of a program contract.

Partnership agreement means a programmatic agreement between NRCS and a lead partner.

Person means a natural person and does not include a legal entity.

Priority resource concern means a natural resource concern located in a CCA that can be addressed through:

(1) Water quality improvement, including through reducing erosion, promoting sediment control, and addressing nutrient management activities affecting large bodies of water of regional, national, or international significance;

(2) Water quantity improvement, including improvement relating to:

(i) Drought;

(ii) Ground water, surface water, aquifer, or other water sources; or

(iii) Water retention and flood prevention;

(3) Wildlife habitat restoration to address species of concern at a Federal, State, or local level; and

(4) Other natural resource improvements, as determined by the Chief, within the CCA.

Producer means a person, legal entity, joint operation, or Indian Tribe who NRCS determines is:

(1) Engaged in agricultural production or forestry management on the agricultural operation; or

(2) The landowner of eligible land for purposes of a program contract or associated supplemental agreement, as determined by NRCS.

Program means the Regional Conservation Partnership Program (RCPP) administered by NRCS under this part.

Program contract means a binding agreement under the program for the transfer of assistance from NRCS to the producer to compensate the producer for the implementation of eligible activities that specifies the rights and obligations of any producer participating in the program.

Project resource concern means a specific resource concern set out in a partnership agreement that is of special importance or significance for the purposes of that partnership agreement.

Proposal means an offer submitted by an eligible partner for consideration and ranking for selection by NRCS to enter into a partnership agreement.

RCPP plan of operations means the document that identifies the location and timing of eligible activities that the participant agrees to implement on eligible land.

Resource concern means a specific natural resource problem that is likely to be addressed successfully through the implementation of the eligible activities.

Socially disadvantaged farmer or rancher means a producer who is a member of a group whose members have been subjected to racial or ethnic prejudices without regard to its members' individual qualities. For an entity, at least 50 percent ownership in the business entity must be held by socially disadvantaged individuals.

State Technical Committee means a committee established by NRCS in a State pursuant to 7 CFR part 610, subpart C.

Supplemental agreement means a legal document between NRCS and an eligible lead or nonlead partner that is subject to the terms of a partnership agreement and which furthers the purposes of the partnership agreement.

Technical service provider (TSP) means an individual, private-sector entity, Indian Tribe, or public agency either:

(1) Certified pursuant to 7 CFR part 652 and placed on the approved list to provide technical services to participants; or

(2) Selected by USDA to assist in program implementation through a supplemental agreement or otherwise through a procurement contract, contribution agreement, or cooperative agreement with USDA.

Veteran farmer or rancher means a producer who meets the definition in section 2501(a)(7) of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (7 U.S.C. 2279(a)(7)).

§ 1464.4 Funding pool allocations.

(a) Of the funds made available for the program, NRCS will allocate:

(1) Fifty percent of the funds to projects based on a State or multistate competitive process; and

(2) Fifty percent of the funds to projects for the CCAs designated by the Secretary.

(b) NRCS will allocate funds under the funding pools identified under paragraph (a) of this section to projects selected on a competitive basis pursuant to partnership agreement proposals submitted under the requirements of subpart B of this part.

§ 1464.5 Program requirements.

(a) *General requirements.*

(1) Program participation is voluntary.

(2) NRCS and lead partners enter into partnership agreements that identify the purposes and scope of RCPP projects under the framework of a partnership agreement.

(3) NRCS and lead partners enter into supplemental agreements to facilitate assistance to producers.

(4) NRCS enters into program contracts with producers to provide program assistance to eligible producers to implement eligible activities on eligible land.

(5) NRCS may enter into an alternative funding arrangement with a lead partner for the lead partner to deliver program assistance directly to producers in accordance with § 1464.25 of this part.

(b) *Partner eligibility.* An eligible partner may include:

(1) An agricultural or silvicultural producer association or other group of producers;

(2) A State or unit of local government, including a conservation district;

(3) An Indian Tribe;

(4) A farmer cooperative;

(5) An institution of higher education;

(6) A water district, irrigation district, acequia, rural water district or association, or other organization with specific water delivery authority to producers on agricultural land;

(7) A municipal water or wastewater treatment entity;

(8) An organization or entity with an established history of working cooperatively with producers on agricultural land, as determined by the Secretary, to address—

(i) Local conservation priorities related to agricultural production, wildlife habitat development, and NIPF management; or

(ii) Critical watershed-scale soil erosion, water quality, sediment reduction, or other natural resource concerns; or

(9) An eligible entity as identified by NRCS pursuant to 7 CFR part 1468.

(c) *Producer eligibility.* To be eligible to receive payments or benefits under the program, each producer must—

(1) Be in compliance with the highly erodible land and wetland conservation provisions found at part 12 of this title;

(2) Meet the adjusted gross income payment limitations under part 1400 of this chapter unless waived by the Chief;

(3) Have effective control of the land;

(4) NRCS may approve interim conservation practice standards or activities if—

(i) New technologies or management approaches that provide a high potential for optimizing conservation benefits have been developed; and

(ii) The interim conservation practice standard or activity incorporates the new technologies and provides financial assistance for pilot work to evaluate and assess the performance, efficiency, and effectiveness of the new technology or management approach.

(f) *Technical service provision.* (1) NRCS may use the services of a qualified TSP, including a qualified eligible partner, in meeting its responsibilities for technical assistance.

(2) Producers or eligible partners may use technical services from qualified personnel of other Federal, State, and local agencies, Indian Tribes, or individuals who are certified as TSPs under 7 CFR part 652.

(3) Technical services provided by qualified personnel not affiliated with USDA may include but are not limited to: Conservation planning; conservation practice survey, layout, design, installation, and certification; information, education, and training for producers; and other program implementation services as identified by NRCS.

(4) NRCS retains approval authority of work done by non-NRCS personnel for the purpose of approving RCPP payments.

Subpart B—Partnership Agreements

§ 1464.20 Proposal procedures.

(a) NRCS will:

(1) Periodically announce opportunities through a simplified competitive process for eligible partners to submit proposals for partnership agreements; and

(2) Make public the criteria that will be used to evaluate proposals for partnership agreements in each announced project selection opportunity, which may include whether NRCS will consider alternative funding arrangements or grant agreements during the selection opportunity or whether proposals seeking alternative funding arrangements or grant agreements will have a separate selection opportunity. These criteria will relate to four principle categories: Impact, partner cash and in-kind contribution, innovation, and project management.

(b) A partnership agreement proposal submitted by the eligible partner must include the following:

(1) The scope of the proposed project;

(2) A plan for monitoring, evaluating, and reporting on progress made toward achieving the project's objectives;

(3) The estimated RCPP funding and other program resources requested for the project including any advance technical assistance for outreach in the project area;

(4) Whether the eligible partner is requesting NRCS to consider the proposal for funding under an alternative funding arrangement or grant agreement under § 1464.25;

(5) Each eligible partner collaborating to achieve project objectives, including their roles, responsibilities, capabilities, and contribution; and

(6) Other information NRCS may identify as necessary to evaluate and select proposals.

§ 1464.21 Ranking considerations and proposal selection.

(a) *Final selection.* NRCS will rank and select proposals for partnership agreements pursuant to the evaluation criteria listed in 1464.20(a)(2).

(b) *Priority to certain proposals.* NRCS may give a higher priority to proposals for partnership agreements that—

(1) Assist producers in meeting or avoiding the need for a natural resource regulatory requirement;

(2) Have a high percentage of producers in the area to be covered by the agreement;

(3) Significantly leverage non-Federal financial and technical resources and coordinate with other local, State, or national efforts;

(4) Build new partnerships with local, State, and private entities to include a diversity of stakeholders in the project;

(5) Deliver a high percentage of applied conservation to achieve conservation benefits or address the priority resource concern for a designated CCA;

(6) Implement the project consistent with existing watershed, habitat, or other area restoration plans;

(7) Provide innovation in conservation methods and delivery, including outcome-based performance measures and methods; or

(8) Meet other factors that are important for achieving the purposes of the program, as determined by NRCS.

(c) *Proposals in CCAs.* (1) NRCS will select proposals for partnership agreements within CCAs that address one or more priority resource concerns for which the CCA is designated.

(2) NRCS will identify the designated CCAs and publish the priority resource concerns for each CCA.

(3) NRCS will identify the priority resource concerns and associated ranking criteria in any announcement under § 1464.20.

§ 1464.22 Partnership agreements.

(a) *In general.* Upon selection of a proposal for partnership agreement, NRCS will work with the eligible partner to develop the specifics of the partnership agreement. NRCS may offer a reduced amount of program assistance from that requested in the proposal for a partnership agreement or negotiate other project details.

(b) *Duration.* A partnership agreement between NRCS and a lead partner will be for a period of time:

(1) Not to exceed 5 years; or

(2) That is longer than 5 years if the longer period of time is necessary to meet the objectives of the program, as determined by NRCS.

(c) *Extension.* A partnership agreement, including a renewal of a partnership agreement, may be extended not more than one time for a period of time not longer than 12 months, as determined by NRCS.

(d) *Requirements.* The partnership agreement between NRCS and a lead partner will:

(1) Specify the scope of a project, including:

(i) One or more conservation benefits that the project will achieve;

(ii) The eligible activities on eligible land to be conducted under the project to achieve conservation benefits;

(iii) The implementation timeline for carrying out the project, including any interim milestones;

(iv) The local, State, multistate, or other geographic area covered; and

(v) The planning, outreach, implementation, and assessment to be conducted.

(2) Identify the outreach and education to producers for potential participation in the project;

(3) Authorize the lead partner, at the request of a producer, to act on behalf of a producer participating in the project in applying for assistance under subpart C of this part;

(4) Identify the significant contribution to the project costs by the lead partner, including any direct or indirect funding or in-kind support that will be contributed to help achieve the project objectives;

(5) Define the conservation benefits and other outcomes to be achieved by the project including the impact to any priority or project resource concern;

(6) Require the lead partner to assess periodically the progress made by the project in achieving the defined conservation benefits and outcomes;

(7) Require the lead partner to report to NRCS at the conclusion of the project on the project's results and funding leveraged;

(8) Set forth the total amount of financial and technical assistance funding that NRCS will reserve to support project implementation;

(9) Establish the general terms and conditions of any supplemental agreements that NRCS or the lead partner may enter into with nonlead partners;

(10) Identify the terms and conditions under which either NRCS or the lead partner may enter into supplemental agreements to further the purposes of the partnership agreement;

(11) Identify the other requirements identified by NRCS; and

(12) Include any unique requirements if the partnership agreement is a grant agreement or alternative funding arrangement.

(e) *Supplemental agreements.* NRCS may enter into supplemental agreements with a lead partner or a nonlead partner to provide technical assistance or to assist producers with implementation of eligible activities in the project area as identified in § 1464.26.

(f) *Partnership agreement renewal.* (1) As determined by NRCS, a partnership agreement may be renewed for a period not to exceed 5 years.

(2) NRCS may agree to renew the partnership agreement through an expedited process if—

(i) The lead partner requests such a renewal; and

(ii) NRCS determines that the project has met or exceeded project objectives as verified by NRCS.

(3) To facilitate expedited renewal, NRCS may designate a portion of available RCPP funding for expedited renewal requests.

(4) NRCS will not rank expedited renewal requests against new proposals.

(5) Under a renewal of a partnership agreement, the parties may request to continue to implement the project as defined in the original partnership agreement or expand the scope of the project consistent with the objectives and purposes of the original partnership agreement.

(g) *Notification.* All eligible partners who submit a proposal for a partnership agreement or submit a request to renew a partnership agreement will receive notification from NRCS regarding selection or nonselection of the project proposal or approval or denial of the renewal request.

§ 1464.23 Funding.

(a) Except as otherwise provided in this subpart, NRCS will only provide technical and financial assistance to producers through program contracts as described in subpart C of this part.

(b) Notwithstanding the restriction set forth in paragraph (a) of this section, NRCS may provide technical and financial assistance to a partner:

(1) Where the partnership agreement is funded through an alternative funding arrangement or grant agreement under § 1464.25; or

(2) Pursuant to a supplemental agreement executed in furtherance of a partnership agreement, as set forth in § 1464.26.

(c) Notwithstanding the restriction set forth in paragraph (a) of this section, pursuant to a partnership agreement or supplemental agreement, NRCS may provide funding to a partner for technical assistance for an eligible purpose, such as:

(1) Providing outreach and education for potential participation in the project;

(2) Establishing baseline metrics to support the development of the assessment required under § 1464.22(d)(6); or

(3) Providing technical assistance to producers.

(d) Notwithstanding the restriction set forth in paragraph (a) of this section, NRCS may enter into third-party contracts or agreements to meet its responsibilities under the program using program funding.

(e) Any funding provided by NRCS under paragraphs (a) through (d) of this section will count against the total amount of funding that NRCS agreed to provide to the project under the terms of the partnership agreement.

§ 1464.24 Modification, noncompliance, termination, and remedies.

(a) *Modifications.* NRCS may modify a partnership agreement, including associated supplemental agreements, if—

(1) The lead partner or, as applicable, the nonlead partner agrees to the modification; and

(2) NRCS determines the modified partnership agreement or associated supplemental agreement continues to meet the purposes of the program.

(b) *Noncompliance.* In the event of noncompliance with the partnership agreement terms, NRCS will provide the lead partner written notice as specified in the partnership agreement, and, where appropriate, a reasonable opportunity to correct voluntarily the noncompliance in accordance with the terms of the partnership agreement.

(c) *Terminations.* (1) Lead partners may request that NRCS terminate the partnership agreement, provided the request for termination is in writing, and includes the reasons for termination.

(2) NRCS may terminate a partnership agreement if—

(i) Justified by the reasons provided by the lead partner;

(ii) NRCS determines that a modification of the partnership agreement is necessary to comply with applicable law and the partner does not concur with such modification; or

(iii) The lead partner fails to correct noncompliance with a term of the partnership agreement under paragraph (b) of this section.

(3) A termination may be justified by circumstances beyond the lead partners' control that prevents completion of one or more provisions of the partnership agreement, such as a natural disaster or other circumstances in which NRCS may determine that termination is in the public interest.

(4) If a program agreement is terminated, the lead partner forfeits all rights to any remaining technical or financial assistance under the partnership agreement.

(d) *Effect on other agreements.* Termination of a partnership agreement under this section will—

(1) Not affect the validity of any program contract that was entered into within the project area encompassed by the partnership agreement; and

(2) Result in the termination of a supplemental agreement unless NRCS

determines that the supplemental agreement would continue to provide necessary program implementation assistance to producers with program contracts or otherwise advance an eligible program activity within the project area.

(e) *Refund and right to future assistance.* If NRCS terminates a partnership agreement due to noncompliance with its terms or conditions, the lead partner will forfeit any right to future assistance under the partnership agreement and will refund all or part of any payments received directly by the lead partner, plus interest.

(f) *Liquidated damages.* (1) NRCS may include terms in a partnership agreement that allow for the assessment of liquidated damages against the lead partner in the event of an intentional breach.

(2) The amount of any liquidated damages will be set at an amount reasonably calculated to reimburse NRCS for its foreseeable losses in the event of noncompliance and will not be punitive in nature.

§ 1464.25 Alternative funding arrangements or grant agreements.

(a) When the Chief so determines, NRCS may offer to fund a proposal through an alternative funding arrangement or grant agreement under this section.

(b) In determining whether to offer to fund a proposal through an alternative funding arrangement or grant agreement, the Chief will consider the extent to which the proposal:

(1) Will achieve conservation benefits on a regional or watershed scale;

(2) Involves investments in infrastructure (such as roads, dams, and irrigation facilities) related to agricultural or nonindustrial private forest production that would benefit multiple producers and address natural resource concerns such as drought, wildfire, or water quality impairment on the land within the proposal area;

(3) Addresses natural resource concerns, including the development and implementation of watershed, habitat, or other area restoration plans;

(4) Uses innovative approaches to leverage the Federal investment with private financial mechanisms, such as:

(i) Provision of performance-based payments to producers, or

(ii) Support for an environmental market; and

(5) Otherwise demonstrates that the goals and objectives of the program would be more easily achieved by offering to fund the proposal through an alternative funding arrangement or grant agreement under this section.

(c) The terms of an alternative funding arrangement or grant agreement may be made expressly in the partnership agreement and may include providing financial assistance directly to the lead partner or to nonlead partners through supplemental agreements.

(d) NRCS will not enter into more than 15 partnership agreements funded through an alternative funding arrangement or grant agreement each fiscal year.

§ 1464.26 Supplemental agreements.

(a) *Authorization.* Subject to the conditions in this section and in the partnership agreement, NRCS may enter into supplemental agreements with a lead partner or a nonlead partner.

(b) *Effect on programmatic agreement.* A supplemental agreement may not modify the substantive terms of the partnership agreement.

(c) *Technical assistance.* (1) NRCS may provide technical assistance funds under a supplemental agreement to facilitate the provision of technical assistance by the lead partner or nonlead partner to producers in the project area.

(2) Any technical assistance funds obligated under a supplemental agreement by NRCS will count against the total amount of technical assistance funds that NRCS agreed to provide to the project under the terms of the partnership agreement.

(d) *Financial assistance.* Based upon eligibility, evaluation, and selection criteria developed by NRCS, NRCS may provide financial assistance funds under a supplemental agreement if the supplemental agreement is:

(1) To facilitate the conveyance of an easement to an eligible entity by a producer;

(2) To implement an eligible activity that is available under 7 CFR part 622, except for the Watershed Rehabilitation Program set forth in 16 U.S.C. 1012;

(3) Other situations where a program contract requires the integration of a supplemental agreement to facilitate the implementation of an eligible activity, as determined by NRCS.

(e) *Term.* A supplemental agreement will be for a term that is within the term of a partnership agreement unless NRCS determines that the term of the supplemental agreement should extend beyond the term of the partnership agreement to ensure appropriate assistance to participating producers or completion of an eligible activity.

(f) *Noncompliance and remedies.* NRCS will incorporate in a supplemental agreement:

(1) The procedures required in the event of a determination that the lead partner or nonlead partner is not in compliance with the terms and conditions of the supplemental agreement;

(2) The consequences for failure to remedy noncompliance, including termination of the supplemental agreement, the requirement to repay any payments received, forfeit any future payments, and the availability of liquidated damages;

(3) The impacts of termination of the supplemental agreement upon the partnership agreement or any associated program contract;

(4) The availability, if any, of administrative review of NRCS determinations under § 1464.40; and

(5) Other terms and conditions NRCS determines necessary to ensure the effective delivery of program resources to producers.

§ 1464.27 Third-party contracts or agreements.

(a) Lead and nonlead partners may employ third-party contracts or agreements to fulfill their obligations under a partnership or supplemental agreement, subject to approval by the Chief or as allowed per the terms of the partnership or supplemental agreement.

(b) Any costs to a lead or nonlead partner as part of a third-party contract or agreement as described in paragraph (a) of this section may constitute all or part of a partner contribution described in § 1464.22(d)(4) to the extent that such costs directly relate to fulfilling the obligations of a partnership or supplemental agreement, as determined by NRCS.

(c) NRCS may employ third-party contracts or agreements in order to meet its responsibilities under the terms of an approved partnership agreement, supplemental agreement, or program contract, including but not limited to easement acquisition services, implementation services, or other goods or services NRCS determines are necessary to meet its responsibilities under RCPP.

Subpart C—Program Contracts

§ 1464.30 Application for program contracts and selecting applications for funding.

(a) *Evaluation guidelines.* In evaluating program contract applications, NRCS may take into consideration the following guidelines:

(1) Any producer who has eligible land in a project area encompassed by a partnership agreement may submit an application for participation in RCPP.

(2) To the greatest extent practicable, applications for similar eligible activities may be grouped together in

ranking pools for evaluation and ranking purposes.

(3) Upon execution of a partnership agreement, NRCS will accept producer applications for funding under such agreement throughout the fiscal year and may be evaluated and ranked on a continuous or ranking-period basis.

(4) NRCS may give priority to applications that are submitted as part of a bundle submitted by a lead partner.

(5) In selecting RCPP applications, NRCS will develop an evaluation and ranking process to prioritize eligible applications for funding that address the purposes of the project or CCA, including treating the identified project or priority resource concerns, as applicable.

(b) *Selection order.* (1) NRCS will select eligible applications for funding in order of ranking priority taking into account identified evaluation periods and ranking pools.

(2) NRCS may decline to select an eligible application if the remaining funding is insufficient to fund that application and NRCS may proceed to the next application in ranked order that can be funded with available funding.

(3) NRCS, in consultation with the lead partner, may identify and establish in the partnership agreement other limited circumstances that may warrant selection of eligible applications outside of a strictly applied rank order because such application is critical to the success of a project that provides conservation benefits to multiple producers or landowners in a community, watershed, or other geographic area.

(c) *Public information.* Pursuant to the terms of the partnership agreement, NRCS or the lead partner will make available to the public sign-up information, including the identification of program and priority resource concerns, a listing of eligible activities, payment rates for certain eligible activities, State supplemental guidance, and contact information for the RCPP State coordinators available to assist partners and applicants with the program.

(d) *Applications in CCAs.* (1) NRCS will identify the designated CCAs and publish priority resource concerns for a CCA project.

(2) NRCS will select eligible applications for program contracts within CCAs that address one or more priority resource concerns for which the CCA is designated.

(3) NRCS will identify the priority resource concerns and associated ranking criteria in any announcement under § 1464.20.

§ 1464.31 Program contract requirements.

(a) *Requirement of a program contract.* For a producer to receive payments, the producer must enter into a program contract and agree to the terms and conditions associated with the type of eligible activity to be implemented.

(b) *Program contract contents.* A program contract will:

(1) Identify the requirements for participation under RCPP, including:

(i) Contract duration;

(ii) Maximum Federal payment amounts or rates; and

(iii) Any other necessary requirements, as determined by NRCS;

(2) Identify:

(i) The eligible activities that the participant agrees to implement; and

(ii) The requirements to demonstrate successful implementation of the eligible activities;

(3) Incorporate the RCPP plan of operations, as applicable, which includes—

(i) Identification of eligible activities contained in the program contract, including which resource concerns each eligible activity addresses;

(ii) A schedule or timeline for implementation of selected eligible activities, as applicable; and

(iii) Other criteria as determined necessary by NRCS;

(4) Incorporate provisions to further the purposes of the partnership agreement;

(5) Incorporate all provisions as required by statute or regulation, including requirements that the participant will:

(i) Not conduct any action that would defeat the program's purposes;

(ii) Refund any program payments received with interest, and forfeit any future payments under the program, on the violation of a term or condition of the program contract, consistent with the provisions of § 1464.36; and

(iii) Supply information if required by NRCS to determine compliance with program requirements; and

(6) Specify any other provision determined necessary or appropriate by NRCS to ensure the program purpose is met.

(c) *Payment eligibility.* To be eligible to enter into a program contract or receive a payment, an applicant or participant must—

(1) Provide a tax identification number; however, where applicable, American Indians, Alaska Natives, and Pacific Islanders may use another unique identification number for each individual eligible for payment;

(2) Indicate, where applicable, the percent interest share in a payment that is consistent with operation or ownership shares;

(3) Comply with the highly erodible land and wetland conservation provisions found at part 12 of this title at the time of application and throughout the contract term; and

(4) Be eligible for payments in accordance with part 1400 of this chapter, average adjusted gross income limitation, including any waiver of these requirements, prior to program contract approval.

(d) *Duplication of payment.* (1) Except as otherwise indicated in this paragraph, any payments received by a participant from a State, private entity, or person for the implementation of one or more eligible activities on eligible land will be in addition to the payments provided to the participant under this part.

(2) NRCS will not issue financial assistance to a participant through a program contract for eligible activities on eligible land if the participant receives payments or other benefits for the same or similar eligible activity on the same land under any other conservation program administered by USDA.

(3) NRCS will not provide technical or financial assistance to a participant for more than one eligible activity to achieve the same resource benefit on the same land during the same time period.

§ 1464.32 Modifications and transfers of land.

(a) *Modifications.* NRCS may modify a program contract, if:

(1) The parties agree to the modification, and

(2) NRCS determines the modified program contract continues to meet the purposes of the program.

(b) *Notice of loss of effective control.* NRCS may terminate an entire program contract if, within the time specified in the program contract, the participant does not provide NRCS with written notice regarding any voluntary or involuntary loss of effective control of any acreage under the program contract, which includes changes in the participant's ownership structure or corporate form.

(c) *Approval of transfer.* NRCS may approve a transfer of a program contract if:

(1) NRCS has documented notice from the current participant that identifies the new producer who will take control of the acreage, as required in paragraph (e) of this section;

(2) The current participant transfers rights and responsibilities to the new producer;

(3) The new producer meets program eligibility requirements within a

reasonable time frame, as determined by NRCS, and agrees to assume the rights and responsibilities from the current participant for the acreage under the program contract; and

(4) NRCS determines that the purposes of the program will continue to be met despite the current participant's losing effective control of all or a portion of the land under contract.

(d) *Payment status.* (1) Until NRCS approves the transfer of program contract rights, the transferee is not a participant in the program and may not receive payment for eligible activities implemented prior to NRCS approval of the program contract transfer.

(2) For program contract payment purposes, NRCS will consider the transferor to be the participant to whom payments may be made for eligible activities implemented when NRCS approval of the program contract transfer is pending.

(e) *Right to terminate.* NRCS may not approve a program contract transfer and may terminate the program contract in its entirety if NRCS determines that the loss of effective control of the land was voluntary, the participant's written notification of loss of effective control was not provided to NRCS within the specified timeframe, the new producer is not eligible or willing to assume responsibilities under the contract, or the purposes of the program cannot be met.

(f) *Run with the land.* Once an easement deed has been acquired, an easement will run with the land and bind all successors and assigns. Subordination, modification, exchange, or termination of an easement acquired under this part will be consistent with the policies and procedures under 7 CFR part 1468.

(g) *Reestablishment.* In the event an eligible activity fails through no fault of the participant, NRCS may issue payments to reestablish the eligible activity, subject to such limitations that NRCS may establish.

§ 1464.33 Violations and remedies.

(a) *Reasonable notice.* In the event of a violation of the program contract terms, NRCS will provide the participant written notice as specified in the program contract, and, where appropriate, a reasonable opportunity to voluntarily correct the violation in accordance with the terms of the program contract.

(b) *Voluntary correction.* If the participant fails to correct the violation of a term of the program contract in the timeframe specified by NRCS, NRCS may terminate the program contract or require modification as a condition to keep the program contract in effect.

(c) *Refund and right to future assistance.* If NRCS terminates a program contract due to a violation of its terms or conditions, the participant will forfeit any right to future assistance under the program contract and will refund all or part of any payments received by the participant, plus interest.

(d) *Liquidated damages.* (1) NRCS may include terms in a program contract that allow for the assessment of liquidated damages in the event of a violation.

(2) The amount of any liquidated damages will be set at an amount reasonably calculated to reimburse NRCS for its foreseeable losses in the event of a violation by the participant and will not be punitive in nature.

(3) NRCS will enforce a liquidated damage provision if the Chief determines doing so is in the best interests of RCPP.

(e) *Hardships.* (1) NRCS may allow a participant in a program contract terminated in accordance with the provisions of paragraph (b) of this section to retain a portion of any payments received appropriate to the effort the participant has made to comply with the program contract, or in cases of hardship, where NRCS determines that forces beyond the participant's control prevented compliance with the program contract.

(2) The condition that is the basis for the participant's inability to comply with the program contract must not have existed at the time the program contract was executed by the participant.

(3) If a participant believes that such a hardship condition exists, the participant may submit a written request to NRCS for relief pursuant to this paragraph and any such request will contain documentation sufficient for NRCS to determine that this hardship condition exists.

(f) *Death, incompetency, disappearance.* In the case of death, incompetency, or disappearance of any participant, NRCS may, as identified in the program contract, terminate the contract, make any payments due under this part pursuant to guidance under applicable provisions of parts 707 and 1400 of this title (including payment to successor(s)), or take any further action that the Chief determines is fair and reasonable in light of all of the circumstances.

(g) *Administrative errors.* NRCS reserves the right to correct any and all errors in entering data or the results of computations in a program contract. If a participant does not agree to such corrections, NRCS will terminate the program contract.

Subpart D—General Administration

§ 1464.40 Appeals.

(a) *Participants under program contracts.* A participant may obtain administrative review of an adverse decision under RCPP in accordance with parts 11 and 614 of this title. Any and all determination in matters of general applicability, such as payment rates, the designation of identified program or priority resource concerns, and eligible activities are not subject to appeal.

(b) *Lead partners and nonlead partners under partnership or supplemental agreements.*

(1) A lead partner or nonlead partner may obtain a review of any administrative determination concerning eligibility as a partner under the program or eligibility for financial assistance payments under an agreement that obligated financial assistance funds utilizing the administrative appeal regulations provided in 7 CFR parts 11 and 614.

(2) NRCS provision of technical assistance funds under a partnership agreement or supplemental agreement are not subject to administrative review as the provision of such funds are to assist NRCS with its implementation of the program consistent with 16 U.S.C. 3842 and are not program payments or benefits to a lead partner or nonlead partner.

§ 1464.41 Compliance with regulatory measures.

Participants who implement eligible activities will be responsible for obtaining the authorities, rights, easements, permits, or other approvals necessary for their implementation consistent with applicable statutes and regulations. Participants will be responsible for compliance with all laws and for all effects or actions resulting from the participant's performance under the contract.

§ 1464.42 Access to agricultural operation or tract.

Any authorized NRCS representative will have the right to enter an agricultural operation or tract of land for the purposes of determining eligibility, conducting ranking and due diligence activities, and for ascertaining the accuracy of any representations related to agreement or contract performance. Access will include the right to provide technical assistance, determine eligibility, conduct ranking and onsite inspections prior to execution of an

agreement or contract, inspect any actions undertaken under the agreement or contract, and collect information necessary to evaluate agreement or contract performance, as specified in the agreement or contract. The NRCS representative will attempt to contact the applicant or participant prior to exercising this provision.

§ 1464.43 Equitable relief.

(a) If a participant relied upon the advice or action of NRCS and did not know, or have reason to know, that the action or advice was improper or erroneous, the participant may be eligible for equitable relief under 7 CFR part 635; however, the financial or technical liability for any action by a participant that was taken based on the advice of a TSP will remain with the TSP and will not be assumed by NRCS.

(b) If a participant has been found in violation of a program requirement through failure to comply fully with that requirement, the participant may be eligible for equitable relief under 7 CFR part 635.

§ 1464.44 Offsets and assignments.

(a) Except as provided in paragraph (b) of this section, any payment or portion thereof to any person, legal entity, joint operation, or Indian Tribe will be made without regard to questions of title to the payment under State law and without regard to any claim or lien against the crop, or proceeds thereof, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings found at part 1403 of this chapter will apply to contract payments.

(b) Any person, legal entity, Indian Tribe, eligible entity, or other party entitled to any cash payment under this program may assign the right to receive such cash payments, in whole or in part.

§ 1464.45 Misrepresentation and scheme or device.

(a) A person, legal entity, joint operation, or Indian Tribe that is determined to have erroneously represented any fact affecting a program determination made in accordance with this part will not be entitled to payments under RCPP and must refund to NRCS all RCPP payments, plus interest, determined in accordance with part 1403 of this chapter.

(b) A participant will lose all interest in all contracts or agreements with NRCS and will refund to NRCS all payments, plus interest determined in accordance with part 1403 of this chapter, received by such participant with respect to all contracts and agreements if it is determined that the participant has knowingly:

(1) Adopted any scheme or device that tends to defeat the purpose of the program;

(2) Made any fraudulent representation to NRCS;

(3) Adopted any scheme or device for the purpose of depriving any tenant or sharecropper of the payments to which such person would otherwise be entitled under the program; or

(4) Misrepresented any fact affecting a program determination.

(c) If NRCS determines that a participant has violated the terms of a program contract, a lead partner has violated the terms of a partnership agreement, or a lead partner or nonlead partner has violated the terms of a supplemental agreement, NRCS may determine that the severity of the violation renders the participant, lead partner, or nonlead partner, respectively, ineligible for future NRCS conservation program consideration in accordance with applicable suspension and debarment regulations.

§ 1464.46 Environmental credits for conservation improvements.

NRCS recognizes that environmental benefits will be achieved by implementing eligible activities funded through RCPP, and a participant may obtain environmental credits as a result of implementing additional eligible activities through an environmental service market if one of the purposes of the market is the facilitation of additional conservation benefits that are consistent with the purposes of a program contract or supplemental agreement. NRCS asserts no direct or indirect interest on these credits. However, NRCS retains the authority to ensure that operation and maintenance (O&M) requirements for RCPP-funded eligible activities are met. Where the non-RCPP funded additional eligible activities may impact the land under a program contract or supplemental agreement, producers and participants are highly encouraged to request an O&M compatibility determination from NRCS prior to entering into any environmental credit agreements.

Matthew Lohr,

Chief, Natural Resources Conservation Service.

Robert Stephenson,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 2020–01812 Filed 2–12–20; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0714; Product Identifier 2019–NM–103–AD; Amendment 39–21021; AD 2019–26–10]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701 & 702) airplanes; Model CL–600–2D15 (Regional Jet Series 705) airplanes; Model CL–600–2D24 (Regional Jet Series 900) airplanes; and Model CL–600–2E25 (Regional Jet Series 1000) airplanes. This AD was prompted by a report of incorrectly installed flight compartment door edge protection plates on both sides of the upper decompression panel. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate a functional check of the flight compartment door decompression latches. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 19, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 19, 2020.

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., 400 Côte Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* internet *https://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0714.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0714; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Aziz Ahmed, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7329; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2019–20R1, dated May 31, 2019 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701 & 702) airplanes; Model CL–600–2D15 (Regional Jet Series 705) airplanes; Model CL–600–2D24 (Regional Jet Series 900) airplanes; and Model CL–600–2E25 (Regional Jet Series 1000) airplanes. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0714.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701 & 702) airplanes; Model CL–600–2D15 (Regional Jet Series 705) airplanes; Model CL–600–2D24 (Regional Jet Series 900) airplanes; and Model CL–600–2E25 (Regional Jet Series 1000) airplanes. The NPRM published in the **Federal Register** on October 9, 2019 (84 FR 54051). The NPRM was prompted by a report of incorrectly installed flight compartment door edge protection plates on both sides of the upper decompression panel. The NPRM proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate a functional check of the flight compartment door decompression latches. The FAA is issuing this AD to address incorrect installation of the flight compartment door edge protection plates on both sides of the flight compartment door upper decompression panel. This condition, if not corrected, could result in the inability of the flight compartment door upper decompression panel to open during a rapid decompression event. This inability to relieve the pressure in the flight compartment may compromise the structural integrity of the bulkhead between the flight compartment and the passenger cabin. See the MCAI for additional background information.

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Bombardier, Inc., has issued Task 251700–202, ''Functional Check of the Flight Compartment Door Decompression Latches,'' of Section 1, ''Systems and Power Plant Program,'' Subject 1–25, ''Equipment and Furnishings,'' of the Bombardier Model CL–600–2C10, CL–600–2D15, CL–600–2D24, and CL–600–2E25 Series 700/705/900/1000 Maintenance Review Board Report, Maintenance Requirements Manual—Part 1, Volume 1, CSP B–053, Revision 18, dated July 25, 2018. This service information describes a functional check of the flight compartment door decompression latches. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 522 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2019–26–10 Bombardier, Inc.: Amendment 39–21021; Docket No. FAA–2019–0714; Product Identifier 2019–NM–103–AD.

(a) Effective Date

This AD is effective March 19, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1) through (4) of this AD, certificated in any category, all serial numbers.

(1) Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701 & 702) airplanes.

(2) Bombardier, Inc., Model CL–600–2D15 (Regional Jet Series 705) airplanes.

(3) Bombardier, Inc., Model CL–600–2D24 (Regional Jet Series 900) airplanes.

(4) Bombardier, Inc., Model CL–600–2E25 (Regional Jet Series 1000) airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by a report of incorrectly installed flight compartment door edge protection plates on both sides of the upper decompression panel. The FAA is issuing this AD to address incorrect installation of the flight compartment door edge protection plates on both sides of the flight compartment door upper decompression panel. This condition, if not corrected, could result in the inability of the flight compartment door upper decompression panel to open during a rapid decompression event. This inability to relieve the pressure in the flight compartment may compromise the structural integrity of the bulkhead between the flight compartment and the passenger cabin.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

Within 30 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Task 251700–202, ''Functional Check of the Flight Compartment Door Decompression Latches,'' of Section 1, ''Systems and Power Plant Program,'' Subject 1–25, ''Equipment and Furnishings,'' of the Bombardier Model CL–600–2C10, CL–600–2D15, CL–600–2D24, and CL–600–2E25 Series 700/705/900/1000 Maintenance Review Board Report, Maintenance Requirements Manual—Part 1, Volume 1, CSP B–053, Revision 18, dated July 25, 2018. The initial compliance time for doing the task is within 8,000 flight hours after this task is incorporated into the existing maintenance or inspection program, or within 30 days after the effective date of this AD, whichever occurs later. Repeat the task thereafter at intervals not to exceed 8,000 flight hours.

(h) No Alternative Actions or Intervals

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

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2019–20R1, dated May 31, 2019, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0714.

(2) For more information about this AD, contact Aziz Ahmed, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7329; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Task 251700–202, ''Functional Check of the Flight Compartment Door Decompression Latches,'' of Section 1, ''Systems and Power Plant Program,'' Subject 1–25, ''Equipment and Furnishings,'' of the Bombardier Model CL–600–2C10, CL–600–2D15, CL–600–2D24, and CL–600–2E25 Series 700/705/900/1000 Maintenance Review Board Report, Maintenance Requirements Manual—Part 1, Volume 1, CSP B–053, Revision 18, dated July 25, 2018.

(ii) [Reserved]

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* internet *https://www.bombardier.com.*

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

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

Issued on January 3, 2020.

John P. Piccola,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2020–02837 Filed 2–12–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0864; Product Identifier 2019–NM–140–AD; Amendment 39–19834; AD 2020–02–22]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Model A310 series airplanes. This AD was prompted by a determination that new tests are necessary to address potential air leaks in the reservoir air pressurization lines. This AD requires repetitive pressurization tests of the reservoir air pressurization lines for pipe rupture and leaks, and repair or replacement if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 19, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 19, 2020.

ADDRESSES: For the material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0864.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0864; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225; email *Dan.Rodina@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0188, dated July 31, 2019 (''EASA AD 2019–0188'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A300–600 series airplanes; Model A310 series airplanes; and Model A300F4–608ST airplanes. Model A300F4–608ST airplanes are not certified by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A300–600 series airplanes; and Model A310 series airplanes. The NPRM published in the **Federal Register** on November 15, 2019 (84 FR 62488). The NPRM was prompted by a determination that new tests are necessary to address potential air leaks in the reservoir air pressurization lines. The NPRM proposed to require repetitive pressurization tests of the reservoir air pressurization lines for pipe rupture and leaks, and repair or replacement if necessary.

The FAA is issuing this AD to address air leaks that could result in the loss of a hydraulic system and consequent reduced controllability of the airplane. See the MCAI for additional background information.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. We have considered the comment received. The Air Line Pilots Association, International (ALPA) stated that it supports the NPRM.

Conclusion

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

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

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0188 describes airworthiness limitations involving repetitive pressurization tests of the reservoir air pressurization lines for pipe rupture and leaks, and repair and replacement of affected hydraulic pipes, ducts, and pressurization lines. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Interim Action

The FAA considers this AD interim action. If final action is later identified, the FAA might consider further rulemaking.

Costs of Compliance

The FAA estimates that this AD affects 123 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
2 work-hours × $85 per hour = 170 per inspection cycle.	$0	$170 per inspection cycle	$20,910 per inspection cycle.

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
3 work-hours × $85 per hour = $255	$0	$255

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–02–22 Airbus SAS: Amendment 39–19834; Docket No. FAA–2019–0864; Product Identifier 2019–NM–140–AD.

(a) Effective Date

This AD is effective March 19, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model airplanes specified in paragraphs (c)(1) through (5) of this AD, certificated in any category.

(1) Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes.

(2) Model A300 B4–605R and B4–622R airplanes.

(3) Model A300 F4–605R and F4–622R airplanes.

(4) Model A300 C4–605R Variant F airplanes.

(5) Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 29, Hydraulic power.

(e) Reason

This AD was prompted by a determination that new tests are necessary to address potential air leaks in the reservoir air pressurization lines. The FAA is issuing this AD to address air leaks that could result in the loss of a hydraulic system and consequent reduced controllability of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2019–0188, dated July 31, 2019 (''EASA AD 2019–0188'').

(h) Exceptions to EASA AD 2019–0188

(1) Where EASA AD 2019–0188 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2019–0188 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(3) *Required for Compliance (RC):* For any service information referenced in EASA AD 2019–0188 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

For more information about this AD, contact Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225; email *Dan.Rodina@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2019–0188, dated July 31, 2019.

(ii) [Reserved]

(3) For information about EASA AD 2019–0188, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0864.

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

Issued on January 30, 2020.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–02864 Filed 2–12–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0125; Product Identifier 2019–SW–104–AD; Amendment 39–21027; AD 2020–02–23]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Helicopters Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3, AS350C, AS350D, A350D1, AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters. This AD requires repetitive inspections of the installation of the pull cables on the emergency float kits. This AD was prompted by the results of an accident investigation and subsequent reports of difficulty pulling the emergency float kit float activation handle installed on the pilot cyclic. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective February 28, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 28, 2020.

The FAA must receive comments on this AD by March 30, 2020.

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

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

For service information identified in this final rule, contact Dart Aerospace LTD., 1270 Aberdeen St., Hawkesbury, ON, K6A 1K7, Canada; telephone: 1–613–632–5200; Fax: 1–613–632–5246; or at *www.dartaero.com.*

You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110.

It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0125.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0125; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Johann S. Magana, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5322; fax: 562–627–5210; email: *johann.magana@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

This AD is prompted by the results of an investigation of a March 11, 2018, fatal accident in which an Airbus Helicopters Model AS350B2 helicopter impacted a body of water during an autorotation. The left-hand and right-hand emergency floats did not inflate symmetrically and the helicopter subsequently capsized.

During the accident investigation, the FAA learned of reports of difficulty pulling the emergency float kit float activation handle installed on the pilot cyclic. Asymmetric inflation of the float system and difficulty deploying the float system from the float activation handle installed on the pilot cyclic can be caused by improperly installed pull cables. These emergency float kits utilize a system of pull cables to activate and release compressed gas from the float cylinders into the floats. Proper installation of the pull cables allows the two float cylinders installed on the aircraft to activate simultaneously, allowing for proper distribution of gas to all floats in the system. Improperly installed pull cables, if not addressed, could result in loss of the left- or right-hand float, causing the helicopter to roll to one side but remain buoyant, or loss of both floats, causing the helicopter to capsize underwater.

These emergency float systems are installed on Airbus Helicopters Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3, AS350C, AS350D, and AS350D1 helicopters under Supplemental Type Certificate (STC) SR00470LA, and on Model AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters under STC SR00645LA. Both STCs are held by Apical Industries, Inc., d/b/a DART Aerospace (DART). Following the investigation, DART developed a test tool to verify correct installation and rigging of the pull cables and subsequently issued service information to provide instructions for using the test tool. The FAA approved these instructions to correct the unsafe condition on November 13, 2019. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products.

Related Service Information Under 1 CFR Part 51

The FAA has reviewed DART Aerospace Service Bulletin SB–2018–07, Revision D, dated November 25, 2019. This service information contains procedures for inspecting the installation of the pull cables on 20326-series part-numbered emergency float kits (*e.g.,* inspecting for activation pull forces on the float activation handle), readjusting the cable rigging if improperly installed, and contacting DART if readjusting the rigging is not successful. This service information also contains optional procedures for deactivating the emergency float system as inoperative.

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

Other Related Service Information

The FAA has also reviewed DART Aerospace Service Bulletin SB–2018–07, Revision B, dated October 8, 2019, and DART Aerospace Service Bulletin SB–2018–07, Revision C, dated November 14, 2019. The actions specified in these service bulletins are the same as those specified in DART Aerospace Service Bulletin SB–2018–07, Revision D, dated November 25, 2019. DART Aerospace Service Bulletin SB–2018–07, Revision C, dated November 14, 2019, adds a note that includes a reference to the instructions for continued airworthiness for a specific float system configuration that was not in DART Aerospace Service Bulletin SB–2018–07, Revision B, dated October 8, 2019. DART Aerospace Service Bulletin SB–2018–07, Revision D, dated November 25, 2019, clarifies certain references to the operational instructions manual. These differences do not affect how operators would accomplish the actions necessary to address the identified unsafe condition.

FAA's Determination

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

AD Requirements

This AD requires repetitive inspections of the installation of the pull cables on the emergency float kits and corrective action if necessary.

Differences Between This AD and the Service Information

DART Aerospace Service Bulletin SB–2018–07, Revision D, dated November 25, 2019, specifies accomplishing the actions before March 31, 2020, while this AD requires compliance within 100 hours time-in-service (TIS) or 30 days after the effective date of this AD, whichever occurs first.

FAA's Justification and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because improperly installed pull cables may lead to asymmetric inflation of the float system or difficulty deploying the float system from the float activation handle installed on the pilot cyclic, which could result in the loss of one or more floats. Loss of the left- or right-hand float could cause the helicopter to roll to one side but remain buoyant, while loss of both floats could cause the helicopter to capsize underwater. Because of the high utilization rate of helicopters with these emergency float kits installed, and because these helicopters primarily conduct operations over water, the FAA determined a compliance time of no more than 100 hours TIS or 30 days, whichever occurs first, was required to correct the unsafe condition. This compliance time is shorter than the time necessary for the public to comment and for publication of the final rule. Therefore, notice and opportunity for prior public comment are impracticable and contrary to public interest pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the reasons stated above, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, the FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2020–0125 and Product Identifier 2019–SW–104–AD at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this final rule. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Regulatory Flexibility Act

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

Costs of Compliance

The FAA estimates that this AD affects 71 helicopters of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per helicopter	Cost on U.S. operators
Inspection	3 work-hours × $85 per hour = $255 per inspection	$0	$255	$18,105

The inspection requires the use of a pull cable test kit, which costs $2,000. Only one pull cable test kit is needed per operator such that the operator may use the same pull cable test kit on any affected helicopter. The FAA has no way of determining what on-condition actions may be required following the inspection required by this AD, the number of helicopters that might need on-condition actions, or the costs to perform the on-condition actions.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–02–23 Airbus Helicopters: Amendment 39–21027; Docket No. FAA–2020–0125; Product Identifier 2019–SW–104–AD.

(a) Effective Date

This AD is effective February 28, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the helicopters identified in paragraphs (c)(1) and (2) of this AD, certificated in any category.

(1) Airbus Helicopters Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3, AS350C, AS350D, and AS350D1 helicopters, modified by supplemental type certificate (STC) SR00470LA.

(2) Airbus Helicopters Model AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters, modified by STC SR00645LA.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/Furnishings, and 32, Landing gear.

(e) Unsafe Condition

This AD was prompted by reports of difficulty pulling the emergency float kit float activation handle installed on the pilot cyclic. The FAA is issuing this AD to address improperly installed pull cables, which can lead to difficulty deploying the float system from the float activation handle installed on the pilot cyclic, and could result in loss of the left- or right-hand float, causing the helicopter to roll to one side but remain buoyant, or loss of both floats causing the helicopter to capsize underwater.

(f) Compliance

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

(g) Required Actions

Within 100 hours time-in-service (TIS) or 30 days, whichever occurs first after the effective date of this AD, and thereafter at intervals not to exceed six months, inspect the installation of the pull cables on the emergency float kit and readjust the cable rigging if improperly installed, in accordance with the Accomplishment Instructions, sections 1.0 through 1.4, of DART Aerospace Service Bulletin No. SB–2018–07, Revision D, dated November 25, 2019 (''SB–2018–07, Revision D''), except if the pull cable installation does not pass the test in section 1.3 after re-adjusting the cable rigging, you must comply with either paragraph (g)(1) or (2) of this AD before further flight:

(1) Repair the pull cable installation.

(2) Deactivate and placard the emergency float system as inoperative in accordance with the Accomplishment Instructions, section 3.0, of SB–2018–07, Revision D. If the emergency float system has been deactivated and placarded as inoperative, you are not required to repeat the inspection specified in the introductory text of paragraph (g) of this AD.

Note 1 to paragraph (g)(2) of this AD: This AD does not allow operation with an inoperative emergency float system unless the requirements of 14 CFR 91.213 have been met.

(h) Credit for Previous Actions

This paragraph provides credit for the actions specified in introductory text of paragraph (g) and paragraph (g)(2) of this AD, if the actions were done before the effective date of this AD using DART Aerospace Service Bulletin SB–2018–07, Revision B, dated October 8, 2019, or DART Aerospace Service Bulletin SB–2018–07, Revision C, dated November 14, 2019.

(i) Alternative Methods of Compliance (AMOCs)

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

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, notify your principal inspector or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(j) Related Information

For information about AMOCs, contact Johann S. Magana, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5322; fax: 562–627–5210; email: *johann.magana@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) DART Aerospace Service Bulletin SB–2018–07, Revision D, dated November 25, 2019.

(ii) [Reserved]

(3) For service information identified in this AD, contact Dart Aerospace LTD., 1270 Aberdeen St., Hawkesbury, ON, K6A 1K7, Canada; telephone: 1–613–632–5200; Fax: 1–613–632–5246; or at *www.dartaero.com.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110.

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

Issued on February 7, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–02841 Filed 2–12–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0116; Product Identifier 2019–CE–060–AD; Amendment 39–21026; AD 2020–02–18]

RIN 2120–AA64

Airworthiness Directives; Gulfstream Aerospace Corporation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Gulfstream Aerospace Corporation (Gulfstream) Models GVI, GVII–G500, and GVII–G600 airplanes. This AD requires revising the airplane flight manual (AFM) by attaching an airplane flight manual supplement (AFMS), which contains new or revised operating limitations, abnormal procedures, and emergency procedures. This AD was prompted by reports of continued flight after a flight control surface shutdown. If flight is continued after a flight control surface shutdown, the airplane is left without protection against flight control surface hard-over and force fight events on the remaining, operable flight control surfaces. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective February 13, 2020.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of February 13, 2020.

The FAA must receive comments on this AD by March 30, 2020.

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

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

For service information identified in this final rule, contact Gulfstream Aerospace Corporation, Technical Publications Dept., P.O. Box 2206, Savannah, GA 31402–2206; telephone: (800) 810–4853; fax: (912) 965–3520; email: *pubs@gulfstream.com;* internet: *https://www.gulfstream.com/customer-support.* For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0116.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0116; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Myles Jalalian, Aerospace Engineer, Atlanta ACO Branch, FAA, 1701 Columbia Avenue, College Park, Georgia 30337; phone: (404) 474–5572; fax: (404) 474–5606; email: *myles.jalalian@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA has received at least 30 reports of the flight control computer (FCC) commanding flight control surfaces into damped by-pass mode (surface shutdown). During the investigation of these events, it was discovered that the existing GVI and GVII airplane flight manuals, in most cases, allow continued flight after a surface shutdown, and the GVI airplane flight manual allows takeoff with an inboard spoiler shutdown.

The FCC commanding of a surface into damped by-pass mode is the protection provided against flight control hydraulic force fights and flight control surface hard-over events. If the FCC detects a flight control anomaly, it commands the surface into damped by-pass mode. The FCC software will not command a second surface on an axis of control into damped by-pass mode. Any flight control surface shutdown results in the loss of FCC-provided protection against future flight control surface hard-over and force-fight events on the remaining, operable flight control surfaces on that axis of control. In addition, certain other system failures will result in the loss of FCC protection against flight control surface hard-overs and force-fights.

Loss of flight control surface protection could lead to loss of structural integrity of the airplane and loss of control of the airplane. The FAA is issuing this AD to address the unsafe condition on these products.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Gulfstream Aerospace G650 Airplane Flight Manual Supplement No. G650–2019–04, dated December 16, 2019; Gulfstream Aerospace G650ER Airplane Flight Manual Supplement No. G650ER–2019–04, dated December 16, 2019; Gulfstream Aerospace GVII–G500 Airplane Flight Manual Supplement No. GVII–G500–2019–08, dated December 16, 2019; and Gulfstream Aerospace G600 Airplane Flight Manual Supplement No. GVII–G600–2019–02, dated December 16, 2019. For the applicable airplane designation, each AFMS contains new or revised operating limitations, abnormal procedures, and emergency procedures. These limitations and procedures prohibit flight operations if a flight control or flight control computer failure is detected and require landing as soon as possible if the failure occurs in flight. This service information is reasonably available because the interested parties have access to it

through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

AD Requirements

This AD requires revising the AFM for your airplane by attaching the applicable AFMS, which contains new or revised operating limitations, abnormal procedures, and emergency procedures. This AD specifies that the owner/operator (pilot) may revise the AFM. Revising an AFM is not considered a maintenance action and may be done by a pilot holding at least a private pilot certificate. This action must be recorded in the aircraft maintenance records to show compliance with this AD.

Interim Action

The FAA considers this AD, which addresses continued flight after loss of flight control surface protection, an interim action. Gulfstream is analyzing the airplane flight control system software and developing additional action that will address the unsafe condition identified in this AD. Once this action is developed, approved, and available, the FAA may consider additional rulemaking.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because continued flight after the loss of flight control surface protection leaves the airplane one failure away from a catastrophic event. Current AFM procedures allow continued flight after a system anomaly that would result in loss of flight control surface protection against force-fight and hard-over events, leaving the airplane at extremely high risk for loss of structural integrity of the airplane and loss of control of the airplane. Therefore, the FAA finds good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reasons stated above, the FAA finds that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, the FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under the **ADDRESSES** section. Include Docket Number FAA–2020–0116 and Product Identifier 2019–CE–060–AD at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this final rule. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Costs of Compliance

The FAA estimates that this AD affects 329 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Attach the applicable AFMS to your AFM ..	1 work-hour × $85 per hour = $85	Not applicable	$85	$27,965

Authority for This Rulemaking

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

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

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

Regulatory Flexibility Act

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator,

the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–02–18 Gulfstream Aerospace Corporation: Amendment 39–21026; Docket No. FAA–2020–0116; Product Identifier 2019–CE–060–AD.

(a) Effective Date

This AD is effective February 13, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Gulfstream Aerospace Corporation Models GVI, GVII–G500, and GVII–G600 airplanes, all serial numbers, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Unsafe Condition

This AD was prompted by reports of continued flight after the flight control computer (FCC) has commanded flight control surfaces into a damped by-pass mode (surface shutdown). If flight is continued after a flight control surface shutdown, the airplane is left without protection against flight control surface hard-over and force fight events. The FAA is issuing this AD to provide operating limitations and flight crew procedures in the event of loss of protection against flight control surface hard-over and force fight events. The unsafe condition, if not addressed, could result in loss of structural integrity and loss of control of the airplane.

(f) Actions and Compliance

Comply with this AD within 15 days after February 13, 2020 (the effective date of this AD), unless already done.

(1) Revise the airplane flight manual (AFM) for your airplane by attaching the applicable airplane flight manual supplement (AFMS) specified in paragraphs (f)(1)(i) through (iv) of this AD. When these flight manual changes have been included in a future revision of the AFM, you may insert the revisions in the limitations, abnormal procedures, and emergency procedures sections of the AFM, provided the information is identical to that in the AFMS, and then you may remove the AFMS.

(i) Gulfstream Aerospace G650 Airplane Flight Manual Supplement No. G650–2019–04, dated December 16, 2019.

(ii) Gulfstream Aerospace G650ER Airplane Flight Manual Supplement No. G650ER–2019–04, dated December 16, 2019.

(iii) Gulfstream Aerospace GVII–G500 Airplane Flight Manual Supplement No. GVII–G500–2019–08, dated December 16, 2019.

(iv) Gulfstream Aerospace G600 Airplane Flight Manual Supplement No. GVII–G600–2019–02, dated December 16, 2019.

(2) The action required by paragraph (f)(1) of this AD may be performed by the owner/ operator (pilot) holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9(a)(1) through (4), and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

(g) Special Flight Permit

Special flight permits are prohibited for this AD in accordance with 14 CFR 39.23.

(h) Alternative Methods of Compliance (AMOCs)

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

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

(i) Related Information

For more information about this AD, contact Myles Jalalian, Aerospace Engineer, Atlanta ACO Branch, FAA, 1701 Columbia Avenue, College Park, Georgia 30337; phone: (404) 474–5572; fax: (404) 474–5606; email: *myles.jalalian@faa.gov.*

(j) Material Incorporated by Reference

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

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

(i) Gulfstream Aerospace G650 Airplane Flight Manual Supplement No. G650–2019–04, dated December 16, 2019.

(ii) Gulfstream Aerospace G650ER Airplane Flight Manual Supplement No. G650ER–2019–04, dated December 16, 2019.

(iii) Gulfstream Aerospace GVII–G500 Airplane Flight Manual Supplement No. GVII–G500–2019–08, dated December 16, 2019.

(iv) Gulfstream Aerospace G600 Airplane Flight Manual Supplement No. GVII–G600–2019–02, dated December 16, 2019.

(3) For service information identified in this AD, contact Gulfstream Aerospace Corporation, Technical Publications Dept., P.O. Box 2206, Savannah, GA 31402–2206; telephone: (800) 810–4853; fax: (912) 965–3520; email: *pubs@gulfstream.com;* internet: *https://www.gulfstream.com/customer-support.*

(4) You may view this service information at FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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

Issued on January 27, 2020.

Patrick R. Mullen,

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

[FR Doc. 2020–02856 Filed 2–12–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM19–10–000]

Transmission Planning Reliability Standard TPL–001–5

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) approves Reliability Standard TPL–001–5 (Transmission System Planning Performance Requirements), submitted by the North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization.

DATES: *Effective Date:* This rule will become effective April 13, 2020.

FOR FURTHER INFORMATION CONTACT:

Eugene Blick (Technical Information), Office of Electric Reliability, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (301) 665–1759, *eugene.blick@ferc.gov*

Leigh Anne Faugust (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–6396, *leigh.faugust@ferc.gov*

SUPPLEMENTARY INFORMATION:

1. Pursuant to section 215(d)(2) of the Federal Power Act (FPA), the Commission approves Reliability Standard TPL–001–5 (Transmission System Planning Performance

Requirements).[1] The North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization (ERO), submitted Reliability Standard TPL–001–5 for Commission approval in response to directives in Order No. 786.[2] As discussed in this final rule, we determine that Reliability Standard TPL–001–5 improves upon currently-effective Reliability Standard TPL–001–4 by addressing: (1) The study of single points of failure of protection systems; and (2) planned maintenance outages and stability analysis for spare equipment strategies.

2. The improvements in Reliability Standard TPL–001–5 are responsive to the directives in Order No. 786 regarding planned maintenance outages and stability analysis for spare equipment strategies.[3] Reliability Standard TPL–001–5 is responsive in that it requires each planning coordinator and transmission planner to perform an annual planning assessment of its portion of the bulk electric system considering a number of system conditions and contingencies with a risk-based approach. The improvements in Reliability Standard TPL–001–5 are also responsive to the concerns identified in Order No. 754 regarding the study of a single point of failure on protection systems.[4] Reliability Standard TPL–001–5 contains revisions to the planning events (Category P5) and extreme events (Stability 2.a–h) identified in Table 1 (Steady State and Stability Performance Planning Events and Steady State and Stability Performance Extreme Events), as well as the associated footnote 13, to provide for a more comprehensive study of the potential impacts of protection system single points of failure.

3. For more common scenarios (*i.e.,* planning events), the planning entity must develop a corrective action plan if it determines through studies that its system would experience performance issues.[5] For less common scenarios that could result in potentially severe impacts such as cascading (*i.e.,* extreme events), the planning entity must conduct a comprehensive analysis to understand both the potential impacts on its system and the types of actions that could reduce or mitigate those impacts.[6]

4. Reliability Standard TPL–001–5 is also responsive to Order No. 786 by modifying the requirements for stability analysis to require an entity to assess the impact of the possible unavailability of long lead time equipment, consistent with the entity's spare equipment strategy. Accordingly, pursuant to section 215(d)(2) of the FPA, the Commission approves Reliability Standard TPL–001–5 as just, reasonable, not unduly discriminatory or preferential, and in the public interest.

5. In the Notice of Proposed Rulemaking (NOPR), the Commission proposed to direct NERC, pursuant to section 215(d)(5) of the FPA, to modify the Reliability Standard to require corrective action plans for protection system single points of failure in combination with a three-phase fault if planning studies indicate potential cascading.[7] As discussed below, we determine not to adopt the proposed directive.

I. Background

A. Section 215 and Mandatory Reliability Standards

6. Section 215 of the FPA requires the Commission to certify an ERO to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval. Once approved, the Reliability Standards may be enforced in the United States by the ERO, subject to Commission oversight, or by the Commission independently.[8] Pursuant to section 215 of the FPA, the Commission established a process to select and certify an ERO,[9] and subsequently certified NERC.[10]

B. Industry Advisory

7. On March 30, 2009, NERC issued an advisory report notifying industry that failure of a single component of a protection system caused three significant system disturbances in the previous five years.[11] In the Industry Advisory, NERC stated that ''[p]rotection system component failures may render a protective scheme inoperative, which could result in N–1 transmission system contingencies evolving into more severe or even extreme events.'' [12] NERC advised registered transmission owners, generator owners, and distribution providers ''to address single points of failure on their protection systems, when identified in routine system evaluations, to prevent N–1 transmission system contingencies from evolving into more severe events or even extreme events.'' [13] NERC also advised industry to begin preparing an estimate of the resource commitment required to review, re-engineer, and develop a workable outage and construction schedule to address single points of failure.

C. Order No. 754

8. On November 17, 2009, NERC submitted a petition requesting approval of NERC's interpretation of Reliability Standard TPL–002–2, Requirement R1.3.10. In the resulting Order No. 754, the Commission determined that ''there may be a system protection issue that merits further exploration by technical experts'' and that there is ''an issue concerning the study of the non-operation of non-redundant primary protection systems; *e.g.,* the study of a single point of failure on protection systems.'' [14] To address this concern, the Commission directed ''Commission staff to meet with NERC and its appropriate subject matter experts to explore the reliability concern, including where it can best be addressed, and identify any additional actions necessary to address the matter.'' [15] The Commission also directed NERC ''to make an informational filing . . . explaining whether there is a further system protection issue that needs to be addressed and, if so, what forum and process should be used to address that issue and what priority it should be accorded relative to other reliability initiatives planned by NERC.'' [16]

[1] 16 U.S.C. 824o(d)(2).

[2] *Transmission Planning Reliability Standards,* Order No. 786, 145 FERC ¶ 61,051 (2013).

[3] Order No. 786, 145 FERC ¶ 61,051, at PP 40, 89.

[4] *Interpretation of Transmission Planning Reliability Standard,* Order No. 754, 136 FERC ¶ 61,186, at P 19 (2011).

[5] NERC defines ''Corrective Action Plan'' as, ''A list of actions and an associated timetable for implementation to remedy a specific problem.'' Glossary of Terms Used in NERC Reliability Standards (May 13, 2019) (NERC Glossary).

[6] NERC defines ''Cascading'' as, ''The uncontrolled successive loss of System Elements triggered by an incident at any location. Cascading results in widespread electric service interruption that cannot be restrained from sequentially spreading beyond an area predetermined by studies.'' NERC Glossary.

[7] 16 U.S.C. 824o(d)(5); *Transmission Planning Reliability Standard TPL–001–5,* Notice of Proposed Rulemaking, 84 FR 30,639 (Jun. 27, 2019), 167 FERC ¶ 61,249, at P 5 (2019) (NOPR).

[8] *Id.* 824o(e).

[9] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards,* Order No. 672, 114 FERC ¶ 61,104, *order on reh'g,* Order No. 672–A, 114 FERC ¶ 61,328 (2006).

[10] *North American Electric Reliability Corp.,* 116 FERC ¶ 61,062, *order on reh'g and compliance,* 117 FERC ¶ 61,126 (2006), *aff'd sub nom. Alcoa, Inc.* v. *FERC,* 564 F.3d 1342 (D.C. Cir. 2009).

[11] Industry Advisory, Protection System Single Point of Failure (March 30, 2009), *https://www.nerc.com/pa/rrm/bpsa/Alerts%20DL/2009%20Advisories/A-2009-03-30-01.pdf* (Industry Advisory).

[12] *Id.* at 2.

[13] *Id.* at 1.

[14] Order No. 754, 136 FERC ¶ 61,186, at P 19 (2011).

[15] *Id.* P 20.

[16] *Id.*

9. Commission staff then hosted a technical conference in October 2011 on single points of failure, which resulted in four consensus points and the following problem statement: ''[t]he group perceives a reliability concern regarding the comprehensive assessment of potential protection system failures by registered entities. The group agrees on the need to study if a [reliability] gap exists regarding the study and resolution of a single point of failure on protection systems.'' [17] One outcome of the 2011 technical conference, as described in the 2012 Informational Filing, was that the NERC Board of Trustees approved the issuance of a data request to aid in assessing whether single points of failure in protection systems pose a reliability concern.[18]

10. Over the next two years, NERC collected data from transmission planners that it used to assess protection system single points of failure. This assessment examined in detail the protection systems related to nearly 4,000 buses. The findings were presented in a September 2015 report that concluded that single points of failure on protection systems posed a reliability risk that warranted further action.[19] After considering alternatives, the 2015 Report recommended that NERC modify Reliability Standard TPL–001–4 to maximize reliability of protection system performance and align with the directives in Order No. 754. In particular, the 2015 Report recommended that three-phase faults involving protection system failures be assessed as an extreme event in Reliability Standard TPL–001–4. As an extreme event under Reliability Standard TPL–001–4, Part 4.5, an entity is required to evaluate, but not implement, possible actions designed to mitigate cascading.[20] Notably however, the report did not recommend elevating three-phase faults with a protection system failure to a planning event under Part 2.7, which requires a corrective action plan when analysis indicates an inability to meet performance requirements. The report explained that the ''[p]robability of three-phase fault with a protection system failure is low enough that it does not warrant a planning event.'' [21]

D. Order No. 786

11. In Order No. 786, the Commission approved the currently-effective version of the transmission system planning standard, Reliability Standard TPL–001–4, and issued several directives to NERC. First, the Commission expressed concern that the six (6) month outage duration threshold in Reliability Standard TPL–001–4, Requirement R1 could exclude planned maintenance outages of significant facilities from future planning assessments.[22] The Commission determined that planned maintenance outages of less than six (6) months in duration may result in relevant impacts during one or both of the seasonal off-peak periods, and that prudent transmission planning should consider maintenance outages at those load levels when planned outages are performed to allow for a single element to be taken out of service for maintenance without compromising the ability of the system to meet demand without loss of load. The Commission further determined that a properly planned transmission system should ensure the known, planned removal of facilities (*i.e.,* generation, transmission, or protection system facilities) for maintenance purposes without the loss of nonconsequential load or detrimental impacts to system reliability such as cascading, voltage instability, or uncontrolled islanding. The Commission directed NERC to modify the Reliability Standards to address these concerns.

12. Second, while stating that NERC had met the Commission's Order No. 693 directive to include a spare equipment strategy for steady state analysis in Reliability Standard TPL–001–4, the Commission determined that a spare equipment strategy for stability analysis was not addressed in the standard.[23] The Commission stated that a similar spare equipment strategy for stability analysis should exist that requires studies to be performed for no or single contingency categories [24] with the conditions that the system is expected to experience during the possible unavailability of the long lead time equipment. Rather than direct a change at that time, however, the Commission directed NERC to consider the issue during the next review cycle of Reliability Standard TPL–001–4.[25]

E. NERC Petition and Reliability Standard TPL–001–5

13. On December 7, 2018, NERC submitted Reliability Standard TPL–001–5 for Commission approval.[26] NERC maintains that Reliability Standard TPL–001–5 addresses the Order No. 786 directives. With regard to protection system single points of failure, NERC indicates that Table 1 of Reliability Standard TPL–001–5 describes system performance requirements for a range of potential system contingencies required to be evaluated by the planner.[27] Table 1 includes three parts: (1) Steady State & Stability Performance Planning Events; (2) Steady State & Stability Performance Extreme Events; and (3) Steady State & Stability Performance Footnotes. Table 1 describes system performance requirements for a range of potential system contingencies required to be evaluated by the planner. The table categorizes the events as either ''planning events'' or ''extreme events.'' The table lists seven contingency planning events (P1 through P7) that require steady-state and stability analysis as well as five extreme event contingencies: Three for steady-state and two for stability.

14. According to NERC, Reliability Standard TPL–001–5 includes certain modifications to better ensure that planning entities are performing a more complete analysis of potential protection system single points of failure issues on their systems and taking appropriate action to address these concerns. NERC explains that Reliability Standard TPL–001–5 contains revisions to both the Table 1 planning event (Category P5) and extreme events (Stability 2.a–h) and the associated footnote 13 to provide for more comprehensive study of the potential impacts of protection system single points of failure.

[17] NERC, Order No. 754 Single Point of Failure Technical Meeting Notes at 8 (October 24–25, 2011).

[18] 2012 NERC Informational Filing at 7 (stating that the data request ''is based on an approach that utilizes . . . a three-phase (3Ø) fault and assesses simulated system performance against performance measures'').

[19] NERC, Order No. 754 Assessment of Protection System Single Points of Failure Based on the Section 1600 Data Request, at 11 (September 2015) (2015 Report).

[20] *Id.*

[21] *Id.* at 9.

[22] Order No. 786, 145 FERC ¶ 61,051 at PP 40–45.

[23] *Id.* PP 85, 88–89 (citing *Mandatory Reliability Standards for the Bulk-Power System,* Order No. 693, 118 FERC ¶ 61,218, at P 1786, *order on reh'g,* Order No. 693–A, 120 FERC ¶ 61,053 (2007)).

[24] *See* Reliability Standard TPL–001–4, Table 1—Steady State & Stability Performance Planning Events, Categories P0, P1, and P2.

[25] Order No. 786, 145 FERC ¶ 61,051 at PP 88–89.

[26] Reliability Standard TPL–001–5 is available on the Commission's eLibrary document retrieval system in Docket No. RM19–10–000 and on the NERC website, *www.nerc.com.*

[27] Reliability Standard TPL–001–5 includes an expanded list of protection system components for single points of failure studies. The selected list of components account for: (1) Those failed non-redundant components of a protection system that may impact one or more protection systems; (2) the duration that faults remain energized until delayed fault clearing; and (3) the additional system equipment removed from service following fault clearing depending on the specific failed non-redundant component of a protection system. NERC Petition at 16.

15. NERC states that where the study of a protection system single point of failure for a single-line-to-ground fault (*i.e.,* a Category P5 event) identifies cascading, a corrective action plan is required.[28] NERC considers this a relatively commonplace scenario, and NERC explains that an entity would be required to develop a corrective action plan if it determines that its system would be unable to meet the performance requirements of Table 1 for the Category P5 event.

16. In contrast, the revisions treat a protection system single point of failure in combination with a three-phase fault as an extreme event that does not require a corrective action plan. NERC asserts that the three-phase fault scenario is much less common than the single-line-to-ground fault scenario. According to NERC, like the other extreme events in Reliability Standard TPL–001–5, the three-phase fault scenario, while rare, could result in more significant impacts to an entity's system.[29] Under this approach, if an entity determines that its system will experience cascading as a result of a three-phase fault scenario, the entity would evaluate possible actions designed to reduce the likelihood or mitigate the consequences of the event; however, a corrective action plan would not be required.

17. NERC explains that the likelihood of a three-phase fault event occurring and resulting in the most severe impacts would be small based on an historical analysis of NERC data on protection system misoperation. NERC states that it reviewed over 12,000 protection system misoperation in its Misoperation Information Data Analysis System database reported since 2011, of which only 28 involved three-phase faults. Of those, NERC states that 10 involved breakers that failed to operate, and the remaining 18 involved breakers that were slow to operate.[30] NERC contends that a failure to operate may indicate an instance of a protection system single point of failure. While the potential for severe impacts from such events remains, NERC asserts that none of the 10 failure to trip scenarios reported since 2011 resulted in events that reached the threshold for reporting under Reliability Standard EOP–004 (Event Reporting).[31] With regard to the Order No. 786 directives, NERC maintains that Reliability Standard TPL–001–5 provides for a more complete consideration of factors for selecting which known outages will be included in near-term transmission planning horizon studies.

F. Notice of Proposed Rulemaking

18. On June 20, 2019, the Commission issued a NOPR that proposed to approve Reliability Standard TPL–001–5 as the Reliability Standard largely addresses the directives in Order No. 786. The NOPR also proposed to direct NERC, pursuant to section 215(d)(5) of the FPA, to modify the Reliability Standard to require corrective action plans for protection system single points of failure in combination with a three-phase fault if planning studies indicate potential cascading.[32] The NOPR stated that NERC had not adequately justified categorizing protection system single points of failure in combination with a three-phase fault as an extreme event that only requires study, but not a corrective action plan, when there is the potential for cascading. The NOPR also expressed concern with NERC's assessment that such events do not necessitate corrective action plans because of their rarity. The NOPR proposed to direct NERC to submit the modified Reliability Standard for approval within twelve (12) months from the effective date of a final rule.

19. In addition to inviting comment on the proposed directive, the NOPR sought comment on: (1) How many corrective action plans are expected for protection system single points of failure in combination with a three-phase fault if a study indicates cascading, so the Commission could better understand the potential for increased costs and other implementation issues; and (2) the Commission's proposal to direct NERC address the directive within twelve (12) months of the effective date of the final rule.

20. The Commission received ten sets of NOPR comments. We address below the issues raised in the NOPR and the comments submitted in response. The Appendix to this final rule lists the entities that filed comments.

II. Discussion

21. Pursuant to section 215(d)(2) of the FPA, the Commission approves Reliability Standard TPL–001–5 as just, reasonable, not unduly discriminatory or preferential, and in the public interest. We conclude that Reliability Standard TPL–001–5 is an improvement over currently-effective Reliability Standard TPL–001–4 and will improve Bulk-Power System reliability by requiring enhanced transmission system planning regarding the study of protection system single points of failure in combination with a single-line-to-ground fault, as discussed in Order No. 754. The Commission also approves the associated violation risk factors, violation severity levels, and implementation plan.

22. The Commission determines that Reliability Standard TPL–001–5 satisfies the Order No. 786 directives regarding planned maintenance outages and stability analysis for spare equipment strategies. First, Reliability Standard TPL–001–5 provides for a more complete consideration of factors for selecting which known outages will be included in near-term transmission planning horizon studies. The modifications in Reliability Standard TPL–001–5 also address the Commission's concern that the exclusion of known outages of less than six (6) months in currently-effective Reliability Standard TPL–001–4 could result in outages of significant facilities not being studied. Second, Reliability Standard TPL–001–5 modifies requirements for stability analysis to require an entity to assess the impact of the possible unavailability of long lead time equipment, consistent with the entity's spare equipment strategy. For these reasons, the Commission approves Reliability Standard TPL–001–5.

23. In addition, the Commission determines not to direct NERC to develop and submit modifications to the Reliability Standards to require corrective action plans to address protection system single points of failure in combination with a three-phase fault if planning studies indicate potential cascading. We are persuaded by NERC and other commenters of the improbability of single points of failure in combination with three-phase faults resulting in cascading outages.[33] Our determination is also supported by the 2015 Report's assessment that the probability of an adverse system impact from a three-phase fault accompanied by a protection system failure is low

[28] Reliability Standard TPL–001–5, Table 1 (Steady State and Stability Performance Planning Events), Category P5 requires the study of a single-line-to-ground faulted element (*e.g.,* generator, transmission circuit or transformer) along with a failure to operate of a non-redundant component of the protection system (*i.e.,* a single point of failure) protecting the faulted element.

[29] Order No. 693, 118 FERC ¶ 61,218 at P 1826 (describing extreme events as ''events resulting in loss of two or more elements or cascading'').

[30] NERC Petition at 26, n.55.

[31] Reliability Standard EOP–004–3 (Event Reporting), Attachment 1: Reportable Events, contains a list of thresholds for reporting certain events to NERC. Examples of reporting thresholds include: Loss of firm load for 15 minutes or more if 300 MW or greater for entities with a previous year's demand of at least 3,000 MW, or 200 MW or greater for all other entities.

[32] NOPR, 167 FERC ¶ 61,249 at P 1.

[33] *See, e.g.,* NERC Petition 25–26, NERC Comments at 5, Trade Associations Comments at 5–6.

enough that it does not warrant being a planning event (*i.e.,* requiring a corrective action plan). Although the Commission previously noted that there is an average of approximately one three-phase fault event every three (3) months since 2011, only ten indicated instances of a protection system single point of failure, which we agree is a rare occurrence. Given the NERC standard drafting team's assessment of the improbability of single points of failure in combination with three-phase faults resulting in cascading outages, we determine that it is reasonable to address such occurrences as extreme events only requiring analysis and evaluation of possible mitigating actions designed to reduce adverse impacts.

24. Further, we do not adopt BPA's recommendation, as an alternative to the NOPR directive, for NERC to conduct a two-year pilot to determine whether the types of actions that could reduce or mitigate the impacts of single point of failure events are a cost-effective means of ensuring reliability.[34] As discussed above, we conclude that the record reflects the infrequent nature of single points of failure in combination with three-phase faults resulting in cascading outages and therefore justifies our determination not to adopt the NOPR directive.

Other Issues Raised in NOPR Comments

25. MISO's comments include recommendations apart from the issues discussed above. First, MISO recommends revising Reliability Standard TPL–001–5 to address the need for planned outage flexibility in the planning horizon. MISO contends that since very few planned outages are scheduled in the planning horizon, the Reliability Standard omits consideration of planned (*i.e.,* known) outages in the planning assessment. MISO states that Reliability Standard TPL–001–5 does not define the term ''known'' outages. MISO believes that the industry stakeholders will primarily interpret the term ''known'' to require that only scheduled outages be included in transmission planning models. MISO maintains that because the eventual occurrence of a future planned outage is certain to occur, such planned outages should be considered ''known'' for purposes of applying Reliability Standards to the transmission planning process.

26. Second, MISO recommends adding instrument transformers (*i.e.,* current transformers and voltage transformers) to Reliability Standard TPL–001–5, Table 1, Footnote 13 to define protection system non-redundancies. MISO observes that instrument transformers are components listed in the NERC definition of protection system and, according to NERC, represent valid single points of failure.

Commission Determination

27. The Commission agrees with MISO that ''because the eventual occurrence of a future planned outage is certain to occur, such planned outages should be considered 'known' for purposes of applying Reliability Standards to the transmission planning process.''[35] As MISO observes, the Commission stated in Order No. 786 that a ''properly planned transmission system should ensure the known, planned removal of facilities (*i.e.,* generation, transmission or protection system facilities) for maintenance purposes without the loss of non-consequential load or detrimental impacts to system reliability such as cascading, voltage instability or uncontrolled islanding.''[36] Moreover, the Commission indicated in Order No. 786 that known planned facility outages (*i.e.* generation, transmission or protection system facilities) should be addressed so long as their ''planned start times and durations may be anticipated as occurring for some period of time during the planning time horizon.''[37] Given these statements, we are not convinced that registered entities will interpret ''known'' in Reliability Standard TPL–001–5 to mean scheduled, as MISO contends. Accordingly, we decline to adopt MISO's recommendation to modify the Reliability Standard.

28. The Commission also declines to direct NERC to include instrument transformer (*i.e.,* current transformers and voltage transformers) failure as a single component failure in Reliability Standard TPL–001–5, Footnote 13. The standard drafting team explained in the Technical Rationale document for Reliability Standard TPL–001–5 that the ''[System Protection and Control Subcommittee and System Modeling and Analysis Subcommittee] report described voltage or current sensing devices [*i.e.,* current transformers and voltage transformers] as having a lower level of risk of failure to trip due to robustness and likelihood to actually cause tripping upon failure. Therefore, these components of a Protection System are omitted from Footnote 13.''[38] While it contends that ''ignoring instrument transformers . . . is contrary to good utility practice,'' MISO acknowledges that ''instrument transformers are generally more robust than the other components of a protection system.''[39] Based on this record, the Commission declines to adopt MISO's recommendation.

III. Information Collection Statement

29. The Paperwork Reduction Act (PRA)[40] requires each federal agency to seek and obtain the Office of Management and Budget's (OMB) approval before undertaking a collection of information (including reporting, record keeping, and public disclosure requirements) directed to ten or more persons or contained in a rule of general applicability. OMB regulations require approval of certain information collection requirements imposed by rules (including deletion, revision, or implementation of new requirements).[41] Upon approval of a collection of information, OMB will assign an OMB control number and expiration date. Respondents subject to the filing requirements of this rule will not be penalized for failing to respond to the collection of information unless the collection of information displays a valid OMB Control Number.

30. The Commission is submitting these reporting and recordkeeping requirements to OMB for its review and approval under section 3507(d) of the PRA. The Commission solicits comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

31. *Burden Estimate:*[42] The estimated burden[43] and cost[44] for the

[34] BPA Comments at 2–3.

[35] MISO Comments at 5.

[36] Order No. 786, 45 FERC ¶ 61,051 at P 41.

[37] *Id.* P 44.

[38] NERC Petition, Exhibit F (Technical Rationale) at 5.

[39] MISO Comments at 12.

[40] 44 U.S.C. 3501–21.

[41] 5 CFR 1320.

[42] ''Burden'' is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 CFR 1320.3.

[43] The estimated burden is a one-time burden estimate in addition to the already approved burden estimate in Reliability Standard TPL–001–4.

[44] Hourly costs are based on the Bureau of Labor Statistics (BLS) figures for May 2018 (Sector 22, Utilities) for wages (*https://www.bls.gov/oes/current/naics2_22.htm*) and benefits (*https://www.bls.gov/news.release/ecec.nr0.htm*). We

Continued

requirements contained in this final rule follows:

FERC–725N, MODIFICATIONS DUE TO FINAL RULE IN DOCKET NO. RM19–10–000

Areas of modification	Number of respondents [45] (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden & cost per response (4)	Total annual burden hours & total annual cost (3) * (4) = (5)
Single Point of Failure (one-time).	214 (PC/TP) ...	1	214	16 hrs. (reporting: 12 hrs.; recordkeeping: 4 hrs.); $880.	3,424 hrs. & $188,320. (reporting, 2,568 hrs. & $141,240, & recordkeeping, 856 hrs., $47,080).
Spare Equipment Strategy (one-time).	214 (PC/TP) ...	1	214	4 hrs. (reporting: 2 hrs.; recordkeeping: 2 hrs.); $220.	856 hrs. & $47,080 (reporting, 428 hrs. & $23,540; recordkeeping, 428 hrs. & $23,540).
Plan Maintenance Outage (one-time).	214 (PC/TP) ...	1	214	16 hrs. (reporting: 12 hrs.; recordkeeping: 4 hrs.) $880.	3,424 hrs. & $188,320 (reporting, 2,568 hrs. & $141,240; recordkeeping, 856 hrs. & $47,080).
Sub-Total for Reporting Requirements.	.....	.....	.....	.....	5,564 hrs.; $306,020
Sub-Total for Recordkeeping Requirements.	.....	.....	.....	.....	2,140 hrs.; $117,700
Total	.....	.....	642	.....	7,704 hrs.; $423,720

32. This final rule will not significantly change existing burdens on an ongoing basis. The Commission estimates a one-time burden increase for Year 1 only because Year 1 represents a one-time task not repeated in subsequent years.

33. *Title:* FERC–725N, Mandatory Reliability Standards: Transmission Planning (TPL) Reliability Standards.

Action: Revision to FERC–725N information collection.

OMB Control No.: 1902–0264.

Respondents: Businesses or other for-profit institutions; not-for-profit institutions.

Frequency of Responses: One Time.

Necessity of the Information: This final rule approves the requested modifications to a Reliability Standard pertaining to transmission planning. As discussed above, the Commission approves Reliability Standard TPL–001–5 pursuant to FPA section 215(d)(2) because it improves upon the currently-effective Reliability Standard TPL–001–4.

Internal Review: The Commission has reviewed Reliability Standard TPL–001–5 and determined that its action is necessary to implement section 215 of the FPA. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

34. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gov,* phone: (202) 502–8663, fax: (202) 273–0873].

Submit comments concerning the collection of information and the associated burden estimate to the Commission in this docket, and to the Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street NW, Washington, DC 20503, [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments to OMB should be submitted by email to: *oira_submission@omb.eop.gov.* Comments submitted to OMB should include FERC–725N and OMB Control No. 1902–0264.

IV. Environmental Analysis

35. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[46] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[47] The actions proposed herein fall within this categorical exclusion in the Commission's regulations.

V. Regulatory Flexibility Act Analysis

36. The Regulatory Flexibility Act of 1980 (RFA)[48] generally requires a description and analysis of rulemakings that will have significant economic

estimate that Office and Administrative Support (Occupation code: 43–0000) would perform the functions associated with recordkeeping requirements, at an average hourly cost (for wages and benefits) of $42.11. We estimate the functions associated with reporting requirements would be performed by an Electrical Engineer (Occupation code: 17–2051) at an average hourly cost (including wages and benefits) of $68.17. These occupational categories' wage figures are averaged and weighted equally as follows: ($42.11 hour + $68.17 hour) ÷ 2 = $55.14/hour. The resulting wage figure is rounded to $55.00/hour for use in calculating wage figures in the final rule in Docket No. RM19–10–000.

[45] The number of respondents is based on the NERC Registry on November 21, 2019, which showed 8 entities registered as planning coordinators (PCs), 139 entities registered as transmission planners (TPs), ad 67 entities registered as both PCs and TPs.

[46] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987) (cross-referenced at 41 FERC ¶ 61,284).

[47] 18 CFR 380.4(a)(2)(ii).

impact on a substantial number of small entities.[49] The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[50] The SBA revised its size standard for electric utilities (effective January 22, 2014) to a standard based on the number of employees, including affiliates (from the prior standard based on megawatt hour sales).[51]

37. Reliability Standard TPL–001–5 is expected to impose an additional burden on 214 entities [52] (PCs and TPs). Of the 214 affected entities discussed above, we estimate that approximately 10 percent of the affected entities are small entities. We estimate that each of the 21 small entities to whom the proposed modifications to proposed Reliability Standard TPL–001–5 apply will incur one-time costs of approximately $1,980 per entity to implement the proposed Reliability Standard. We do not consider the estimated costs for these 21 small entities to be a significant economic impact.

38. Accordingly, the Commission certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

VI. Document Availability

39. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE, Room 2A, Washington, DC 20426.

40. From FERC's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

41. User assistance is available for eLibrary and the FERC's website during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202)502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

VII. Effective Date and Congressional Notification

42. These regulations are effective April 13, 2020. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996. The rule will be provided to the Senate, House, Government Accountability Office, and the SBA.

By the Commission.
Issued: January 23, 2020.

Kimberly D. Bose,

Secretary.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix—List of Commenters

Abbreviation	Commenter
AF&PA	American Forest and Paper Association.
APS	Arizona Public Service Company.
BPA	Bonneville Power Administration.
Carder	William Carder.
MISO	Midcontinent Independent System Operator, Inc.
NERC	North American Electric Reliability Corporation.
Pugh	Theresa Pugh.
Trade Associations	American Public Power Association, Edison Electric Institute, Large Public Power Council, National Rural Electric Cooperative Association.
Tri-State	Tri-State Generation and Transmission Association, Inc.
TVA	Tennessee Valley Authority.

[FR Doc. 2020–02170 Filed 2–12–20; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM18–20–000; ORDER NO. 866]

Critical Infrastructure Protection Reliability Standard CIP–012–1—Cyber Security—Communications Between Control Centers

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) approves Reliability Standard CIP–012–1 (Cyber Security—Communications between Control Centers). The North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization, submitted Reliability Standard CIP–012–1 for Commission approval in response to a Commission directive. In addition, the Commission directs NERC to develop modifications to the CIP Reliability Standards to require protections regarding the availability of communication links and data communicated between bulk electric system Control Centers.

DATES: This rule will become effective April 13, 2020.

FOR FURTHER INFORMATION CONTACT:
Vincent Le, (Technical Information), Office of Electric Reliability, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–6204, *vincent.le@ferc.gov*
Kevin Ryan, (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–6840, *kevin.ryan@ferc.gov*

SUPPLEMENTARY INFORMATION:

[48] 5 U.S.C. 601–612.
[49] *Id.*
[50] 13 CFR 121.101.
[51] *Id.* 121.201.
[52] Public utilities may fall under one of several different categories, each with a size threshold based on the company's number of employees, including affiliates, the parent company, and subsidiaries. We are using a 500-employee threshold due to each affected entity falling within the role of Electric Bulk Power Transmission and Control (NAISC Code: 221121).

1. Pursuant to section 215(d)(2) of the Federal Power Act (FPA),[1] the Commission approves Reliability Standard CIP–012–1 (Cyber Security—Communications between Control Centers). The North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization (ERO), submitted Reliability Standard CIP–012–1 for Commission approval in response to a Commission directive in Order No. 822.[2] In Order No. 822, the Commission directed NERC, pursuant to section 215(d)(5) of the FPA, to develop modifications to the Reliability Standards to require responsible entities to implement controls to protect, at a minimum, communications links and sensitive bulk electric system data communicated between bulk electric system Control Centers ''in a manner that is appropriately tailored to address the risks posed to the bulk electric system by the assets being protected (*i.e.,* high, medium, or low impact).'' [3]

2. Consistent with the directive in Order No. 822, Reliability Standard CIP–012–1 improves upon the currently-effective Critical Infrastructure Protection (CIP) Reliability Standards to mitigate cyber security risks associated with communications between bulk electric system Control Centers. Specifically, Reliability Standard CIP–012–1 supports situational awareness and reliable bulk electric system operations by requiring responsible entities to protect the confidentiality and integrity of Real-time Assessment [4] and Real-time monitoring data transmitted between bulk electric system Control Centers. Accordingly, the Commission approves Reliability Standard CIP–012–1 because it is largely responsive to the Commission's directive in Order No. 822 and improves the cyber security posture of responsible entities. We also approve the associated violation risk factors and violation severity levels, implementation plan, and effective date.

3. In addition, pursuant to section 215(d)(5) of the FPA, the Commission directs NERC to develop modifications to the CIP Reliability Standards to require protections regarding the *availability* of communication links and data communicated between bulk electric system Control Centers. As discussed in the Notice of Proposed Rulemaking (NOPR), Reliability Standard CIP–012–1 does not require protections regarding the availability of communication links and data communicated between bulk electric system Control Centers, as directed in Order No. 822.[5] In the NOPR, the Commission indicated that it did not agree with NERC's assertion that currently-effective Reliability Standards address availability, and we are not persuaded by NOPR comments raising the same argument. Instead, pursuant to section 215(d)(5) of the FPA, we determine that the absence of a requirement that specifically pertains to the availability of communication links and data communicated between bulk electric system Control Centers represents a reliability gap in the CIP Reliability Standards that should be addressed by NERC.

4. The Commission, in the NOPR, also proposed to direct NERC to identify clearly the types of data that must be protected under Reliability Standard CIP–012–1. The NOPR expressed concern that Reliability Standard CIP–012–1 does not adequately identify the types of data covered by its requirements, due to, among other things, the fact that the term ''Real-time monitoring'' is not defined in the Reliability Standard or the NERC Glossary. After considering the NOPR comments, however, we determine not to direct the proposed modification based on the explanation of the types of data that must be protected set forth in the NOPR comments.

I. Background

A. Section 215 and Mandatory Reliability Standards

5. Section 215 of the FPA requires a Commission-certified ERO to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval. Reliability Standards may be enforced by the ERO, subject to Commission oversight, or by the Commission independently.[6] Pursuant to section 215 of the FPA, the Commission established a process to select and certify an ERO,[7] and subsequently certified NERC.[8]

B. Order No. 822

6. In Order No. 822, the Commission approved seven modified CIP Reliability Standards and directed NERC to develop additional modifications to the CIP Reliability Standards.[9] Specifically, the Commission directed that NERC, among other things, develop modifications to the CIP Reliability Standards to require that responsible entities implement controls to protect, at a minimum, communications links and sensitive bulk electric system data communicated between bulk electric system Control Centers ''in a manner that is appropriately tailored to address the risks posed to the bulk electric system by the assets being protected (*i.e.,* high, medium, or low impact).'' [10] The Commission observed that NERC, as well as other commenters in that proceeding, ''recognize that inter-Control Center communications play a critical role in maintaining bulk electric system reliability by . . . helping to maintain situational awareness and support reliable operations through timely and accurate communication between Control Centers.'' [11]

7. The Commission explained that Control Centers associated with responsible entities, including reliability coordinators, balancing authorities, and transmission operators, must be capable of receiving and storing a variety of bulk electric system data from their interconnected entities in order to adequately perform their reliability functions. The Commission, therefore, determined that ''additional measures to protect both the integrity and availability of sensitive bulk electric system data are warranted.'' [12]

The Commission cautioned, however, that ''not all communication network components and data pose the same risk to bulk electric system reliability and may not require the same level of

[1] 16 U.S.C. 824o(d)(2).

[2] *Revised Critical Infrastructure Protection Reliability Standards,* Order No. 822, 154 FERC ¶ 61,037, at P 53, *order denying reh'g,* Order No. 822–A, 156 FERC ¶ 61,052 (2016).

[3] 16 U.S.C. 824o(d)(5); Order No. 822, 154 FERC ¶ 61,037 at P 53.

[4] The NERC Glossary defines Real-time Assessment as, ''An evaluation of system conditions using Real-time data to assess existing (pre-Contingency) and potential (post-Contingency) operating conditions. The assessment shall reflect applicable inputs including, but not limited to: Load, generation output levels, known Protection System and Special Protection System status or degradation, Transmission outages, generator outages, Interchange, Facility Ratings, and identified phase angle and equipment limitations. (Real-time Assessment may be provided through internal systems or through third-party services.)'' NERC Glossary of Terms Used in NERC Reliability Standards (July 3, 2018).

[5] *See Critical Infrastructure Protection Reliability Standard CIP–012–1—Cyber Security—Communication between Control Centers,* Notice of Proposed Rulemaking, 167 FERC ¶ 61,055, at P 54 (2019) (NOPR).

[6] 16 U.S.C. 824o(e).

[7] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards,* Order No. 672, 114 FERC ¶ 61,104, *order on reh'g,* Order No. 672–A, 114 FERC ¶ 61,328 (2006).

[8] *North American Electric Reliability Corp.,* 116 FERC ¶ 61,062, *order on reh'g and compliance,* 117 FERC ¶ 61,126 (2006), *aff'd sub nom. Alcoa, Inc.* v. *FERC,* 564 F.3d 1342 (D.C. Cir. 2009).

[9] Order No. 822, 154 FERC ¶ 61,037 at PP 1, 3.

[10] *Id.* P 53.

[11] *Id.* P 54.

[12] *Id.*

protection.'' [13] Therefore, the Commission determined that NERC should develop controls that reflect the risk being addressed in a reasonable manner.

C. NERC Petition and Reliability Standard CIP–012–1

8. On September 18, 2018, NERC submitted for Commission approval proposed Reliability Standard CIP–012–1 and the associated violation risk factors and violation severity levels, implementation plan, and effective date.[14] NERC states that the purpose of Reliability Standard CIP–012–1 is to help maintain situational awareness and reliable bulk electric system operations by protecting the confidentiality and integrity of Real-time Assessment and Real-time monitoring data transmitted between Control Centers.

9. NERC states that Reliability Standard CIP–012–1 ''requires Responsible Entities to develop and implement a plan to address the risks posed by unauthorized disclosure (confidentiality) and unauthorized modification (integrity) of Real-time Assessment and Real-time monitoring data while being transmitted between applicable Control Centers.'' [15] According to NERC, the required plan must include the following: (1) Identification of security protections; (2) identification of where the protections are applied; and (3) identification of the responsibilities of each entity in case a Control Center is owned or operated by different responsible entities.[16]

10. As noted above, the types of data within the scope of Reliability Standard CIP–012–1 consist of Real-time Assessment and Real-time monitoring data exchanged between Control Centers. NERC states that it is critical that this information is accurate since responsible entities operate and monitor the bulk electric system based on this Real-time information. NERC explains that Reliability Standard CIP–012–1 ''excludes other data typically transferred between Control Centers, such as Operational Planning Analysis data, that is not used by the Reliability Coordinator, Balancing Authority, and Transmission Operator in Real-time.'' [17]

11. NERC also indicates that data at rest and oral communications fall outside the scope of Reliability Standard CIP–012–1. Regarding data at rest, NERC states that the standard drafting team determined that since data at rest resides within BES Cyber Systems,[18] it is already protected by the controls mandated by Reliability Standards CIP–003–6 through CIP–011–2. According to NERC, oral communications are out of scope of Reliability Standard CIP–012–1 ''because operators have the ability to terminate the call and initiate a new one via trusted means if they suspect a problem with, or compromise of, the communication channel.'' [19] NERC notes that Reliability Standard COM–001–3 requires reliability coordinators, balancing authorities, and transmission operators to have alternative interpersonal communication capability, which could be used if there is a suspected compromise of oral communication on one channel.

D. Notice of Proposed Rulemaking

12. On April 18, 2019, the Commission issued a NOPR proposing to approve Reliability Standard CIP–012–1 as just, reasonable, not unduly discriminatory or preferential, and in the public interest.[20] The NOPR stated that Reliability Standard CIP–012–1 is largely responsive to the Commission's directive in Order No. 822 and improves the cyber security posture of the bulk electric system by requiring responsible entities to protect the confidentiality and integrity of Real-time Assessment and Real-time monitoring data transmitted between bulk electric system Control Centers, which supports situational awareness and reliable bulk electric system operations.

13. While proposing to approve Reliability Standard CIP–012–1, the Commission also proposed to direct NERC to develop modifications to the CIP Reliability Standards to address potential reliability gaps. First, the NOPR stated that Reliability Standard CIP–012–1 does not require protections regarding the availability of communication links and data communicated between bulk electric system Control Centers as directed in Order No. 822. The NOPR explained that the Commission was not persuaded by NERC's explanation that certain currently-effective Reliability Standards address the issue of availability. Second, the NOPR raised a concern that Reliability Standard CIP–012–1 does not adequately identify the types of data covered by its requirements, due to, among other things, the fact that Real-time monitoring is not defined in the proposed Reliability Standard or the NERC Glossary.[21]

14. In response to the NOPR, eight entities submitted comments. A list of commenters appears in Appendix A. The discussion below addresses the proposals in the NOPR as well as the NOPR comments.

II. Discussion

15. Pursuant to section 215(d)(2) of the FPA, the Commission approves Reliability Standard CIP–012–1 as just, reasonable, not unduly discriminatory or preferential, and in the public interest. Reliability Standard CIP–012–1 largely addresses the Commission's directive in Order No. 822 because it will enhance existing protections for bulk electric system reliability by augmenting the currently-effective CIP Reliability Standards to mitigate cyber security risks associated with communications between bulk electric system Control Centers. Reliability Standard CIP–012–1 achieves this by requiring responsible entities to protect the confidentiality and integrity of Real-time Assessment and Real-time monitoring data transmitted between bulk electric system Control Centers, thereby supporting situational awareness and reliable bulk electric system operations.

16. While the Commission approves Reliability Standard CIP–012–1, we also determine that the reliability risks identified in Order No. 822 will not be fully addressed with the implementation of the Reliability Standard. As discussed below, a significant cyber security risk associated with the protection of communications links and sensitive bulk electric system data communicated between bulk electric system Control Centers remains because Reliability Standard CIP–012–1 does not address the availability of communication links and data communicated between bulk electric system Control Centers. To address this gap, the Commission directs NERC, pursuant to section 215(d)(5) of the FPA, to develop modifications to the CIP Reliability Standards to require protections regarding the availability of communication links and data communicated between bulk electric system Control Centers.

17. Below, we discuss the following issues: (A) Availability of bulk electric system communication links and data; and (B) scope of bulk electric system data that must be protected.

[13] *Id.* P 56.

[14] Reliability Standard CIP–012–1 is not attached to this final rule. The Reliability Standard is available on the Commission's eLibrary document retrieval system in Docket No. RM18–20–000 and on the NERC website, *www.nerc.com.*

[15] NERC Petition at 10.

[16] *Id.* at 3.

[17] *Id.* at 12.

[18] BES Cyber System is defined as ''[o]ne or more BES Cyber Assets logically grouped by a responsible entity to perform one or more reliability tasks for a functional entity.'' NERC Glossary. The acronym BES refers to the bulk electric system.

[19] NERC Petition at 14.

[20] NOPR, 167 FERC ¶ 61,055 at P 1.

[21] *Id.* P 16.

A. Availability of Bulk Electric System Communication Links and Data

1. NOPR

18. The NOPR stated that Reliability Standard CIP–012–1 does not address the availability component of the Commission's directive in Order No. 822. The NOPR identified this as a gap because ensuring timely and reliable access to and use of data is essential to the reliable operation of the bulk electric system. The NOPR indicated that the existing Reliability Standards cited in NERC's petition do not require responsible entities to protect the availability of sensitive bulk electric system data in a manner consistent with Order No. 822.[22] In particular, the NOPR stated that the cited Reliability Standards either do not apply to communications between individual Control Centers or, while their effect may be to support availability, the Reliability Standards do not create an obligation to protect availability.[23]

2. Comments

19. NERC, Trade Associations, Tri-State and IRC do not support a directive that addresses the availability of communication links and data communicated between bulk electric system Control Centers. Reclamation, Appelbaum, and Liu express support for the directive, while Bonneville offers qualified support.

20. Comments opposing the proposed directive largely reiterate the petition's assertion that currently-effective Reliability Standards adequately protect the availability of communication links and data communicated between bulk electric system Control Centers. For example, NERC contends that ''[w]hile IRO–002–5 and TOP–001–4 cover infrastructure within Control Centers, not between Control Centers, the requirements help protect the availability of data to be exchanged between Control Centers . . . [because] the data exchange infrastructure in scope of these requirements facilitates sending and receiving data between Control Centers.'' [24] NERC explains that if ''an applicable entity lost capability of some of this data exchange infrastructure, the applicable entity could continue to send and receive data between Control Centers because of the redundant data exchange infrastructure within its Control Center.[25] In addition, NERC states that Reliability Standards IRO–010–2 and TOP–003–3 require applicable entities to use a mutually agreeable security protocol between Control Centers. NERC explains that this supports availability by helping to ensure that conflicting protocols do not impede receipt of data between Control Centers.

21. NERC also contends that Reliability Standard EOP–008–2 helps support the availability of communication links between Control Centers by requiring reliability coordinators to have backup Control Center facilities, or backup Control Center functionality for balancing authorities and transmission operators, in addition to their primary Control Centers. NERC explains that ''[t]hese backup facilities supply redundancy of some communication links and data exchange infrastructure and capabilities at the backup Control Center.'' [26] NERC further explains that entities with geographically diverse primary and backup Control Centers may have communication links that are physically separate from one another. NERC concludes that although ''geographic diversity alone will not always provide redundancy of communication links, having backup Control Centers with different paths to communicate with other Control Centers helps support availability of communication links.'' [27]

22. In addition, comments opposing the directive maintain that it is premature to require protections for the availability of the communication links and data at issue. NERC states that it recognizes that ''there may be additional controls that could help address'' risks to the availability of data and communication links and commits to ''study the risks to availability of data and communication links between Control Centers and the current controls that support availability.'' [28] Trade Associations, similarly, ''encourage[s] the Commission to consider directing NERC to study the issue [of telecommunications security] to identify specific availability vulnerabilities and potential mitigation methods.'' [29]

23. IRC, while not supporting the proposed directive, ''acknowledges that [the Commission] could require additional actions by responsible entities to *promote* the availability of [bulk electric system] communication links to the extent possible through contracts with telecommunications providers.'' [30] IRC recommends a best efforts approach similar to how supply chain risks are addressed under Reliability Standard CIP–013–1. Specifically, IRC suggests that ''NERC could adopt a standard that would require responsible entities, when negotiating these service contacts, to take reasonable steps or use best efforts to maximize the availability of communication links.'' [31]

24. Reclamation, in support of the Commission proposal, states that the availability of communication networks should encompass links between Control Centers owned by the same entity as well as Control Centers owned by different entities. Reclamation maintains that the requirements for electronic communications be parallel to the following requirements for oral communication contained in Reliability Standard COM–001–3: (1) Have electronic communication capability; (2) designate alternative electronic communication capability in the event of a failure of the primary communication capability; (3) test the alternate method of electronic communication; (4) notify the entity on the other end of the communication path if a failure is detected; and (5) establish mutually agreeable action to restore the electronic communication capability.

25. As an initial matter, Bonneville recommends delaying approval of Reliability Standard CIP–012–1 until NERC conducts a pilot project to study the most effective way to encrypt data while ensuring the data is available to responsible entities. However, if the Commission approves the Reliability Standard, Bonneville ''agrees with the Commission's proposal to address the availability of communication links and data communicated between Control Centers.'' [32] Bonneville explains that maintaining the availability of the communication links includes addressing both redundancy and recovery. Therefore, Bonneville recommends that, if Reliability Standard CIP–012–1 is approved, ''the Commission order NERC to adopt modifications requiring Responsible Entities to have incident recovery plans/continuity of operation plans addressing planning for recovery time, capability, and capacity.'' [33] Similarly, Appelbaum supports the proposed directive and contends that ''a requirement for a continuing operations plan for loss of critical data resulting for the loss of

[22] *Id.* P 24.

[23] *Id.*

[24] NERC Comments at 5.

[25] *Id.; see also* Trade Associations Comments at 6–8, Tri-state Comments at 3.

[26] NERC Comments at 7; *see also* Trade Associations Comments at 9–10.

[27] NERC Comments at 7.

[28] *Id.* at 8–9.

[29] Trade Associations Comments at 12.

[30] IRC Comments at 3 (emphasis in original).

[31] *Id.*

[32] Bonneville Comments at 5.

[33] *Id.* at 6.

Control Center functionality should be directed.'' [34]

3. Commission Determination

26. We determine that modifications to the CIP Reliability Standards to address the availability of communication links and data communicated between bulk electric system control centers will enhance bulk electric system reliability. As the Commission stated in Order No. 822, bulk electric system Control Centers ''must be capable of receiving and storing a variety of sensitive bulk electric system data from interconnected entities.'' [35] We are not persuaded by the contention in the petition and comments that currently-effective Reliability Standards adequately address the directive in Order No. 822 regarding availability. Instead, we determine that the Reliability Standards cited by NERC either do not apply to communications between Control Centers or do not create an obligation to protect the availability of data between Control Centers. Accordingly, the directed modifications to the CIP Reliability Standards are not duplicative of existing Reliability Standards.

27. As the Commission explained in the NOPR, the existing Reliability Standards cited by NERC are not responsive to the availability directive in Order No. 822.[36] Reliability Standards IRO–002–5 and TOP–001–4 require responsible entities to have redundant and diversely routed data exchange infrastructure *within* the Control Center environment, but they do not address communications *between* individual Control Centers, which was the subject of the Commission's directive in Order No. 822.[37] While it is true that the infrastructure associated with communications within Control Centers may be useful to data exchange between Control Centers, nothing in the cited Reliability Standards creates an obligation to maintain data availability between Control Centers. Similarly, Reliability Standards IRO–010–2 and TOP–003–3 require responsible entities to have mutually agreeable security protocols for exchange of Real-time data, which may have the effect of contributing to greater availability; however, these requirements do not create an obligation, as directed in Order No. 822, to protect the availability of those communication capabilities and associated data by applying appropriate security controls.

28. As the NOPR explained, creating an obligation to protect availability, while affording flexibility in terms of what data is protected and how, is distinct from relying on currently-effective Reliability Standards whose effect may be to support availability.[38] The comments do not offer a new or persuasive reason to alter this view. For example, the Trade Associations repeat the line of reasoning in the NERC petition by ''encourag[ing] the Commission to focus holistically on the broad requirements contained with [the] IRO and TOP standards, which focus on the performance requirements necessary to support Real-time monitoring and Real-time Assessments.'' [39] In this circumstance, we disagree with that approach because, as the Commission observed in Order No. 822, ''NERC and other commenters recognize that inter-Control Center communications play a critical role in maintaining bulk electric system reliability by, among other things, helping to maintain situational awareness and reliable bulk electric system operations through timely and accurate communication between Control Center.'' [40] Thus, the holistic view urged by Trade Associations does not address the gap recognized by the Commission in Order No. 822.

29. The contention in NERC's comments that Reliability Standard EOP–008–2 could also help maintain the availability of communication links between bulk electric system Control Centers, rests on the same reasoning that the ancillary benefits of an existing Reliability Standard addresses the reliability gap identified by the Commission and concomitant availability directive in Order No. 822. While we agree that a requirement to maintain a backup Control Center arguably provides a level of redundancy for a responsible entity's overall operations, it does not require redundant and diversely routed communication paths between either the primary and backup Control Centers or third-party Control Centers.

30. In addition, we do not agree that it is premature to require protections for the availability of the communication links and data communicated between bulk electric system Control Centers. While NERC and Trade Associations advocate further study of the risks associated with availability, we conclude that the risks associated with losing the availability of either data or communication links between bulk electric system Control Centers is supported by the existing record and warrants a directive to modify the CIP Reliability Standards.[41]

31. We address several related issues raised in the comments. Commenters raise a concern that directing NERC to address requirements for certain aspects of availability, in particular redundancy and diverse routing, could have significant impacts on responsible entities using third-party telecommunications providers. Specifically, Trade Associations notes that responsible entities ''may not have sufficient control over the design of these networks to ensure that such requirements are met.'' [42] Without control over these networks, commenters suggest that the only options for addressing availability would be to construct costly private networks or implement less secure internet-based connections.[43]

32. We are not persuaded by these arguments. Rather, as IRC correctly notes in its discussion of the challenges raised in securing third-party telecommunications networks, while the Commission lacks jurisdiction over telecommunication service providers that may own and operate the communication links between bulk electric system Control Centers, the Commission has the authority to require responsible entities to take actions to promote the availability of communication links through service contracts with network providers.[44] For example, entities could enter into service contracts with telecommunication service providers that include an agreed-upon quality of service commitment to maintain the availability of the data exchange capability to minimize the availability risk. Such arrangements would mirror the approach in Reliability Standard CIP–013–1 (Cyber Security—Supply Chain Risk Management), which also involved non-jurisdictional entities.[45] NERC should likewise consider allowing responsible entities to contract with telecommunication service providers to minimize the risk of loss of

[34] Appelbaum Comments at 7.

[35] Order No. 822, 154 FERC ¶ 61,037 at P 54.

[36] NOPR, 167 FERC ¶ 61,055 at P 24.

[37] NOPR, 167 FERC ¶ 61,055 at P 24; NERC Comments at 5 (''IRO–002–5 and TOP–011–4 cover infrastructure within Control Centers, not between Control Centers'').

[38] NOPR, 167 FERC ¶ 61,055 at P 24; NERC Comments at 6–7 (stating that alarms, recovery plans, and the ability to disable data encryption also support data availability).

[39] Trade Associations Comments at 8.

[40] Order No. 822, 154 FERC ¶ 61,037 at P 54.

[41] *See* Appelbaum Comments at 7, Bonneville Comments at 5, IRC Comments at 3, Dr. Liu Comments at 1, Reclamation Comments at 1.

[42] Trade Associations Comments at 12.

[43] *See, e.g., id.,* Tri-State Comments at 2.

[44] IRC Comments at 3.

[45] The currently-approved supply chain risk management Reliability Standard exempts communication networks and data links between discrete Electronic Security Perimeters. *See* NERC Reliability Standard CIP–013–1, Applicability Section 4.2.3.2.

availability of communication links and data communicated between bulk electric system Control Centers in cases where communications between Control Centers are managed by a third party.

33. We agree with Reclamation's comment that protections for the availability of communication links and data communicated between bulk electric system Control Centers should encompass both entity-owned and third-party owned Control Centers. The intent of the Commission's directive is for NERC to address the risks associated with the availability of communication links and data communicated between all bulk electric system Control Centers, which will require coordination between neighboring responsible entities.

34. We reject Bonneville's recommendation that the Commission delay approval of Reliability Standard CIP–012–1 to allow for a pilot project on encryption. The record in this proceeding does not support a delay, and Bonneville's request conflicts with the implementation plan proposed by NERC.[46] Moreover, the standard drafting team addressed the Commission's finding on this issue in Order No. 822. In Order No. 822, the Commission stated ''that any lag in communication speed resulting from implementation of protections should only be measurable on the order of milliseconds and, therefore, will not adversely impact Control Center communications . . . [but that] technical issues should be considered by the standard drafting team . . . *e.g.,* by making certain aspects of the revised CIP Standards eligible for Technical Feasibility Exceptions.'' [47] In response, NERC stated that the standard drafting team ''developed an objective-based rather than prescriptive requirement . . . [that] will allow Responsible Entities flexibility in mitigating the risks posed . . . in a manner suited to each of their respective operational environments.'' [48] Accordingly, we determine not to delay approval of Reliability Standard CIP–012–1.

35. We agree with Bonneville and Appelbaum that maintaining the availability of communication networks and data should include provisions for incident recovery and continuity of operations in a responsible entity's compliance plan. We recognize that the redundancy of communication links cannot always be guaranteed; responsible entities should therefore plan for both recovery of compromised communication links and use of backup communication capability should it be needed for redundancy (*i.e.,* satellite or other alternate backup communications).

36. Accordingly, pursuant to section 215(d)(5) of the FPA, we direct that NERC develop modifications to the CIP Reliability Standards to require protections regarding the availability of communication links and data communicated between bulk electric system Control Centers, as discussed above.

B. Scope of Bulk Electric System Data That Must Be Protected

1. NOPR

37. The NOPR observed that Reliability Standard CIP–012–1 requires the protection of Real-time Assessment and Real-time monitoring data. The Commission explained that that while Real-time Assessment is defined in the NERC Glossary, Real-time monitoring data is not defined. Accordingly, the NOPR expressed concern that Reliability Standard CIP–012–1 does not clearly indicate the types of data to be protected. To address this, the Commission proposed to direct that NERC develop modifications to the CIP Reliability Standards to clearly identify the types of data that must be protected, including whether a NERC Glossary definition of Real-time monitoring would assist with implementation and compliance.

2. Comments

38. Appelbaum and Reclamation support the development of one or more definitions. Specifically, Reclamation recommends that the Commission direct NERC to develop definitions for the terms: (1) Real-time monitoring data; (2) Real-time data; (3) BES Data; (4) Operational Data; (5) System Planning Data; (6) availability and (7) Real-time monitoring. Appelbaum supports requiring a definition of Real-time monitoring given its importance to triggering alarms that system operators respond to and because it is an input to automatic dispatch.

39. NERC and other commenters maintain that a directive is unnecessary because the terms Real-time Assessment and Real-time monitoring are clear. NERC states that the ''language used in proposed Reliability Standard CIP–012–1, 'Real-time Assessment and Real-time monitoring data,' is sufficient to identify the data as described in TOP–003–3 and IRO–010–2.'' [49] Specifically, NERC explains that since the IRO and TOP Reliability Standards are the only currently-effective Reliability Standards that use the phrase Real-time monitoring and the term Real-time Assessment, ''[c]ompliance with these standards defines the data that is used in Real-time monitoring and Real-time Assessments.'' [50] NERC concludes that by ''using this language that is only referenced in the IRO and TOP Reliability Standards families, proposed CIP–012–1 brings the data identified pursuant to TOP–003–3 and IRO–010–2 into scope.'' [51]

40. Trade Associations and IRC concur with NERC that the scope of data subject to the requirements of proposed Reliability Standard CIP–012–1 is adequately clear. According to Trade Associations, responsible Entities and NERC understand that the types of data covered in CIP–012–1 is the data specified for Real-time Assessment and Real-time monitoring under TOP–003 and IRO–010. Similarly, IRC notes that ''all responsible entities must already know the universe of data needed for Real-time Assessment and Real-time monitoring activities in order to comply with NERC Reliability Standards TOP–003–3 and IRO–010–2.'' [52] Regarding the concern raised in the NOPR that the term Real-time monitoring is not defined, IRC states that it ''sees no reason that the term should be presumed to mean something different from what it means in other places where it is used in the NERC Reliability Standards.''[53]

41. While Bonneville does not take a position on the NOPR proposal, it notes a concern over ''creating a compliance requirement to identify how different types of information are protected.'' [54] Bonneville states that, generally, the use of the same data exchange infrastructure will result in all data using that infrastructure receiving the same protection regardless of data type. Therefore, Bonneville avers that, if the Commission directs NERC to define the scope of data to be protected, then ''a Responsible Entity should have the option to show that all data types are protected at the highest level using the same security protocols, without having to identify and show how specific types of data are protected.'' [55]

3. Commission Determination

42. In view of the comments, we determine not to adopt the NOPR

[46] *See* NERC Petition at Exhibit B.

[47] Order No. 822, 154 FERC ¶ 61,037 at P 62.

[48] NERC Petition, Exhibit D (Consideration of Issues and Directives) at 7.

[49] NERC Comments at 10.

[50] *Id.*

[51] *Id.*

[52] IRC Comments at 4.

[53] *Id.*

[54] Reclamation Comments at 6.

[55] *Id.*

proposal to direct modifications to define the scope of data covered by Reliability Standard CIP–012–1. NERC, Trade Associations and IRC agree that Reliability Standard CIP–012–1 requires the protection of Real-time Assessment and Real-time monitoring data identified under Reliability Standards TOP–003–3 and IRO–010–2. This point is also confirmed in the Technical Rationale document for Reliability Standard CIP–012–1.[56] We are persuaded that responsible entities must know the types of data needed for Real-time Assessment and Real-time monitoring activities in order to comply with Reliability Standards TOP–003–3 and IRO–010–2.

43. With this understanding, we are satisfied that the data protected under Reliability Standard CIP–012–1 is the same data identified under Reliability Standards TOP–003–3 and IRO–010–2. We determine that this clarification addresses the concern in the NOPR that not defining the types of data that must be protected under Reliability Standard CIP–012–1 could result in uneven compliance and enforcement. In addition, we agree with Bonneville that responsible entities may show that all data types are protected at the highest level using the same security protocols, without having to identify and show how specific types of data are protected, so long as the security protocols are reasonable.

III. Information Collection Statement

44. The FERC–725B information collection requirements contained in this final rule are subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995.[57] OMB's regulations require approval of certain information collection requirements imposed by agency rules.[58] Upon approval of a collection of information, OMB will assign an OMB control number and expiration date. Respondents subject to the filing requirements of this rule will not be penalized for failing to respond to the collection of information unless the collection of information displays a valid OMB control number.

45. The Commission received no comments on the validity of the burden and cost estimates in the NOPR. The Commission is updating the burden estimates and labor costs contained in the NOPR. The Commission in this final rule corrected an error from the NOPR in the row ''Identification of Security Protection Application (if not owned by same Responsible Entity) (Requirement R1.3)'' where the total number of hours was understated by 100,000, and all calculations based upon this error.

46. The Commission is submitting these reporting and recordkeeping requirements to OMB for its review and approval under section 3507(d) of the PRA. Comments are solicited on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimate, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing the respondent's burden, including the use of automated information techniques.

47. The Commission bases its paperwork burden estimates on the changes in paperwork burden presented by Reliability Standard CIP–012–1.

48. The NERC Compliance Registry, as of December 2019, identifies approximately 1,482 unique U.S. entities that are subject to mandatory compliance with Reliability Standards. Of this total, we estimate that 719 entities will face an increased paperwork burden under proposed Reliability Standard CIP–012–1. Based on these assumptions, we estimate the following reporting burden:

FERC–725B—MODIFICATIONS DUE TO THE FINAL RULE IN DOCKET NO. RM18–20–000

	Number of respondents (1)	Number of responses[59] per respondent (2)	Total number of responses (1) × (2) = (3)	Avg. burden hrs. & cost per response[60] (4)	Total annual burden hours & total annual cost (3) × (4) = 5
Implementation of Documented Plan(s) (Requirement R1)[61].	719	1	719	128 hrs.; $11,776 ..	92,032 hrs.; $8,466,944.
Document Identification of Security Protection (Requirement R1.1)[61].	719	1	719	40 hrs.; $3,680	28,560 hrs.; $2,645,920.
Identification of Security Protection Application (if owned by same Responsible Entity) (Requirement R1.2)[61].	719	1	719	20 hrs.; $1,840	14,280 hrs.; $1,322,960.
Identification of Security Protection Application (if *not* owned by same Responsible Entity) (Requirement R1.3)[61].	719	1	719	160 hrs.; $14,720 ..	14,240 hrs.; $10,583,680.
Maintaining Compliance (ongoing, starting in Year 2).	719	1	719	83 hrs.; $7,636	59,677 hrs.; $5,490,284.
Total (one-time, in Year 1)	.....	.....	2,876	.....	250,212 hrs.; $23,019,504.
Total (ongoing, starting in Year 2) ..	.....	.....	719	.....	59,677 hrs.; $5,490,284.

[56] NERC Petition, Exhibit F (Technical Rationale) at 1–2.

[57] 44 U.S.C. 3507(d).

[58] 5 CFR 1320.

[59] We consider the filing of an application to be a ''response.''

[60] The hourly cost for wages plus benefits is based on the average of the occupational categories for 2018 found on the Bureau of Labor Statistics website (*http://www.bls.gov/oes/current/naics2_22.htm*):

Information Security Analysts (Occupation Code: 15–1122): $61.494

Computer and Mathematical (Occupation Code: 15–0000): $63.54

Legal (Occupation Code: 23–0000): $142.86

Computer and Information Systems Managers (Occupation Code: 11–3021): $98.81.

These various occupational categories' wage figures are averaged as follows: $61.494/hour + $63.54/hour + $142.86/hour + $98.81/hour) ÷ 4 = $91.70/hour. The resulting wage figure is rounded to $92.00/hour for use in calculating wage figures in the final rule in Docket No. RM18–20–000.

[61] This includes the record retention costs for the one-time and the on-going reporting documents.

49. The one-time burden (in Year 1) for the FERC–725B information collection will be averaged over three years:

- 250,212 hours ÷ 3 = 83,404 hours/year over Years 1–3
- The number of one-time responses for the FERC–725B information collection is also averaged over Years 1–3: 2,876 responses ÷ 3 = 959 responses/year

50. The average annual number (for Years 1–3) of responses and burden for one-time and ongoing burden will total:

- 1,678 responses [959 responses (one-time) + 719 responses (ongoing)]
- 143,081 burden hours [83,404 hours (one-time) + 59,677 hours (ongoing)] hours (ongoing)]

51. *Title:* Mandatory Reliability Standards for Critical Infrastructure Protection [CIP] Reliability Standards.

Action: Revisions to FERC–725B information collection.

OMB Control No.: 1902–0248.

Respondents: Businesses or other for-profit institutions; not-for-profit institutions.

Frequency of Responses: One-time and Ongoing.

Necessity of the Information: This final rule approves the requested modifications to Reliability Standards pertaining to critical infrastructure protection. As discussed above, the Commission approves NERC's proposed Reliability Standard CIP–012–1 pursuant to section 215(d)(2) of the FPA because they improve upon the currently-effective suite of cyber security Reliability Standards.

Internal Review: The Commission has reviewed the proposed Reliability Standard and made a determination that its action is necessary to implement section 215 of the FPA.

52. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gov,* phone: (202) 502–8663, fax: (202) 273–0873].

53. Please send comments concerning the collection of information and the associated burden estimate to the Commission, and to the Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street NW, Washington, DC 20503, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments to OMB should be submitted by email to: *oira_submission@omb.eop.gov.* Comments submitted to OMB should include FERC–725B (OMB Control No. 1902–0248).

IV. Environmental Analysis

54. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[62] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[63] The actions proposed herein fall within this categorical exclusion in the Commission's regulations.

V. Regulatory Flexibility Act Analysis

55. The Regulatory Flexibility Act of 1980 (RFA) generally requires a description and analysis of proposed and final rules that will have significant economic impact on a substantial number of small entities.[64] The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[65] The SBA revised its size standard for electric utilities (effective January 22, 2014) to a standard based on the number of employees, including affiliates (from the prior standard based on megawatt hour sales).[66]

56. Reliability Standard CIP–012–1 is expected to impose an additional burden on 719 entities[67] (reliability coordinators [RC], generator operators [GOP], generator owners [GO], transmission operators [TOP], balancing authorities [BA], and transmission owners [TO]).

57. Of the 719 affected entities discussed above, we estimate that approximately 82% percent of the affected entities are small entities. We estimate that each of the 590 small entities to whom the modifications to Reliability Standard CIP–012–1 apply will incur one-time, non-paperwork cost in Year 1 of approximately $17,051, plus paperwork cost in Year 1 of $32,016, giving a total cost in Year 1 of $49,067. In Year 2 and Year 3, each entity will incur only the ongoing annual paperwork cost of $7,594. We do not consider the estimated costs for these 590 small entities to be a significant economic impact.

58. Accordingly, we certify that Reliability Standard CIP–012–1 will not have a significant economic impact on a substantial number of small entities.

VI. Effective Date and Congressional Notification

59. This final rule is effective April 13, 2020. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule is being submitted to the Senate, House, and Government Accountability Office.

VII. Document Availability

60. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE, Room 2A, Washington, DC 20426.

61. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number of this document, excluding the last three digits, in the docket number field.

62. User assistance is available for eLibrary and the Commission's website during normal business hours from the Commission's Online Support at (202)502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

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[62] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987).

[63] 18 CFR 380.4(a)(2)(ii).

[64] 5 U.S.C. 601–12.

[65] 13 CFR 121.101.

[66] 13 CFR 121.201, Subsection 221.

[67] Public utilities may fall under one of several different categories, each with a size threshold based on the company's number of employees, including affiliates, the parent company, and subsidiaries. These entities may be included in the SBA categories for: Hydroelectric Power Generation, Fossil Fuel Electric Power Generation, Nuclear Electric Power Generation, Solar Electric Power Generation, Wind Electric Power Generation Geothermal Electric Power Generation, Biomass Electric Power Generation, Other Electric Power Generation, Biomass Electric Power Generation, or Electric Bulk Power Transmission and Control. These categories have thresholds for small entities varying from 250–750 employees. For the analysis in this final rule, we are using a conservative threshold of 750 employees.

By the Commission.

Issued: January 23, 2020.

Kimberly D. Bose,

Secretary.

Note: The following Appendix will not appear in the *Code of Federal Regulations.*

APPENDIX—COMMENTERS

Abbreviation	Commenter
Appelbaum	Jonathan Appelbaum.
Bonneville	Bonneville Power Administration.
IRC	ISO/RTO Council.
Dr. Liu	Dr. Chen-Ching Liu.
NERC	North American Electric Reliability Corporation.
Reclamation	Bureau of Reclamation.
Trade Associations	American Public Power Association, Edison Electric Institute, National Rural Electric Cooperative Association.
Tri-State	Tri-State Generation and Transmission Association, Inc.

[FR Doc. 2020–02173 Filed 2–12–20; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 1, 100, 110, and 165

[Docket No. USCG–2018–0533]

RIN 1625–ZA38

Navigation and Navigable Waters, and Shipping; Technical, Organizational, and Conforming Amendments for U.S. Coast Guard Field Districts 5, 8, 9, 11, 13, 14, and 17

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is issuing non-substantive technical, organizational, and conforming amendments to existing regulations in parts 1, 100, 110, and 165 of Title 33 of the Code of Federal Regulations. These amendments update and clarify general regulations in part 1, and update regulations for Field Districts 5, 8, 9, 11, 13, 14, and 17 to reflect the current status of regulated navigation areas, special local regulations, anchorages, safety zones, and security zones. This rule will have no substantive effect on the regulated public.

DATES: This final rule is effective March 16, 2020.

FOR FURTHER INFORMATION CONTACT: For information about this document call or email Dominique Christianson, Coast Guard; telephone 202–372–3856, email *Dominique.Christianson@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Abbreviations
II. Regulatory History
III. Basis and Purpose
IV. Discussion of Rule
V. Regulatory Analyses
A. Regulatory Planning and Review
B. Impact on Small Entities
C. Assistance for Small Entities
D. Collection of Information
E. Federalism
F. Unfunded Mandates Reform Act
G. Taking of Private Property
H. Civil Justice Reform
I. Protection of Children
J. Indian Tribal Governments
K. Energy Effects
L. Technical Standards
M. Environment

I. Abbreviations

CFR Code of Federal Regulations
CG–LRA Office of Regulations and Administrative Law
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
OMB Office of Management and Budget
§ Section
U.S.C. United States Code

II. Regulatory History

We did not publish a notice of proposed rulemaking for this rule. Under Title 5 of the United States Code (U.S.C.), section 553(b)(A), the Coast Guard finds that this rule is exempt from notice and public comment rulemaking requirements because these changes involve rules of agency organization, procedure, or practice. In addition, the Coast Guard finds that notice and comment procedures are unnecessary under 5 U.S.C. 553(b)(B), as this rule consists only of technical and editorial corrections, and these changes will have no substantive effect on the public.

III. Basis and Purpose

This rulemaking project was identified as part of the Coast Guard's Regulatory Reform Task Force Initiative. These field regulation changes were identified as part of the deregulation identification process required by Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs), Executive Order 13777 (Enforcing the Regulatory Reform Agenda Deregulatory Process), and associated guidance issued in 2017. This rule makes technical and editorial corrections in Title 33 of the Code of Federal Regulations (CFR). Specifically, the rule removes safety zones, security zones, and special local regulations where the event is no longer held. This rule also removes special anchorage areas that are no longer used, and redesignates certain special anchorage areas in the Hawaiian Islands and Guam so they are grouped in the CFR as District 14 anchorages. Additionally, the rule removes outdated references to penalties in regulations governing certain regulated navigation areas in Florida and Georgia, and updates Captain of the Port (COTP) information in regulations for certain regulated navigation areas and security zones in Kentucky, Ohio, and Missouri. These changes are necessary to correct errors, change addresses, and make other non-substantive changes that improve the clarity of the CFR. This rule does not create or change any substantive requirements.

The changes to 33 CFR part 1 are authorized under 14 U.S.C. 503, which grants the Secretary of the Department of Homeland Security (DHS) broad authority to promulgate such regulations as are appropriate to carry out the provisions of any law applicable to the Coast Guard. The changes to 33

CFR part 100 are specifically authorized under 46 U.S.C. 70041(a), which vests the Commandant of the Coast Guard with authority to issue regulations to promote the safety of life on navigable waters during regattas or marine parades. The changes to 33 CFR parts 110 and 165 are authorized under the general authority of 46 U.S.C. 70034, granting the Secretary of DHS broad authority to issue, amend, or repeal regulations as necessary to implement 46 U.S.C. chapter 700, Ports and Waterways Safety Program. The Secretary has delegated rulemaking authority under 14 U.S.C. 503 and 46 U.S.C. 70034 to the Commandant via DHS Delegation No. 0170.1.[1]

IV. Discussion of the Rule

The Coast Guard amends 33 CFR parts 1, 100, 110, and 165 by removing outdated event references and updating contact information in Coast Guard Field Districts 5, 8, 9, 11, 13, 14, and 17.

A. Changes to 33 CFR Part 1 General Provisions

In § 1.05–1 the following changes are being made:

It amends paragraphs (d) and (d)(1) by updating the title of the Assistant Commandant for Reponse Policy;

It amends paragraph (e) to clarify that the types of regulations Coast Guard District Commanders are authorized to issue include the establishment of safety zones around facilities being constructed maintained, or operated on the Outer Continental Shelf. This is not a new delegation of authority. District Commanders have been delegated the authority to issue and enforce safety zone regulations on the Outer Continental Shelf since 1982 and that authority is codified in Coast Guard regulations at 33 CFR 147.5 (47 FR 9366, 9386, March 4, 1982). The lack of inclusion of this authority in the general list of delegated authorities at § 1.05–1 was a drafting oversight which we now wish to correct;

It amends paragraph (g) by updating the title of the Assistant Commandant for Reponse Policy; and

It amends paragraph (h) by updating the office symbol for the Office of Regulations and Administrative Law.

In § 1.05–20, the Coast Guard is amending the mailing address for petitions for rulemaking. Currently § 1.05–20 directs the public to mail petitions to CG–0943, to the attention of the Executive Secretary of the Marine Safety and Security Counsel. For expediency in directing incoming petitions to the proper office within the Coast Guard, we are amending this regulation to state that the public should mail petitions to the Office of Regulations and Administrative Law (CG–LRA). The Executive Secretary for the Marine Safety and Security Counsel resides within the Office of Regulations and Administrative Law. The Office of Regulations and Administrative Law, previously identified with the abbreviation CG–0943, was re-identified as CG–LRA several years ago; and

In § 1.05–50 the following changes are made regarding final rules:

The paragraph discussing rules issued through notice and comment first and then promulgation without notice and comment is being restructured. This proposed change reflects the requirements of 5 U.S.C. 553 which requires agencies to allow the public to comment on rules prior to issuance except under certain specified conditions. Also, we are clarifying that the preamble to a final rule must respond to all significant comments, not necessarily all comments. We generally mention all comments that we received, even if only to note that some comments were outside the scope or completely not applicable to the rulemaking. However, we do not otherwise address the merits or spend as much time on comments that did not relate to the rulemaking.

B. Changes to 33 CFR Part 100 General Provisions

In 33 CFR part 100, the following Special Local Regulations are being changed:

In Table 7 of § 100.801, item 3 (Battle on the Bayou) and item 5 (Chattahoochee Challenge) are being removed, as these events are no longer issued permits;

In Table 1 of § 100.1101, item 7 (ITU World Triathlon), item 8 (Fearless Triathlon), and item 9 (Bay to Bay Rowing and Paddling Regatta) are being removed, as these events are no longer issued permits;

In Table 1 of § 100.1103, item 1 (Redwood Heron Sprints Regatta), item 2 (Stockton Asparagus Festival), item 5 (Kinetic Sculpture Race), item 6 (Sacramento Bridge-to-Bridge Water Festival), and item 7 (Humboldt Bay Paddle Fest) are being removed, as these events are no longer issued permits;

Section 100.1306 (National Maritime Week Tugboat Races) is being removed because this event no longer occurs; and

Section 100.1307 (Straight Thunder Performance) is being removed because this event no longer occurs.

C. Changes to 33 CFR Part 110 General Provisions

In 33 CFR part 110, the following anchorage areas are being changed:

The special anchorage areas located in § 110.65 (Indian River Bay), § 110.70 (Chesapeake and Delaware Canal), and § 110.71(a) (Northeast River), are being removed because they are no longer utilized;

The special anchorage areas located in § 110.128b (Island of Hawaii), § 128c (Island of Kauai), and § 128d (Island of Oahu) are being redesignated as §§ 110.129, 110.129a, and 110.129b, respectively, so that they will be organized with the District 14 anchorages, not District 13;

The special anchorage area in § 110.129a (Apra Harbor) is being redesignated as § 110.129c because § 110.128c has been redesignated above as § 110.129a; and

The special anchorage area listed in § 110.232 (Southeast Alaska) is being removed, as this anchorage is no longer used.

D. Changes to 33 CFR Part 165 General Provisions

In 33 CFR part 165, the following provisions are being changed:

The security zones in § 165.T08–0994 (Mississippi River, New Orleans), the safety zone in § 165.T09–0971 (Overhead Cable Replacement, Maumee River), the safety zone in § 165.T11–504 (Independence Day Fireworks Celebration for the City of Richmond), and the safety zone in § 165.T11–630 (Giants Enterprises Fireworks Display) are being removed, as the enforcement periods for these regulations have expired;

Outdated reference to penalities in § 165.726 (Regulated Navigation Areas, Miami River) and § 165.756 (Regulated Navigation Area, Savannah River) are being removed;

In Table 7 of § 165.801, the safety zones are being removed in item 1 (Go Daddy Bowl), item 3 (Billy Bowlegs Pirate Festival), and item 5 (Fourth of July Celebration City of Fort Walton Beach) as these events no longer occur;

The security zones in § 165.809 (Port of Port Lavaca-Point Comfort, Point Comfort, and Port of Corpus Christi Inner Harbor) are being removed as this security zone was removed in 2005 by previous regulation (70 FR 9363).

The regulated navigation area in § 165.815, paragraph (c) (Ohio River at Louisville, Kentucky) is being revised to provide correct Captain of the Port (COTP) information;

The security zone in § 165.820, paragraph (b) (Ohio River Mile 34.6 to

[1] The Coast Guard Authorization Act of 2018, Public Law 115–282, 132 Stat. 4192 (Dec. 4, 2018) redesignated 33 U.S.C. 1231 as 46 U.S.C. 70034.

35.1, Shippingport, Pennsylvania) is being revised to provide correct COTP information;

The regulated navigation area in § 165.821, paragraph (b) (Ohio River at Cincinnati, Ohio) is being revised to provide correct COTP information; and

The security zones in § 165.825, paragraph (b) (Captain of the Port St. Louis, Missouri) are being revised to provide correct COTP information.

IV. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes or Executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. Because this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. *See* the OMB's Memorandum titled ''Guidance Implementing Executive Order 13771, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (April 5, 2017). A regulatory analysis (RA) follows. This rule involves non-substantive changes and internal agency practices and procedures; it will not impose any additional costs on the public. The benefit of the non-substantive changes is increased clarity and accuracy of regulations.

B. Impact on Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule will have no substantive effect on the regulated public. Therefore, 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.

This rule is not preceded by a notice of proposed rulemaking and, therefore is exempt from the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The Regulatory Flexibility Act does not apply when notice and comment rulemaking is not required.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. 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.

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).

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

E. Federalism

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

F. 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. Although this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform) to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action''

under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A Record of Environmental Consideration (REC) supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. A preliminary Record of Environmental Consideration and a Memorandum for the Record are not required for this rule.

This rule is categorically excluded from further review under paragraphs L54, L55, L59 and L61 in Appendix A, Table 1 of DHS Directive 023–01. Paragraph L54 pertains to promulgation of regulations that are editorial or procedural; paragraph L55 pertains to regulations concerning internal agency function or organization; paragraph L59 pertains to regulations establishing, disestablishing, or changing the size of Special Anchorage Areas or anchorage grounds; paragraph L61 pertains to special local regulations issues in conjunction with a regatta or marine parade. This rule amends Title 33 CFR parts 1, 100, 110, and 165 by updating and clarifying general regulations and by removing outdated event references and updating contact information in Coast Guard Field Districts 5, 8, 9, 11, 13, 14, and 17. These regulation changes are consistent with the Coast Guard's maritime safety and stewardship missions.

List of Subjects

33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 110

Anchorage grounds.

33 CFR Part 165

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

For the reasons stated in the preamble, the Coast Guard amends 33 CFR parts 1, 100, 110, and 165 as follows:

PART 1—GENERAL PROVISIONS

Subpart 1.05—Rulemaking

■ 1. The authority citation for subpart 1.05 is revised to read as follows:

Authority: 5 U.S.C. 552, 553, App. 2; 14 U.S.C. 102, 502, 503, and 505; 33 U.S.C. 471, 499; 49 U.S.C. 101, 322; Department of Homeland Security Delegation No. 0170.1.

■ 2. Amend § 1.05–1 by:
■ a. In paragraph (d) introductory text removing the words ''Marine Safety, Security and Stewardship (CG–5)'' and adding, in their place, the words ''Response Policy (CG–5R)'';
■ b. In paragraph (d)(1) introductory text, removing the words ''Marine Safety, Security and Stewardship'' and adding, in their place, the words ''Response Policy (CG–5R)'';
■ c. Adding paragraph (e)(1)(viii);
■ d. In paragraph (g) removing the words ''Marine Safety, Security and Stewardship'' and adding, in their place, the words ''Response Policy''; and
■ e. In paragraph (h), removing the words ''(CG–0943)'' and adding, in their place, the words ''(CG–LRA)''.

The addition reads as follows:

§ 1.05–1 Delegation of rulemaking authority.

* * * * *

(e) * * *

(1) * * *

(viii) The establishment of safety zones around OCS facilities being constructed, maintained, or operated on the Outer Continental Shelf.

* * * * *

§ 1.05–20 [Amended]

■ 3. In § 1.05–20(a), remove the words ''Commandant (CG–0943), Attn: Executive Secretary, Marine Safety and Security Council,'' and add, in their place, the words ''Office of Regulations and Administrative Law (CG–LRA)''.

■ 4. Revise § 1.05–50 to read as follows:

§ 1.05–50 Final Rule.

When notice and comment procedures have been used, and after all comments received have been considered, a final rule is issued. A final rule document contains a preamble that responds to significant comments received and includes a discussion of changes made from the proposed or interim rule, a citation of legal authority, and the text of the rule. In some instances, a final rule may be issued without prior notice and comment.

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

§ 100.801 [Amended]

■ 6. In § 100.801 amend Table 7 of § 100.801 by:
■ a. Removing item 3 (Battle on the Bayou) and item 5 (Chattahoochee Challenge); and
■ b. Redesignating item 4 as item 3, item 6 as item 4, and items 7 through 20 as items 5 through 18.

§ 100.1101 [Amended]

■ 7. In § 100.1101 amend Table 1 of § 100.1101 by:
■ a. Removing item 7 (ITU World Triathlon), item 8 (Fearless Triathlon) and item 9 (Bay to Bay Rowing and Paddling Regatta); and
■ b. Redesignating items 10 through 18 as items 7 through 15.

§ 100.1103 [Amended]

■ 8. § 100.1103 amend Table 1 of § 100.1103 by:
■ a. Removng item 1 (Redwood Heron Sprints Regatta), item 2 (Stockton Asparagus Festival), item 5 (Kinetic Sculpture Race), item 6 (Sacramento Bridge-to-Bridge Water Festival), and item 7 (Humboldt Bay Paddle Fest); and
■ b. Redesignating items 3, 4, 8 and 9 as items 1 through 4.

§§ 100.1306 and 100.1307 [Removed]

■ 9. Remove §§ 100.1306 and 100.1307.

PART 110—ANCHORAGE REGULATIONS

■ 10. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2071, 46 U.S.C. 70034; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

§§ 110.65, 110.70, and 110.71a [Removed]

■ 11. Remove §§ 110.65, 110.70, and 110.71a.

§§ 110.128b through 110.129a [Redesignated]

■ 12. Redesignate §§ 110.128b through 110.129a as follows:

Current section	Redesignated section
110.128b	110.129.
110.128c	110.129a.
110.128d	110.129b.
110.129a	110.129c.

§ 110.232 [Removed]

■ 13. Remove § 110.232.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 14. 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.

§ 165.726 [Amended]

■ 15. Amend § 165.726 by removing paragraph (c).

§ 165.756 [Amended]

■ 16. Amend § 165.756 by removing paragraph (f).

§ 165.T08–0994 [Removed]

■ 17. Remove § 165.T08–0994.

§ 165.801 [Amended]

■ 18. Amend § 165.801 as follows:

■ a. Remove item 1 (Go Daddy Bowl), item 3 (Billy Bowlegs Pirate Festival), and item 5 (Fourth of July Celebration/City of Fort Walton Beach) in Table 7; and

■ b. Redesignate items 2, 4, and 6 through 10 as items 1–7 in Table 7.

§ 165.809 [Removed]

■ 19. Remove § 165.809.

§ 165.815 [Amended]

■ 20. In § 165.815(c) remove the words ''Captain of the Port, Louisville, Kentucky'' and add, in their place, the words ''Captain of the Port, Ohio Valley''.

§ 165.820 [Amended]

■ 21. Amend § 165.820(b) by:

■ a. In paragraph (b)(1), removing the word ''Pittsburgh'', and adding, in its place, the words ''MSU Pittsburgh''.

■ b. In paragraph (b)(2), removing the two occurances of the word ''Pittsburgh'', and adding, in their place, the words '', MSU Pittsburgh''.

§ 165.821 [Amended]

■ 22. In § 165.821(b) remove the words ''Captain of the Port, Louisville, Kentucky'' and add, in their place, the words ''Captain of the Port, Ohio Valley''.

■ 23. Amend § 165.825 by revising paragraph (b) to read as follows:

§ 165.825 Security Zones; Captain of the Port, Upper Mississippi.

* * * * *

(b) *Regulations.* (1) Entry into these security zones is prohibited unless authorized by the Coast Guard Captain of the Port, Upper Mississippi or designated representative.

(2) The Ft. Calhoun and Cooper security zones include a portion of the navigable channel of the Missouri River. All vessels that may safely navigate outside of the channel are prohibited from entering the security zone without the express permission of the Captain of the Port, Upper Mississippi or designated representative. Vessels that are required to use the channel for safe navigation are authorized entry into the zone but must remain within the channel unless expressly authorized by the Captain of the Port Upper Mississippi or designated representative.

(3) Persons or vessels requiring the permission of the Captain of the Port, Upper Mississippi to enter the security zones must contact the Coast Guard Sector Upper Mississippi River at telephone number 319 524–7511 or on VHF marine channel 16 or Marine Safety Detachment Quad Cities at telephone number 309 782–0627 or the Captain of the Port, Upper Mississippi at telephone number 314 539–3091, ext. 3500 in order to seek permission to enter the security zones. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port, Upper Mississippi or designated representative.

(4) Designated representatives are commissioned, warrant, and petty officers of the U.S. Coast Guard.

* * * * *

§§ 165.T09–0971, 165.T11–504, and 165.T11–630 [Removed]

■ 24. Remove §§ 165.T09–0971, 165.T11–504, and 165.T11–630.

Dated: January 9, 2020.

M.W. Mumbach,

Chief, Office of Regulations and Administrative Law.

[FR Doc. 2020–01760 Filed 2–12–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2019–0682]

RIN 1625–AA09

Drawbridge Operation Regulation; Northeast Cape Fear River, Wilmington, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily modifying the operating schedule that governs the Isabel S. Holmes Bridge (US 74/SR 133), across the Northeast Cape Fear River, at mile 1.0, at Wilmington, North Carolina. This temporary modification will allow the drawbridge to be maintained in the closed position and is necessary to accommodate bridge maintenance.

DATES: This temporary final rule is effective without actual notice from February 13, 2020 through 12:01 a.m. on June 30, 2021. For the purposes of enforcement, actual notice will be used from 7 p.m. on February 1, 2020 until February 13, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov.* Type USCG–2019–0682 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Michael Thorogood, Bridge Administration Branch Fifth District, Coast Guard, telephone 757–398–6557, email *Michael.R.Thorogood@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
SNPRM Supplemental notice of proposed rulemaking

Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On December 19, 2019, the Coast Guard published a notice for proposed rulemaking entitled ''Drawbridge Operation Regulation; Northeast Cape Fear River, Wilmington, NC'' in the **Federal Register** (84 FR 69685). The Coast Guard received one ''unrelated'' comment on this rule.

We are issuing this rule and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective in less than 30 days after publication in the **Federal Register** This rule will take immediate effect. Good cause exists because work has been ongoing and we have not received any negative feedback from the maritime.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499.

The Isabel S. Holmes Bridge (US 74/SR 133), across the Northeast Cape Fear River, at mile 1.0, at Wilmington, North Carolina, is a double bascule span bridge, and has a vertical clearance of 40 feet above mean high water in the closed position and unlimited vertical clearance above mean high water in the open position. The current operating schedule for the drawbridge is published in 33 CFR 117.829(a).

The North Carolina Department of Transportation, who owns and operates the Isabel S. Holmes Bridge (US 74/SR 133), across the Northeast Cape Fear River, at mile 1.0, at Wilmington, North Carolina, has requested this modification to allow the drawbridge to be maintained in the closed-to-navigation position to facilitate bridge maintenance of the drawbridge.

This temporary final rule is necessary to facilitate safe and effective bridge maintenance of the drawbridge, while providing for the reasonable needs of navigation. A work platform will reduce the vertical clearance of the entire bridge span to approximately 34 feet above mean high water in the closed position. Vessels that can safely transit through the bridge in the closed position, with the reduced clearance may do so, if at least a thirty minute notice is given, to allow for navigation safety. The bridge will not be able to open for emergencies and there is no immediate alternative route for vessels unable to pass through the bridge in the closed position.

Under this temporary final rule, the drawbridge will be maintained in the closed-to-navigation position twenty-four hours a day, seven days a week from 7 p.m. on February 1, 2020 through 12:01 a.m. on June 30, 2021. The bridge will open on signal for daily scheduled openings at 6 a.m., 10 a.m., 2 p.m., and 7 p.m., if at least a twenty-four hour notice is given; except for bridge closures authorized in accordance with 33 CFR 117.829 (a)(4). The draw will open on signal, if at least a twenty-four hour notice is given, for vessels unable to transit through the bridge during a scheduled opening, due to the vessel's draft; except for bridge closures authorized in accordance with 117.829 (a)(4). At all other times the drawbridge will operate per 33 CFR 117.829(a).

IV. Discussion of Comments, Changes and the Temporary Final Rule

The Coast Guard received one ''unrelated'' comment on this rule. The one comment received did not influence any changes to the regulatory text. Due to time restraints a change was made to the regulatory text from the text noted in the NPRM, we had to amend the start date of the closure period from ''January 1, 2020'' to ''February 1, 2020'' as the regulation was not published prior to January 1, 2020. All other portions of the NPRM coincide with this current temporary final rule.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the fact that vessels can still transit the bridge on signal for daily scheduled openings at 6 a.m., 10 a.m., 2 p.m., and 7 p.m., if at least a twenty-four hour notice is given; except for bridge closures authorized in accordance with 33 CFR 117.829(a)(4). The draw will open on signal, if at least a twenty-four hour notice is given, for vessels unable to transit through the bridge during a scheduled opening, due to the vessel's draft; except for bridge closures authorized in accordance with 33 CFR 117.829(a)(4). At all other times the drawbridge will operate per 33 CFR 117.829(a).

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

This rule calls for no new collection of information under the Paperwork

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

D. Federalism and Indian Tribal Government

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, U.S. Coast Guard Environmental Planning Policy COMDTINST 5090.1 (series) and U.S. Coast Guard Environmental Planning Implementation Procedures (series) which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f). We have made a determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3–1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule.

G. Protest Activities

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

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; DHS Delegation No. 0170.1.

■ 2. Amend § 117.829 by adding paragraph (a)(5) to to read as follows:

§ 117.829 Northeast Cape Fear River.

(a) * * *

(5) From 7 p.m. on February 1, 2020, through 12:01 a.m. on June 30, 2021, the draw will be maintained in the closed-to-navigation position. The draw will open on signal, if at least a twenty-four hour notice is given, for scheduled openings at 6 a.m., 10 a.m., 2 p.m. and 7 p.m.; except for bridge closures authorized in accordance with (a)(4) of this section. The draw will open on signal, if at least a twenty-four hour notice is given, for vessels unable to transit through the bridge during a scheduled opening, due to the vessel's draft; except for bridge closures authorized in accordance with (a)(4) of this section.

* * * * *

Dated: February 7, 2020.

Gregory G. Stump,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 2020–02773 Filed 2–12–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2020–0113]

RIN 1625–AA00

Safety Zone; Pacific Ocean, Hilo Harbor, HI—Lightering Operations

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the navigable waters of Hilo Harbor, Hawaii. The temporary safety zone encompasses all waters extending 100 yards in all directions from position 19°44′41.17″ N; 155°05′24.23″ W. The safety zone is needed to protect personnel, vessels and the marine environment from potential hazards associated with ongoing lightering operations of the vessel MIDWAY ISLAND grounded along the northwest side of Hilo Harbor, particularly through helicopter to shore hoisting ops and swimmers in the water. The USCG is overseeing contractor lightering ops to mitigate the pollution threat from the vessel in this area. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Honolulu.

DATES: This rule is effective without actual notice from 8:45 a.m. until 8 p.m. on February 13, 2020. For the purposes of enforcement, actual notice will be used from February 6, 2020 through 8:44 a.m. on February 13, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2020–0113 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Chief Jason R. Olney, Waterways Management Division, U.S. Coast Guard; telephone 808–522–8265, email *Jason.R.Olney@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is needed to respond to the potential safety hazards associated with this lightering operation, and therefore publishing an NPRM is impracticable and contrary to public interest.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the rule's objectives of responding to potential safety hazards associated with the lightering operations and protecting personnel, vessels, and the marine environment within the navigable waters of the safety zone.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. On February 3, 2020, the Coast Guard was informed of a vessel that ran aground along the northwest side of Hilo Harbor, Hawaii. The Coast Guard COTP Sector Honolulu has determined that potential hazards associated with the lightering operations constitute a safety concern for anyone within the designated safety zone. This rule is necessary to protect personnel, vessels, and the marine environment within the navigable waters of the safety zone during ongoing salvage operations.

IV. Discussion of the Rule

This rule establishes a safety zone from February 6, 2020 through 8 p.m. February 13, 2020 or until the lightering operations are complete, whichever is earlier. If the safety zone is terminated prior to 8 p.m. on February 13, 2020, the Coast Guard will provide notice via a broadcast notice to mariners.

The temporary safety zone encompasses all waters extending 100 yards in all directions around the location of ongoing lightering operations near position: 19°44′41.17″ N; 155°05′24.23″ W. This zone extends from the surface of the water to the ocean floor. The zone is intended to protect personnel, vessels, and the marine environment in these navigable waters from potential hazards associated with the lightering operations of a vessel aground in this area. No vessel or person will be permitted to enter the safety zone absent the express authorization of the COTP or his 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 anticipated short duration of the lightering operations and the need to protect personnel, vessels and the marine environment in these navigable waters from potential hazards associated with the lightering operations of the vessel aground in this area. Moreover, the Coast Guard will issue a broadcast notice to mariners on marine channel 16 about the safety zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this 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 zones 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.

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, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting 7 days that will prohibit entry into the area during lightering efforts. It is categorically excluded from further review under paragraph L60(d) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

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 recordkeeping requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T14–0113 to read as follows:

§ 165.T14–0113 Safety Zone; Pacific Ocean, Hilo Harbor, HI—Lightering Operations.

(a) *Location.* The safety zone is located within the Captain of the Port (COTP) Zone (see 33 CFR 3.70–10) and will encompass all navigable waters extending 100 yards in all directions from position: 19°44′41.17″ N; 155°05′24.23″ W. This zone extends from the surface of the water to the ocean floor.

(b) *Regulations.* The general regulations governing safety zones contained in § 165.23 apply to the safety zone created by this section.

(1) All persons are required to comply with the general regulations governing safety zones found in this part.

(2) Entry into or remaining in this zone is prohibited unless expressly authorized by the COTP or his designated representative.

(3) Persons desiring to transit the safety zone identified in paragraph (a) of this section may contact the COTP at the Command Center telephone number (808) 842–2600 and (808) 842–2601, fax (808) 842–2642 or on VHF channel 16 (156.8 Mhz) to seek permission to transit the zone. If permission is granted, all persons and vessels must comply with the instructions of the COTP or his designated representative and proceed at the minimum speed necessary to maintain a safe course while in the zone.

(4) The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(c) *Notice of enforcement.* The COTP Honolulu will cause Notice of the Enforcement of the safety zone described in this section to be made by broadcast to the maritime community via marine safety broadcast notice to mariners on VHF channel 16 (156.8 MHz).

(d) *Definitions.* As used in this section, *designated representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the COTP to assist in enforcing the safety zone described in paragraph (a) of this section.

(e) *Enforcement period.* This section will be enforced from February 6, 2020, through 8 p.m. on February 13, 2020. If the safety zone is terminated prior to 8 p.m. on February 13, 2020, the Coast Guard will provide notice via a broadcast notice to mariners.

Dated: February 6, 2020.

A.B. Avanni,

Captain, U.S. Coast Guard, Captain of the Port Honolulu.

[FR Doc. 2020–02760 Filed 2–12–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0933]

RIN 1625–AA87

Security Zone; Cooper River; Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone on certain navigable waters of the Cooper River within a 500-yard radius of the South Carolina State Port Authority Cruise Ship Terminal in Charleston, SC during a visit by the Commandant of the United States Coast Guard. This action is necessary to protect personnel from potential hazards and security risk associated with the Commandant's speaking engagement. This regulation prohibits persons and vessels from entering, transiting through, anchoring in, or remaining within the security zone unless authorized by the Captain of the Port Charleston (COTP) or a designated representative.

DATES: This rule is effective from 10:30 a.m. to 3:30 p.m. on February 20, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0933 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Lieutenant Chad Ray, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740–3184, email *Chad.L.Ray@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

On November 18, 2019, Sector Charleston personnel were notified that the Commandant of the U.S. Coast Guard will give the State of the Coast Guard Address at the South Carolina State Port Authority Cruise Ship Terminal on the Cooper River in Charleston, SC. In response, on January 6, 2020, the Coast Guard published a notice of proposed rulemaking (NPRM) titled ''Security Zone; Cooper River; Charleston, SC'' (85 FR 271, Docket Number USCG–2019–0933). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this security zone. During the comment period that ended January 21, 2020, we received no comments. However, after the coment period ended, Sector Charleston was notified that additional dignitaries would be present before, during and after the State of the Coast Guard Address. This will require the duration of the security zone to be expanded by 3 hours. Therefore, the Coast Guard is issuing this temporary rule for this security zone that expands the security zone by 3 hours contained in the NPRM without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM with respect to this rule that expands the time of the proposed original security zone by 3 hours because it would be impractical to publish an NPRM for this change because we must establish this security zone by Febuary 20 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule. The security zone will impact waters of the Cooper River in Charleston, SC. The Captain of the Port Charleston (COTP) has determined that potential hazards associated with the event would be a security concern for participants, spectators, and others on the navigable waters around the event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to public interest because immediate action is needed based on numerous agencies previously agreeing on the date of February 20, 2020 and logistical steps have be taken to facilitiate the event taking place on this date. The security zone is necessary to ensure the safety of the event participants, as well as spectators.

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 Charleston (COTP) has determined that there are potential security risks associated with the Commandant's speaking engagement. The purpose of this rule is to ensure safety and security of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published on January 6, 2020. However, there is one change in the regulatory text of this rule from the proposed rule in the NPRM to account for the additional time needed to secure the area during the presence of dignitaries that will be in attendance before, during and after the State of the Coast Guard.

This rule establishes a security zone from 10:30 a.m. to 3:30 p.m. on February 20, 2020. The security zone will cover all navigable waters within a 500-yard radius of the South Carolina State Port Authority Cruise Ship Terminal in Charleston, SC. The duration of the zone is intended to ensure the security of persons, vessels, and these navigable waters before, during, and after the scheduled address. No vessels or person would be permitted to enter the security zone without obtaining permission from the COTP or a designated representative. Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the COTP by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted, all persons and vessels receiving such authorization must comply with the instructions of the COTP or a designated representative. The COTP will provide notice of the security zone by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives. The regulatory text appears at the end of this document.

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: (1) Persons and vessels may enter, transit through, anchor in, or remain within the regulated area during the enforcement periods if authorized by Sector Charleston COTP or a designated representative; (2) vessels not able to enter, transit through, anchor in, or remain within the regulated area without authorization from Sector Charleston COTP or a designated representative may operate in the surrounding areas during the enforcement period; (3) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners; and (4) the regulated area will be limited in time, scope, and only impact small designated areas of the Cooper River.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments

from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule 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 implication for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this 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, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a five hour security zone that will prohibit persons and vessels from entering, transiting through, anchoring in, or remaining within a limited area on the Cooper River during the State of the Coast Guard Address by Commandant of the U.S. Coast Guard. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

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 recordkeeping requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T07–0933 to read as follows:

§ 165.T07–0933 Security Zone; Cooper River, Charleston, SC.

(a) *Location.* All waters of the Cooper River within a 500-yard radius the South Carolina State Port Authority Cruise Ship Terminal in Charleston, SC.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port (COTP) Charleston in the enforcement of the regulated areas.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the COTP Charleston or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the COTP Charleston by telephone at 843–740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization is granted, all persons and vessels receiving such authorization must comply with the instructions of the COTP Charleston or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Marine Safety Information Bulletins, Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement period.* This section will be enforced from 10:30 a.m. to 3:30 p.m. on February 20, 2020.

Dated: February 5, 2020.

J.W. Reed,

Captain, U.S. Coast Guard, Captain of the Port Charleston.

[FR Doc. 2020–02658 Filed 2–12–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 254

RIN 0596–AD40

Conveyance of Small Tracts

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: The United States Department of Agriculture (USDA), Forest Service is revising regulations to implement certain changes to the Small Tracts Act, enacted in the Agriculture Improvement Act of 2018, also known as the 2018 Farm Bill. These statutory changes raise the value limit of tracts to be conveyed outside of the National Forest System under the Small Tracts Act from $150,000 to $500,000, and create a new conveyance category for parcels used as landfills, sewage treatment plants, or cemeteries under a Forest Service special use or other authorization. The changes also direct funds received from the conveyance of certain eligible lands to the Sisk Act fund available to the Secretary of Agriculture. These amendments to the Small Tracts Act are expected to provide the Forest Service with more flexibility for resolving property conflicts with private landowners and alleviate management burden and expense to the Forest Service.

DATES: This final rule is effective February 13, 2020.

FOR FURTHER INFORMATION CONTACT: Brad Tait, by phone at 971–806–2199, or via email at *bradley.tait@usda.gov.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

Public Law 97–465, commonly known as the Small Tracts Act (16 U.S.C. 521c–521i), was enacted in 1983 to help the Forest Service resolve land disputes and boundary management problems for parcels that generally were small in scale (less than ten acres) with land values that did not exceed $150,000. Eligible lands for sale, exchange, or interchange included National Forest System lands encumbered by an encroachment like a shed, house, or fence; roads or road rights-of-way in excess of Forest Service transportation needs; and ''mineral survey fractions,'' small parcels of National Forest System lands interspersed with or adjacent to lands transferred out of Federal ownership under the mining laws.

Discussion of Amendments to the Small Tracts Act

The Small Tracts Act was amended by Section 8621 of the Agriculture Improvement Act of 2018, also known as the 2018 Farm Bill (Pub. L. 115–334). The provisions included in this final rule implement statutory provisions of the 2018 Farm Bill that are entirely non-discretionary.

The 2018 Farm Bill increases the value limit of eligible parcels from $150,000 to $500,000. This modernizes the land value limit, allowing the Forest Service to continue conveying eligible parcels consistent with the intent of the original Act. This final rule implements this increase by revising paragraph (c) of 36 CFR 254.35.

The 2018 Farm Bill also adds a new category for parcels used as cemeteries, landfills, or sewage treatment plants authorized under a special use authorization or other authorization by the Secretary. This allows adjacent communities to have full control over these facilities presently located and permitted on Forest Service land. Currently, communities may only address this situation through special legislation or a land exchange, which can be lengthy and difficult processes. This final rule implements this provision by adding a new paragraph (c) to 36 CFR 254.32.

The 2018 Farm Bill amendments provide that funds received from the conveyance of certain eligible lands shall be deposited into the Sisk Act fund (16 U.S.C. 484a) available to the Secretary of Agriculture. The Secretary may use such funds to acquire land or interests in land for the National Forest System in the State from which the amounts were derived, including, but not limited to, land for administrative sites and recreational access. This final rule implements this provision by adding a new 36 CFR 254.38.

Finally, this final rule revises 36 CFR 254.36(a) to refer to ''[a]ll pertinent requirements of this subpart'' rather than to requirements of individual subsections of this subpart, which have been changed by the above revisions made by this final rule.

Regulatory Certifications

Executive Order 12866

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this final rule is not significant.

Executive Order 13771

The final rule has been reviewed in accordance with E.O. 13771 on reducing regulation and controlling regulatory costs, and is considered an E.O. deregulatory action.

Congressional Review Act

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

Regulatory Flexibility Act Analysis

The Agency has considered the final rule under the requirements of the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*). This final rule would not have any direct effect on small entities as defined by the Regulatory Flexibility Act. The final rule would not impose recordkeeping requirements on small entities; would not affect their competitive position in relation to large entities; and would not affect their cash flow, liquidity, or ability to remain in the market. Therefore, the Forest Service has determined that this final rule would not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act.

Federalism

The Agency has considered this final rule under the requirements of E.O. 13132, *Federalism.* The Agency has concluded that the final rule conforms with the federalism principles set out in this E.O.; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the Federal Government and the States, nor on the distribution of power and responsibilities among the various levels of government. Therefore, the Agency concludes that this final rule does not have federalism implications.

Consultation With Tribal Governments

Tribal consultation is not required for the revisions to the Small Tracts Act regulations effected in this final rule. The changes are not subject to interpretation or further definition. Local notification requirements to Tribes and other individuals for land

adjustment activities will occur as required.

No Takings Implications

The Agency has analyzed this final rule in accordance with the principles and criteria found in E.O. 12630, *Governmental Actions and Interference with Constitutionally Protected Property Rights,* and has determined that the rule does not pose the risk of a taking of protected private property.

Controlling Paperwork Burdens on the Public

This final rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law, or are not already approved for use, and therefore imposes no additional paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), and its implementing regulations at 5 CFR part 1320, do not apply.

National Environmental Policy Act

Agency regulations at 36 CFR 220.6(d)(2) (73 FR 43093) exclude from documentation in an environmental assessment or impact statement ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.'' The Agency has concluded that the revisions to regulations effected in this final rule fall within this category of actions and that no extraordinary circumstances exist which would require preparation of an environment assessment or environmental impact statement.

Energy Effects

This final rule has been reviewed under E.O. 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' It has been determined that this final rule does not constitute a significant energy action as defined in E.O. 13211.

Civil Justice Reform

The Agency has analyzed this rule in accordance with the principles and criteria of Executive Order 12988, *Civil Justice Reform.* The Agency has not identified any State or local laws or regulations that conflict with this regulation or that would impede full implementation of this rule. Nevertheless, in the event that such conflicts were to be identified, the final rule, if implemented, will preempt the State or local laws or regulations found to be in conflict. However, in that case, (1) no retroactive effect will be given to this final rule; and (2) the USDA will not require the use of administrative proceedings before parties could file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Agency has assessed the effects of this final rule on State, local, and Tribal governments and the private sector. This final rule does not compel the expenditure of $100 million or more by any State, local, or Tribal governments, or anyone in the private sector. Therefore, statements as described under sections 202 and 205 of the Act are not required.

List of Subjects in 36 CFR Part 254

Community facilities, National forests.

Therefore, for the reasons set forth in the preamble, the Forest Service amends part 254 of title 36 of the Code of Federal Regulations as follows:

PART 254—LANDOWNERSHIP ADJUSTMENT

Subpart C—Conveyance of Small Tracts

■ 1. The authority citation for part 254, subpart C, continues to read:

Authority: Pub. L. 97–465; 96 Stat. 2535.

■ 2. Amend § 254.32 by revising the section heading, and adding paragraph (c) to read as follows:

§ 254.32 Encroachments and other improvements.

* * * * *

(c) This subpart also allows conveyance of parcels that are used as a cemetery (including a parcel of not more than one acre adjacent to the parcel used as a cemetery), a landfill, or a sewage treatment plant under a special use authorization issued or otherwise authorized by a Forest Service official.

■ 3. Amend § 254.35 by revising paragraph (c) to read as follows:

§ 254.35 Limitations.

* * * * *

(c) The value of Federal lands conveyed in any transaction, pursuant to this subpart, shall not exceed $500,000.

* * * * *

■ 4. Amend § 254.36 by revising paragraph (a) to read as follows:

§ 254.36 Determining public interest.

(a) All pertinent requirements of this subpart must be met before a determination of public interest is made.

* * * * *

■ 5. Add § 254.38 to read as follows:

§ 254.38 Disposition of proceeds.

(a) The net proceeds derived from any sale or exchange in § 254.32(c) shall be deposited in the fund commonly known as the ''Sisk Act'' account.

(b) Amounts deposited shall be available until expended for:

(1) Acquisition of land or interests in land for administrative sites for the National Forest System in the State from which the amounts were derived; or

(2) Acquisition of land or interests in land for inclusion in the National Forest System in that State, including land or interests in land that enhance opportunities for recreational access.

Dated: January 29, 2020.

James E. Hubbard,

Undersecretary, Natural Resources and Environment.

[FR Doc. 2020–02299 Filed 2–12–20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2019–0431; FRL–10004–30–Region 9]

Approval and Conditional Approval of California Air Plan Revision, Imperial County Air Pollution Control District, Reasonably Available Control Technology

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve in part and conditionally approve in part revisions to the Imperial County Air Pollution Control District (ICAPCD or ''District'') portion of the California State Implementation Plan (SIP). These revisions concern the ICAPCD's Reasonably Available Control Technology (RACT) requirements for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS) and negative declarations for several source categories. We are approving the local SIP revisions to demonstrate that RACT is implemented as required under the Clean Air Act (CAA or ''the Act'').

DATES: These rules are effective on March 16, 2020.

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

No. EPA–R09–OAR–2019–0431. 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.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Eugene Chen, EPA Region IX, (415) 947–4304, *chen.eugene@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

Table of Contents

I. Proposed Action
II. Public Comments and EPA Responses
III. EPA Action
IV. Statutory and Executive Order Reviews

I. Proposed Action

On September 19, 2019 (84 FR 49202), the EPA proposed to approve and conditionally approve the ICAPCD's ''Reasonably Availability Control Technology Analysis for the 2017 Imperial County State Implementation Plan for the 2008 8-hr Ozone Standard'' (2017 RACT SIP), which was submitted to the EPA by the California Air Resources Board (CARB) on November 14, 2017, for approval as a revision to the California SIP. The 2017 RACT SIP also included ICAPCD's Minute Order No. 20, which adopted the 2017 RACT SIP and negative declarations for the 2017 RACT SIP.

Specifically, the EPA proposed to conditionally approve the ICAPCD's 2017 RACT SIP with respect to Rule 415, *Transfer and Storage of Gasoline,* and to approve the remainder of the 2017 RACT SIP. The EPA proposed to fully approve the ICAPCD's negative declarations for the 2017 RACT SIP.

We proposed to approve and conditionally approve the 2017 RACT SIP and negative declarations because we determined that with the exception of the deficiency identified in Rule 415, they complied with the relevant CAA requirements, and the District and CARB made commitments to revise Rule 415 that were sufficient to allow for a conditional approval with respect to sources covered by the Control Techniques Guidelines source category Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals (EPA–450/2–77–026). Our proposed action contains more information on the submitted documents and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted, and there is no change to our assessment of the SIP submittals as described in our proposed action. Therefore, as authorized in section 110(k)(3) and (k)(4) of the Act, the EPA is conditionally approving the ICAPCD's 2017 RACT SIP with respect to Rule 415, *Transfer and Storage of Gasoline,* and approving the remainder of ICAPCD's 2017 RACT SIP. In addition, the EPA is fully approving the ICAPCD's negative declarations for the 2017 RACT SIP.

The EPA is also making a non-substantive change to 40 CFR 52.222(a)(12), combining existing paragraphs 52.222(a)(12)(i) and 52.222(a)(12)(ii) by moving the text of paragraph 52.222(a)(12)(ii), ''Submitted on December 21, 2010 and adopted on July 13, 2010,'' to precede the CTG table in paragraph 52.222(a)(12)(i). The negative declarations that are being added in this rulemaking action are being placed in paragraph 52.222(a)(12)(ii).

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, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 Clean Air Act; and
- Does not provide the 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 the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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. The 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 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 April 13, 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 30, 2019.

Deborah Jordan,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations 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 F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(530) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(c) * * *

(530) The following plan was submitted on November 14, 2017 by the Governor's designee.

(i) [Reserved]

(ii) *Additional Materials.*

(A) Imperial County Air Pollution Control District.

(*1*) Imperial County 2017 State Implementation Plan for the 2008 8-Hour Ozone Standard, adopted September 12, 2017, Chapter 7 (''Reasonably Available Control Technology Assessment'').

(*2*) Imperial County 2017 State Implementation Plan for the 2008 8-Hour Ozone Standard, adopted September 12, 2017, Appendix B (''Reasonably Available Control Technology Analysis for the 2017 Imperial County State Implementation Plan for the 2008 8-Hour Ozone Standard'').

(B) [Reserved]

* * * * *

■ 3. Section 52.222 is amended by revising paragraph (a)(12) to read as follows:

(a) * * *

(12) Imperial County Air Pollution Control District.

(i) Submitted on December 21, 2010 and adopted on July 13, 2010.

CTG document No.	Title
Aerospace	EPA–453/R–97–004, Aerospace CTG and MACT.
Automobile and Light-duty Trucks, Surface Coating of.	EPA–450/2–77–008, Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks.
	EPA–453/R–08–006, Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings.
Cans and Coils, Surface Coating of	EPA–450/2–77–008, Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks.
Fiberglass Boat Manufacturing	EPA–453/R–08–004, Controls Techniques Guidelines for Fiberglass Boat Manufacturing.
Flat Wood Paneling, Surface Coating of.	EPA–450/2–78–032, Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VII: Factory Surface Coating of Flat Wood Paneling.
	EPA–453/R–06–004, Control Techniques Guidelines for Flat Wood Paneling Coatings.
Flexible Packing Printing	EPA–453/R–06–003, Control Techniques Guidelines for Flexible Package Printing.
Graphic Arts—Rotogravure and Flexography.	EPA–450/2–78–033, Control of Volatile Organic Emissions from Existing Stationary Sources, Volume III: Graphic Arts—Rotogravure and Flexography.
Large Appliances, Surface Coating of.	EPA–450/2–77–034, Control of Volatile Organic Emissions from Existing Stationary Sources—Volume V: Surface Coating of Large Appliances.
	EPA–453/R–07–004, Control Techniques Guidelines for Large Appliance Coatings.
Large Petroleum Dry Cleaners	EPA–450/3–82–009, Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners.
Offset Lithographic Printing and Letterpress Printing.	EPA–453/R–06–002, Control Techniques Guidelines for Offset Lithographic Printing and Letterpress Printing.
Magnet Wire, Surface Coating for Insulation of.	EPA–450/2–77–033, Control of Volatile Organic Emissions from Existing Stationary Sources—Volume IV: Surface Coating of Insulation of Magnet Wire.
Metal Furniture Coatings	EPA–450/2–77–032, Control of Volatile Organic Emissions from Existing Stationary Sources—Volume III: Surface Coating of Metal Furniture.
	EPA–453/R–07–005, Control Techniques Guidelines for Metal Furniture Coatings.
Miscellaneous Metal and Plastic Parts Coatings.	EPA–453/R–08–003, Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings.
Miscellaneous Metal Parts and Products, Surface Coating of.	EPA–450/2–78–015, Control of Volatile Organic Emissions from Existing Stationary Sources—Volume IV: Surface Coating of Miscellaneous Metal Parts and Products.
Miscellaneous Industrial Adhesives	EPA–453/R–08–005, Control Techniques Guidelines for Miscellaneous Industrial Adhesives.
Natural Gas/Gasoline Processing Plants Equipment Leaks.	EPA–450/2–83–007, Control of Volatile Organic Compound Equipment Leaks from Natural Gas/Gasoline Processing Plants.
Paper, Film and Foil Coatings	EPA–453R–07–003, Control Techniques Guidelines for Paper, Film and Foil Coatings.
Petroleum Refineries	EPA–450/2–77–025, Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds.
	EPA–450/2–78–036, Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment.
Pharmaceutical Products	EPA–450/2–78–029, Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products.
Pneumatic Rubber Tires, Manufacture of.	EPA–450/2–78–030, Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires.

CTG document No.	Title
Polyester Resin	EPA–450/3–83–008, Control of Volatile Organic Compound Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins.
	EPA–450/3–83–006, Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment.
Shipbuilding/Repair	EPA–453/R–94–032, Shipbuilding/Repair.
Synthetic Organic Chemical	EPA–450/3–84–015, Control of Volatile Organic Compound Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry.
	EPA–450/4–91–031, Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry.
Wood Furniture	EPA–453/R–96–007, Wood Furniture.

(ii) The following negative declarations for the 2008 8-hour ozone NAAQS were adopted by the Imperial County Air Pollution Control District on September 12, 2017, and submitted to the EPA on November 14, 2017.

CTG document No.	Title
EPA–450/2–77–008	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks.
EPA–450/2–77–022	Control of Volatile Organic Emissions from Solvent Metal Cleaning.
EPA–450/2–77–025	Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds.
EPA–450/2–77–032	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume III: Surface Coating of Metal Furniture.
EPA–450/2–77–033	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume IV: Surface Coating of Insulation of Magnet Wire.
EPA–450/2–77–034	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume V: Surface Coating of Large Appliances.
EPA–450/2–78–015	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VI: Surface Coating of Miscellaneous Metal Parts and Products.
EPA–450/2–78–029	Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products.
EPA–450/2–78–030	Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires.
EPA–450/2–78–032	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VII: Factory Surface Coating of Flat Wood Paneling.
EPA–450/2–78–033	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VIII: Graphic Arts—Rotogravure and Flexography.
EPA–450/2–78–036	Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment.
EPA–450/3–82–009	Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners.
EPA–450/3–83–006	Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment.
EPA–450/3–83–007	Control of Volatile Organic Compound Equipment Leaks from Natural Gas/Gasoline Processing Plants.
EPA–450/3–83–008	Control of Volatile Organic Compound Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins.
EPA–450/3–84–015	Control of Volatile Organic Compound Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry.
EPA–450/4–91–031	Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry.
EPA–453/R–96–007	Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations.
EPA–453/R–94–032, 61 FR 44050; 8/27/96.	Control Techniques Guidelines for Shipbuilding and Ship Repair Operations (Surface Coating).
EPA–453/R–97–004, 59 FR 29216; 6/06/94.	Aerospace (CTG & MACT).
EPA–453/R–06–001	Control Techniques Guidelines for Industrial Cleaning Solvents.
EPA–453/R–06–002	Control Techniques Guidelines for Offset Lithographic Printing and Letterpress Printing.
EPA–453/R–06–003	Control Techniques Guidelines for Flexible Package Printing.
EPA–453/R–06–004	Control Techniques Guidelines for Flat Wood Paneling Coatings.
EPA 453/R–07–003	Control Techniques Guidelines for Paper, Film, and Foil Coatings.
EPA 453/R–07–004	Control Techniques Guidelines for Large Appliance Coatings.
EPA 453/R–07–005	Control Techniques Guidelines for Metal Furniture Coatings.
EPA 453/R–08–003	Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings, Table 2—Metal Parts and Products.
EPA 453/R–08–003	Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings, Table 3—Plastic Parts and Products.
EPA 453/R–08–003	Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings, Table 4—Automotive/Transportation and Business Machine Plastic Parts.
EPA 453/R–08–003	Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings, Table 5—Pleasure Craft Surface Coating.
EPA 453/R–08–003	Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings, Table 6—Motor Vehicle Materials.
EPA 453/R–08–004	Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials.
EPA 453/R–08–005	Control Techniques Guidelines for Miscellaneous Industrial Adhesives.
EPA 453/R–08–006	Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings.
EPA 453/B16–001	Control Techniques Guidelines for the Oil and Natural Gas Industry.

* * * * *

■ 4. Section 52.248 is amended by adding paragraph (i) to read as follows:

§ 52.248 Identification of plan—conditional approval.

* * * * *

(i) The EPA is conditionally approving a portion of the California SIP revision submitted on November 14, 2017 demonstrating that control measures in the Imperial County Air Pollution Control District implement RACT for the 2008 8-hour National Ambient Air Quality Standards. The conditional approval is based on a commitment from the state to submit new or revised rules that will correct deficiencies in Rule 415, *Transfer and Storage of Gasoline* to establish RACT-level controls for sources covered by the Control Techniques Guidelines source category Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals (EPA–450/2–77–026). If the State fails to meet it commitment by one year from the date of this conditional approval, the conditional approval is treated as a disapproval.

[FR Doc. 2020–00780 Filed 2–12–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2019–0043; FRL–10004–67–Region 6]

Air Plan Approval; Texas; Revisions to Control of Air Pollution by Permits for New Construction or Modification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the United States Environmental Protection Agency (U.S. EPA) is finalizing approval of revisions to the Texas (TX) State Implementation Plan (SIP) submitted on February 22, 2019, that revised the State's New Source Review (NSR) permitting rules contained in Title 30 of the Texas Administrative Code (TAC) Chapter 116 *Control of Air Pollution by Air Permits for New Construction or Modification.* Our final action on the February 22, 2019, submittal also addresses portions of an April 16, 2014, SIP submittal pertaining to the permitting of Greenhouse Gas (GHG) emissions that were subsequently invalidated by the U.S. Supreme Court. The February 22, 2019, submittal appropriately removes these provisions from the Texas SIP.

DATES: This rule is effective on March 16, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2019–0043. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* 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 *https://www.regulations.gov* or in hard copy at the EPA Region 6 Office, 1201 Elm Street, Suite 500, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: Elizabeth Layton, EPA Region 6 Office, Air Permits Section (ARPE), 1201 Elm Street, Suite 500, Dallas, TX 75270, 214–665–2136, *layton.elizabeth@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Ms. Elizabeth Layton or Mr. Bill Deese at 214–665–7253.

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' means the EPA.

I. Background

The background for this action is discussed in depth in our November 4, 2019, proposal (84 FR 59325). In that document we proposed to approve revisions to the Texas SIP submitted February 22, 2019, by the Texas Commission on Environmental Quality (TCEQ) that revise the State's New Source Review (NSR) provisions pertaining to air quality permits for the control of air pollution by amending the criteria for air pollution control permits for new construction or modification, as well as make other non-substantive revisions. The February 22, 2019, submittal included the removal of provisions originally submitted on April 16, 2014, that relate to the permitting of Greenhouse Gas Emissions (GHGs) for ''non-anyway'' sources that were later invalidated by the Supreme Court in *Utility Air Regulatory Group (UARG)* v. *EPA* (134 S. Ct. 2427 (2014)). See the proposed rulemaking (84 FR 59325) for more details. We proposed to approve the removal of these provisions that were impacted by the Court's ruling. The comments received on our proposed rulemaking are outlined in the section below.

II. Response to Comments

We received four public comments on the proposal. One commenter (State of Texas) supported our proposed approval and agreed with the EPA's determination that the revisions to the Texas SIP were consistent with the CAA and the applicable federal rules and regulations relating to air pollution control. We received three anonymous public comments. One commenter opposed the approval of provisions relating to GHGs, another commenter opposed approving the Texas SIP, and one commenter opposed the approval of previously SIP-approved regulations containing provisions that waive permit renewal fees for members of the military on active duty stationed outside of the State of Texas. All public comments submitted are in the public docket to this rulemaking. Our responses to the comments are discussed below.

Comment: The State of Texas supported the EPA's proposed approval action and agreed with our determination that the revisions to the Texas SIP were consistent with the CAA and applicable federal rules and regulations pertaining to air pollution control.

Response: The EPA appreciates the supportive comment from the State of Texas. No changes will be made to the proposed rule as a result of the comment.

Comment: One anonymous commenter stated that the EPA should not approve portions of 30 TAC section 116.196(a) that specifically pertain to the exemption from permit renewal fees if a permit holder is on active duty in the U.S. Armed Forces and is serving outside the State of Texas. The commenter argues that if the permit holder is in fact serving in the military, then the TCEQ/EPA should require a secondary ''responsible official'' to submit timely permit renewal applications and the TCEQ/EPA should not grant exemptions from permit renewal fees as an approved provision in the SIP. The commenter states that this provision should be considered a state-only provision and not be approved into the SIP.

Response: As a threshold matter, the EPA must respond to all significant comments received. While considering significant comments, a determination must be made regarding the comment's relevance, *i.e.,* if the subject matter of the comment is relevant to the specific action being reviewed and submitted for approval. The EPA is only required to respond to comments that are determined to be relevant, meaning in part that any such comment, after our

consideration, could require a change in our proposed rule. Expressly, the EPA is required to address significant comments deemed relevant to the specific set of rules being proposed for action and then take action on that specific set of rules with consideration of those comments. We first note that the provisions quoted by the commenter are actually located at 30 TAC Section 116.310. In the current action, we did not propose for approval any provisions that relate to the waiver of permit renewal fees for members of the military serving outside of the State of Texas. Those provisions were submitted to the EPA on August 31, 1993, and were approved into the SIP by the EPA on March 10, 2006 (71 FR 12285). The public comment received by the commenter on a prior rulemaking is not relevant to the current rulemaking, and as such, no changes will be made in response to the comment received. Additionally, no challenge to that prior, final rulemaking action was filed and the timeframe has long passed to seek judicial review on that particular rulemaking. (See Administrative Procedure Act, 5 U.S.C. 704).

Comment: One anonymous commenter states that the ''EPA should disapprove the regulation on GHGs,'' and goes on to discuss the potential factors that can generally affect the EPA's approval of environmental regulations (cost, duration, subject matter). Additionally, the commenter requests the EPA to take the opportunity to review GHG regulations on carbon dioxide. Lastly, the commenter states that pending an official rulemaking on GHG's, EPA may not be able to make a ''regulatory ruling in time for the 2022 planned deadline.''

Response: See our response to the comment above related to the EPA's duty to respond to significant comments. The EPA has evaluated the comment, and we view the comment as not relevant to the specific subject matter at hand and is outside the scope of this rulemaking action. The general regulation and review of GHG's is not a part of the current action, nor germane to our final action and therefore, we are not required to respond to the comment. Further, the commenter does not provide context or detail to a ''2022 planned deadline'' therefore we are unable to discern the commenter's concern. However, we do note that we are bound by the U.S. Supreme Court's ruling, *UARG* v. *EPA* (2014), concerning the regulation of GHG's that is referenced in this action and our approval of the removal of the specific ''Step 2'' GHG provisions was based on the Court's ruling.

Comment: One anonymous commenter stated that the EPA should ''disapprove the Texas SIPs'' and supply the rationale behind why the state does not have the legal authority to do so on its own. Additionally, the commenter wants the EPA to examine interstate hydrocarbon transport, regulate GHG emissions under the CAA (specifically the NSR/PSD and 111(d) programs), as well as consider climate change and our demand for resources. The commenter also expresses the need to reduce the amount of carbon being burned and phase out conventional energy sources by 2020.

Response: See our responses above related to the EPA's duty to respond to significant comments. We do not agree that the EPA should disapprove the Texas SIP. We find that the State has submitted approvable SIP revisions and are thus approving them under the CAA that gives EPA the authority to do so. The comments related to regulating GHG's under NSR/PSD and CAA 111(d), climate change, and reduction of carbon is outside the scope of this rulemaking action. We are therefore not required to respond to the comment. Again, in this action, we are acting consistent with the U.S. Supreme Court's ruling in *UARG* v. *EPA* (2014) and our approval of the removal of the specific ''Step 2'' GHG provisions is appropriate here.

III. Final Action

We are approving revisions to the Texas SIP that revise NSR air permitting rules. We are also approving revisions to the Texas NSR rules related to the permitting of greenhouse gas emissions as being consistent with federal requirements. As explained in detail in the proposed rulemaking accompanying this action, we have determined that the revisions adopted on October 31, 2018, and submitted on February 22, 2019, were developed in accordance with the CAA and EPA's regulations, case law, policy and guidance for NSR permitting. Therefore, under section 110 of the Act, the EPA approves the following revisions to the Texas SIP in the following Sections of 30 TAC Chapter 116, submitted on February 22, 2019:

- Revisions to 30 TAC Section 116.114;
- Revisions to 30 TAC Section 116.160;
- Revisions to 30 TAC Section 116.164(a);
- Revisions to 30 TAC Section 116.196;
- Revisions to 30 TAC Section 116.198;
- Revisions to 30 TAC Section 116.310;
- Revisions to 30 TAC Section 116.611; and
- Revisions to 30 TAC Section 116.615

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference the revisions to the Texas regulations described in the Final Action section above. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 6 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated in the next update to the SIP compilation.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely

affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the 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 the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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. The 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 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 April 13, 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, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 29, 2020.

Kenley McQueen,

Regional Administrator, Region 6.

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 SS—Texas

■ 2. In § 52.2270, in paragraph (c), the table titled ''EPA Approved Regulations in the Texas SIP'' is amended by revising the entries for Sections 116.114, 116.160, 116.164, 116.196, 116.198, 116.310, 116.611, and 116.615 to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
*	*	*	*	*
Chapter 116 Revisions to Control of Air Pollution by Permits for New Construction or Modification				
*	*	*	*	*
Subchapter B: New Source Review Permits				
*	*	*	*	*
Section 116.114	Application Review Schedule.	10/31/2018	2/13/2020, [Insert **Federal Register** citation].	
*	*	*	*	*
Section 116.160	Prevention of Significant Deterioration.	10/31/2018	2/13/2020, [Insert **Federal Register** citation].	The PSD SIP includes 30 TAC Section 116.160(a) as adopted by the State as of 6/2/2010. The PSD SIP includes a letter from the TCEQ dated December 2, 2013, committing that Texas will follow a SIP amendment process to apply its PSD SIP to additional pollutants that are regulated in the future, including non-NAAQS pollutants. The PSD SIP includes a letter from the TCEQ dated May 30, 2014, clarifying the judicial review process for the Texas PSD permit program.

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
*	*	*	*	* * *
Section 116.164	Prevention of Significant Deterioration Applicability for Greenhouse Gases Sources.	10/31/2018		The PSD SIP does NOT include 30 TAC Sections 116.164(b).
*	*	*	*	* * *
Subchapter C: Plant-wide Applicability Limits				
*	*	*	*	* * *
Section 116.196	Renewal of a Plant-wide Applicability Limit Permit.	10/31/2018		
Section 116.198	Expiration of Voidance.	10/31/2018		
*	*	*	*	* * *
Subchapter D: Permit Renewals				
Section 116.310	Notification of Permit Holder.	10/31/2018		
*	*	*	*	* * *
Subchapter F: Standard Permits				
*	*	*	*	* * *
Section 116.611	Registration to Use a Standard Permit.	10/31/2018		30 TAC Section 116.611(b) is SIP-approved as adopted by the State as of 11/20/2002. The SIP does NOT include 30 TAC Section 116.611(c)(3), (c)(3)(A), and (c)(3)(B).
*	*	*	*	* * *
Section 116.615	General Conditions.	10/31/2018		
*	*	*	*	* * *

* * * * *

[FR Doc. 2020–02054 Filed 2–12–20; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary of the Interior

43 CFR Part 10

[NPS–WASO–NAGPRA–29542; PPWOVPADU0/PPMPRLE1Y.Y00000]

RIN 1024–AE60

Civil Penalties Inflation Adjustments

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: This rule revises U.S. Department of the Interior regulations implementing the Native American Graves Protection and Repatriation Act to provide for annual adjustments of civil penalties to account for inflation under the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and Office of Management and Budget guidance. The purpose of these adjustments is to maintain the deterrent effect of civil penalties and to further the policy goals of the underlying statutes.

DATES: This rule is effective on February 13, 2020.

FOR FURTHER INFORMATION CONTACT: Melanie O'Brien, Manager, National NAGPRA Program, National Park Service, 1849 C Street NW, Washington, DC 20240.

SUPPLEMENTARY INFORMATION:

I. Background

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Pub. L. 114–74) (''the Act''). The Act requires Federal agencies to adjust the level of civil monetary penalties annually for inflation no later than January 15 of each year.

II. Calculation of Annual Adjustments

The Office of Management and Budget (OMB) recently issued guidance to assist Federal agencies in implementing the annual adjustments required by the Act which agencies must complete by January 15, 2020. *See* December 16, 2019, Memorandum for the Heads of Executive Departments and Agencies, from Russel T. Vought, Acting Director, Office of Management and Budget, re: *Implementation of Penalty Inflation Adjustments for 2020, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (M–20–05). The guidance states that the cost-of-living adjustment multiplier for 2020, based on the Consumer Price Index (CPI–U) for the month of October 2019, not seasonally adjusted, is 1.01764. (The annual inflation adjustments are based on the percent change between the October CPI–U preceding the date of the adjustment, and the prior year's October CPI–U.) The guidance instructs agencies to complete the 2020 annual adjustment by multiplying each applicable penalty by the multiplier, 1.01764, and rounding to the nearest dollar.

The annual adjustment applies to all civil monetary penalties with a dollar amount that are subject to the Act. A civil monetary penalty is any assessment with a dollar amount that is levied for a violation of a Federal civil statute or regulation, and is assessed or enforceable through a civil action in Federal court or an administrative proceeding. A civil monetary penalty does not include a penalty levied for violation of a criminal statute, or fees for services, licenses, permits, or other regulatory review. This final rule adjusts the following civil monetary penalties contained in the Department regulations implementing the Native American Graves Protection and Repatriation Act (NAGPRA) for 2020 by multiplying 1.01764 by each penalty amount as updated by the adjustment made in 2019:

CFR citation	Description of the penalty	Current penalty including catch-up adjustment	Annual adjustment (multiplier)	Adjusted penalty
43 CFR 10.12(g)(2)	Failure of Museum to Comply	$6,834	1.01764	$6,955
43 CFR 10.12(g)(3)	Continued Failure to Comply Per Day	1,368	1.01764	1,392

Consistent with the Act, the adjusted penalty levels for 2020 will take effect immediately upon the effective date of the adjustment. The adjusted penalty levels for 2020 will apply to penalties assessed after that date including, if consistent with agency policy, assessments associated with violations that occurred on or after November 2, 2015. The Act does not, however, change previously assessed penalties that the Department is collecting or has collected. Nor does the Act change an agency's existing statutory authorities to adjust penalties.

III. Procedural Requirements

A. Regulatory Planning and Review (E.O. 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

B. Reducing Regulation and Controlling Regulatory Costs (Executive Order 13771)

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

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires an agency to prepare a regulatory flexibility analysis for rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. See 5 U.S.C. 603(a) and 604(a). The RFA does not apply to this final rule because the Office of the Secretary is not required to publish a proposed rule for the reasons explained below in Section III.M.

D. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

E. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments, or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

F. Takings (E.O. 12630)

This rule does not effect a taking of private property or otherwise have taking implications under Executive Order 12630. A takings implication assessment is not required.

G. Federalism (E.O. 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. A federalism summary impact statement is not required.

H. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of E. O. 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

I. Consultation With Indian Tribes (E.O. 13175 and Departmental Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required.

J. Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

K. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the rule is covered by a categorical exclusion. This rule is excluded from the requirement to prepare a detailed statement because it is a regulation of an administrative nature. (For further information see 43 CFR 46.210(i).) We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

L. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

M. Administrative Procedure Act

The Act requires agencies to publish annual inflation adjustments by no later than January 15 of each year, notwithstanding section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553). OMB has interpreted this direction to mean that the usual APA public procedure for rulemaking—which includes public notice of a proposed rule, an opportunity for public comment, and a delay in the effective date of a final rule—is not required when agencies issue regulations to implement the annual adjustments to civil penalties that the Act requires. Accordingly, we are issuing the 2020 annual adjustments as a final rule without prior notice or an opportunity for comment and with an effective date immediately upon publication in the **Federal Register**.

List of Subjects in 43 CFR Part 10

Administrative practice and procedure, Hawaiian Natives, Historic preservation, Indians-claims, Indians-lands, Museums, Penalties, Public lands, Reporting and recordkeeping requirements.

For the reasons given in the preamble, the Office of the Secretary amends 43 CFR part 10 as follows.

PART 10—NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION REGULATIONS

■ 1. The authority citation for part 10 continues to read as follows:

Authority: 16 U.S.C. 470dd; 25 U.S.C. 9, 3001 *et seq.*

§ 10.12 [Amended]

■ 2. In § 10.12:

■ a. In paragraph (g)(2) introductory text, remove ''$6,834'' and add in its place ''$6,955''.

■ b. In paragraph (g)(3), remove ''$1,368'' and add in its place ''$1,392''.

Rob Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2020–01946 Filed 2–12–20; 8:45 am]

BILLING CODE 4312–52–P

LEGAL SERVICES CORPORATION

45 CFR Part 1611

Income Level for Individuals Eligible for Assistance

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: The Legal Services Corporation (LSC) is required by law to establish maximum income levels for individuals eligible for legal assistance. This document updates the specified income levels to reflect the annual amendments to the Federal Poverty Guidelines issued by the U.S. Department of Health and Human Services (HHS).

DATES: Effective February 13, 2020.

FOR FURTHER INFORMATION CONTACT: Stefanie K. Davis, Senior Assistant General Counsel, Legal Services Corporation, 3333 K St. NW, Washington, DC 20007; (202) 295–1563; *sdavis@lsc.gov.*

SUPPLEMENTARY INFORMATION: Section 1007(a)(2) of the Legal Services Corporation Act (Act), 42 U.S.C.

2996f(a)(2), requires LSC to establish maximum income levels for individuals eligible for legal assistance. Section 1611.3(c) of LSC's regulations establishes a maximum income level equivalent to 125% of the Federal Poverty Guidelines (Guidelines), which HHS is responsible for updating and issuing. 45 CFR 1611.3(c).

Each year, LSC updates appendix A to 45 CFR part 1611 to provide client income eligibility standards based on the most recent Guidelines. The figures for 2020, set out below, are equivalent to 125% of the Guidelines published by HHS on January 17, 2020.

In addition, LSC is publishing a chart listing income levels that are 200% of the Guidelines. This chart is for reference purposes only as an aid to recipients in assessing the financial eligibility of an applicant whose income is greater than 125% of the applicable Guidelines amount, but less than 200% of the applicable Guidelines amount (and who may be found to be financially eligible under duly adopted exceptions to the annual income ceiling in accordance with 45 CFR 1611.3, 1611.4, and 1611.5).

Except where there are minor variances due to rounding, the amount by which the guideline increases for each additional member of the household is a consistent amount.

List of Subjects in 45 CFR Part 1611

Grant programs—law, Legal services.

For reasons set forth in the preamble, the Legal Services Corporation amends 45 CFR part 1611 as follows:

PART 1611—FINANCIAL ELIGIBILITY

■ 1. The authority citation for part 1611 continues to read as follows:

Authority: 42 U.S.C. 2996g(e).

■ 2. Revise appendix A to part 1611 to read as follows:

Appendix A to Part 1611—Income Level for Individuals Eligible for Assistance

LEGAL SERVICES CORPORATION 2020 INCOME GUIDELINES *

Size of household	48 Contiguous states and the District of Columbia	Alaska	Hawaii
1	$15,950	$19,938	$18,350
2	21,550	26,938	24,788
3	27,150	33,938	31,225
4	32,750	40,938	37,663
5	38,350	47,938	44,100
6	43,950	54,938	50,538
7	49,550	61,938	56,975
8	55,150	68,938	63,413
For each additional member of the household in excess of 8, add:	5,600	7,000	6,438

* The figures in this table represent 125% of the Federal Poverty Guidelines by household size as determined by HHS.

REFERENCE CHART—200% OF FEDERAL POVERTY GUIDELINES *

Size of household	48 Contiguous states and the District of Columbia	Alaska	Hawaii
1	$25,520	$31,900	$29,360
2	34,480	43,100	39,660
3	43,440	54,300	49,960
4	52,400	65,500	60,260
5	61,360	76,700	70,560
6	70,320	87,900	80,860
7	79,280	99,100	91,160
8	88,240	110,300	101,460
For each additional member of the household in excess of 8, add:	8,960	11,200	10,300

* The figures in this table represent 200% of the Federal Poverty Guidelines by household size as determined by HHS.

Dated: January 28, 2020.

Stefanie Davis,

Senior Assistant General Counsel.

[FR Doc. 2020–01824 Filed 2–12–20; 8:45 am]

BILLING CODE 7050–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 367

[Docket No. FMCSA–2019–0066]

RIN 2126–AC26

Fees for the Unified Carrier Registration Plan and Agreement

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes reductions in the annual registration fees the States collect from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies for the Unified Carrier Registration (UCR) Plan and Agreement for the registration years beginning in 2020. For the 2020 registration year, the fees will be reduced by 14.45 percent below the 2018 registration fee level to ensure that fee revenues collected do not exceed the statutory maximum, and to account for the excess funds held in the depository. The fees will remain at the same level for 2021 and subsequent years unless revised in the future. The reduction of the current 2019 registration year fees (finalized on December 28, 2018) range from approximately $3 to $2,712 per entity, depending on the number of vehicles owned or operated by the affected entities.

DATES: This final rule is effective February 13, 2020.

Petitions for Reconsideration of this final rule must be submitted to the FMCSA Administrator no later than March 16, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald Folsom, Office of Registration and Safety Information, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, (202) 385–2405.

SUPPLEMENTARY INFORMATION:

I. Rulemaking Documents

A. Availability of Rulemaking Documents

For access to docket FMCSA–2019–0066 to read background documents, go to *https://www.regulations.gov* at any time, or to Docket Operations at U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

B. Privacy Act

In accordance with 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its rulemaking process. DOT posts any comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL 14–FDMS), which can be reviewed at *https://www.transportation.gov/privacy.*

II. Abbreviations and Acronyms

The following is a list of abbreviations used in this document

CE Categorical Exclusion
DOT U.S. Department of Transportation
E.O. Executive Order
FMCSA Federal Motor Carrier Safety Administration
NPRM Notice of Proposed Rulemaking
OMB Office of Management and Budget
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
SBREFA Small Business Regulatory Enforcement Fairness Act
SBTC Small Business in Transportation Coalition
SSRS Single State Registration System
UCR Unified Carrier Registration
UCR Agreement Unified Carrier Registration Agreement
UCR Board Unified Carrier Registration Board of Directors
UCR Plan Unified Carrier Registration Plan

III. Executive Summary

A. Purpose and Summary of the Major Provisions

The UCR Plan and the 41 States participating in the UCR Agreement establish and collect fees from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. The UCR Plan and Agreement are administered by a 15-member board of directors (UCR Board); 14 appointed from the participating States and the industry, plus the Deputy Administrator of FMCSA or another Presidential appointee from the Department. Revenues collected are allocated to the participating States and the UCR Plan. The maximum amount that the UCR Plan may collect is established by statute. If annual revenue collections will exceed the statutory maximum allowed, then the UCR Plan must request adjustments to the fees (49 U.S.C. 14504a(f)(1)(E)). In addition, any excess funds held by the UCR Plan after payments are made to the States and for administrative costs are retained in the UCR depository, and fees subsequently charged must be adjusted further to return the excess revenues held in the depository as required by 49 U.S.C. 14504a(h)(4). Adjustments in the fees are requested by the UCR Plan and approved by FMCSA. These two provisions are the reasons for the two-stage adjustment adopted in this final rule. The final rule provides for a reduction for registration years beginning in 2020 to the annual registration fees established for the UCR Agreement.

Beginning in the 2020 registration year, the fees will be reduced by 14.45 percent below the 2018 registration fee level to ensure that fee revenues do not exceed the statutory maximum and to account for the excess funds held in the depository. The fees beginning with the 2021 registration year will remain at the same level as the fees for 2020, unless there is a future adjustment. The reduction of the current 2019 registration year fees (finalized on December 28, 2018) ranges from approximately $3 to $2,712 per entity, depending on the number of vehicles owned or operated by the affected entities.

B. Benefits and Costs

The changes imposed by this final rule reduce the fees paid by motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies to the participating States. While each motor carrier will realize a reduced burden, fees are considered by the Office of Management and Budget (OMB) Circular A–4, Regulatory Analysis as transfer payments, not costs. Transfer payments are payments from one group to another that do not affect total resources available to society. Therefore, transfers are not considered in the monetization of societal costs and benefits of rulemakings.

IV. Legal Basis for the Rulemaking

This rule adjusts the annual registration fees for the UCR Agreement established by 49 U.S.C. 14504a. The requested fee adjustments are required by 49 U.S.C. 14504a because, for the registration year 2018, the total revenues collected were expected to exceed the total revenue entitlements of $108 million distributed to the 41 participating States plus the $5 million established for the administrative costs associated with the UCR Plan and Agreement.[1] The requested adjustments

[1] The UCR Plan is ''the organization . . . responsible for developing, implementing, and administering the unified carrier registration agreement.'' 49 U.S.C. 14504a(a)(9). The UCR Agreement developed by the UCR Plan is the ''interstate agreement . . . governing the collection and distribution of registration and financial responsibility information provided and fees paid by motor carriers, motor private carriers, brokers,

have been submitted by the UCR Plan in accordance with 49 U.S.C. 14504a(f)(1)(E)(ii), which requires the UCR Board to request an adjustment by the Secretary of Transportation (Secretary) when the annual revenues collected exceed the maximum allowed. In addition, 49 U.S.C. 14504a(h)(4) states that any excess funds held by the UCR Plan in its depository, after payments to the States and for administrative costs, shall be retained ''and the fees charged . . . shall be reduced by the Secretary accordingly.''

The UCR Plan also requested approval of a revised total revenue target to be collected because of an adjustment in the amount for costs of administering the UCR Agreement. No changes in the revenue entitlements to the participating States were recommended by the UCR Plan. The revised total revenue target must be approved in accordance with 49 U.S.C. 14504a(d)(7) and (g)(4).

The Secretary also has broad rulemaking authority in 49 U.S.C. 13301(a) to carry out 49 U.S.C. 14504a, which is part of 49 U.S.C. subtitle IV, part B. Authority to administer these statutory provisions has been delegated to the FMCSA Administrator by 49 CFR 1.87(a)(2) and (7).[2]

The Administrative Procedure Act allows agencies to make rules effective immediately with good cause, instead of requiring publication 30 days prior to the effective date. 5 U.S.C. 553(d)(3). FMCSA finds there is good cause for this rule to be effective upon publication so that the UCR Plan and the participating States may begin collection of fees immediately for the registration year that will begin on January 1, 2020. The immediate commencement of fee collection will avoid further delay in distributing revenues to the participating States.

V. Statutory Requirements for the UCR Fees

A. Legislative History

The legislative history of 49 U.S.C. 14504a indicates that the purpose of the UCR Plan and Agreement is both to replace the Single State Registration System (SSRS) for registration of interstate motor carrier entities with the States and to ''ensure that States don't lose current revenues derived from SSRS'' (Sen. Rep. 109–120, at 2 (2005)). The statute provides for a 15-member board of directors for the UCR Plan to be appointed by the Secretary. The statute specifies that the UCR Board should consist of one director (either the FMCSA Deputy Administrator or another Presidential appointee from the Department) from DOT; four directors from among the chief administrative officers of the State agencies responsible for administering the UCR Agreement (one from each of the four FMCSA service areas); five directors from among the professional staffs of State agencies responsible for administering the UCR Agreement, to be nominated by the National Conference of State Transportation Specialists; and five directors from the motor carrier industry, of whom at least one must be from a national trade association representing the general motor carrier of property industry and one from a motor carrier that falls within the smallest fleet fee bracket (49 U.S.C. 14504a(d)(1)(B)).

The UCR Plan and the participating States are authorized by 49 U.S.C. 14504a(f) to establish and collect fees from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. The annual fees charged for registration year 2019 are set out in 49 CFR 367.50.

For carriers and freight forwarders, the fees vary according to the size of the vehicle fleets, as required by 49 U.S.C. 14504a(f). The fees collected are allocated to the States and the UCR Plan in accordance with 49 U.S.C. 14504a(h). Participating States submit a plan demonstrating that an amount equivalent to the revenues received are used for motor carrier safety programs, enforcement, or the administration of the UCR Plan and Agreement (49 U.S.C. 14504a(e)(1)(B)).

The UCR Plan and the participating States collect registration fees for each registration year, which is the same period as the calendar year. Usually, collection begins on October 1 of the previous year, and continues until December 31 of the year following the registration year. All of the revenues collected are distributed to the participating States or to the UCR Plan for administration of the UCR Agreement. No funds are distributed to the Federal Government.

B. Fee Requirements

The statute specifies that fees are to be based on the recommendation of the UCR Board (49 U.S.C. 14504a(d)(7)(A)). In recommending the level of fees to be assessed in any registration year, and in setting the fee level, the statute states that both the UCR Board and FMCSA ''shall consider'' the following factors:

- Administrative costs associated with the UCR Plan and Agreement;
- Whether the revenues generated in the previous year and any surplus or shortage from that or prior years enable the participating States to achieve the revenue levels set by the UCR Board; and
- Provisions governing fees in 49 U.S.C. 14504a(f)(1).

FMCSA, if asked by the UCR Board, may also adjust the fees within a reasonable range on an annual basis if the revenues collected from the fees are either insufficient to provide the participating States with the revenues they are entitled to receive or exceed those revenues (49 U.S.C. 14504a(f)(1)(E)).

Overall, the fees assessed under the UCR Agreement must produce the level of revenue established by statute. Section 14504a(g) establishes the revenue entitlements for States that choose to participate in the UCR Plan. That section provides that a State, participating in SSRS in the registration year prior to the enactment of the Unified Carrier Registration Act of 2005, is entitled to receive revenues under the UCR Agreement equivalent to the revenues it received in the year before that enactment. Section 14504a(g) also requires that States that did not participate in SSRS previously, but that choose to participate in the UCR Plan, may receive revenues not to exceed $500,000 per year. The UCR Board calculates the amount of revenue to which each participating State is entitled under the UCR Agreement, which is then approved by FMCSA.

FMCSA's interpretation of its responsibilities under 49 U.S.C. 14504a in setting fees for the UCR Plan and Agreement is guided by the primacy the statute places on the need both to set and to adjust the fees so they ''provide the revenues to which the States are entitled'' (49 U.S.C. 14504a(f)(1)(E)(i)). The statute links the requirement that the fees be adjusted ''within a reasonable range'' by both the UCR Plan and FMCSA to the provision of sufficient revenues to meet the entitlements of the participating States (49 U.S.C. 14504a(f)(1)(E); see also 49 U.S.C. 14504a(d)(7)(A)(ii)).

Section 14504a(h)(4) provides additional support for this interpretation. The provision explicitly requires FMCSA to reduce the fees for all motor carrier entities in the year following any year in which the depository retains any funds in excess of the amount necessary to satisfy the revenue entitlements of the participating States and the UCR Plan's administrative costs.

freight forwarders, and leasing companies. . . .'' 49 U.S.C. 14504a(a)(8).

[2] For the purpose of this rulemaking, the term ''FMCSA'' will frequently be used in place of ''Secretary'' due to the delegated authority provided by the Secretary. The term ''Secretary'' will be used in quoted material and as otherwise appropriate.

VI. Recommendations From the UCR Plan

On December 13, 2018, the UCR Board voted unanimously to submit a recommendation to the FMCSA to reduce the fees collected by the UCR Plan for registration years 2020 and thereafter. The recommendation was submitted to the FMCSA on February 25, 2019.[3] The requested fee adjustments are required by 49 U.S.C. 14504a because, for registration year 2018, the total revenues collected were expected to exceed the total revenue entitlements of $108 million distributed to the 41 participating States plus the $5 million established for ''the administrative costs associated with the unified carrier registration plan and agreement'' (49 U.S.C. 14504a(d)(7)(A)(i)). The maximum revenue entitlements for each of the 41 participating States, established in accordance with 49 U.S.C. 14504a(g), were set out in a table attached to the February 25, 2019, recommendation.

On August 27, 2019, FMCSA published a notice of proposed rulemaking (NPRM) reflecting the February 25 recommendation from the UCR Board (84 FR 44826). The NPRM requested comments addressing both the proposed adjustment in the fees and the separate new total revenue target recommendation by September 6, 2019.

In comments submitted on September 6, 2019, following a vote of the Plan's board of directors on September 5, the Plan updated its recommendations for the fee adjustments and provided a revised analysis supporting the recommendation. The principal components of the revised analysis were: (1) An increase in the recommended amount for administrative costs of the UCR Agreement from $3.2 million to $4 million; and (2) an update in the amount of actual and estimated revenue collections for 2018. In the original analysis attached to the February 25, 2019, recommendation letter, the UCR Plan estimated that, by the end of 2019, total revenues would exceed the statutory maximum by $9.38 million, or approximately 8.31 percent. The revised analysis submitted with the comments indicates that total revenues will now exceed the statutory maximum by $10.83 million, or approximately 9.61 percent. The excess revenues collected are being held in a depository maintained by the UCR Plan as required by 49 U.S.C. 14504a(h)(4).

The UCR Plan's revised recommendation includes actual revenues collected through the end of August 2019. The Plan will now terminate collections for each registration year on September 30 of the following year, instead of the previous termination date of December 31 of the following year. For the only remaining month of collections for 2018 (September 2019), the UCR Plan estimated the minimum projection of revenue collections for that month by summing the collections within each of the registration years 2013 through 2015[4] and then comparing across years to find the minimum total amount. This is the same methodology used to project collections and estimate fees in the previous fee adjustment rulemaking (83 FR 67124, 67126, December 28, 2018).

Under 49 U.S.C. 14504a(d)(7), the costs incurred by the UCR Plan to administer the UCR Agreement are eligible for inclusion in the total revenue target, in addition to the revenue entitlements for the participating States. The total revenue target for registration years 2010 to 2018, as approved in the 2010 final rule (75 FR 21993, April 27, 2010), was $112,777,060, including $5,000,000 for administrative costs. The final rule establishing the fees for the 2019 registration year was based on an allowance for administrative costs of $3,500,000 (83 FR 67126, 67128). The UCR Plan's original recommendation included a reduction in the amount of the administrative costs to $3,225,000 for the 2020 and 2021 registration years. The reduction of $275,000 recommended by the UCR Plan was based on estimates of future administrative costs needed to operate the UCR Plan and Agreement. The comments submitted on September 6 included an updated estimate of future annual administrative costs of $4,000,000, primarily because of an increase in legal expenses.

No changes in the State revenue entitlements were recommended, and the entitlement figures for 2020 and 2021 for the 41 participating States are the same as those previously approved for the years 2010 through 2019. Therefore, for registration years 2020 and thereafter, the UCR Plan now recommends approval of a total revenue target of $111,770,060.

VII. Discussion of the Comments

FMCSA received three comments in response to the NPRM.

Unified Carrier Registration Plan Board of Directors

As explained above, a comment was submitted by the UCR Plan Board of Directors by its Acting Chairperson Elizabeth Leaman providing more current financial data since several months had elapsed since the Board's initial fee recommendation was submitted in February and revenue collections were exceeding the previous estimates. This comment also requested approval of an increased allowance for administrative costs above what was originally requested in the February 25, 2019, recommendation for both 2020 and 2021. The net effect was a slight reduction in the fees recommended for 2020, as shown in the table below:

	1–2	3–5	6–20	21–100	101–1000	1000 and above
2020 Fee (Original)	$60	$180	$357	$1,248	$5,946	$58,060
2020 Fee (Updated)	59	176	351	1,224	5,835	56,977

The comment also included an analysis of the revenues already received from the fees put into effect at the beginning of the 2019 registration year and accounted for the need to carry over the amount of excess revenues from a previous year. It then determined that by the end of the collection period for the 2019 registration year on September 30, 2020, revenues would exceed the statutory maximum revenue by approximately $7.7 million. The Plan therefore made a recommendation that the fees for 2021 and after be set at the same level as the fees for 2020.

FMCSA has conducted an analysis of the Plan's revised recommendation. It accepts the adjustment in the 2020 fees that would result in a slightly lower level of fees than proposed in the

[3] The February 25, 2019, recommendation from the UCR Plan and all related tables are available in the docket.

[4] Collections for registration year 2016 are not available for use for this purpose because registration and fee collection for that year was not finalized at the time of the UCR Plan recommendation.

NPRM. It also accepts the recommendation to keep the fees at the same level after 2020, instead of the increase from 2020 to 2021 proposed in the NPRM. This change from the proposal in the NPRM is necessary to conform to the maximum revenue target established by statute. If future circumstances warrant further adjustment in the fee levels for 2021 or subsequent years, either to ensure that the participating States receive the revenues to which they are entitled, or to ensure that the statutory maximum is not exceeded, then the UCR Plan can request an adjustment in accordance with 49 U.S.C. 14504a(d)(7) and/or (h)(4).

Small Business in Transportation Coalition

The comment from the Small Business in Transportation Coalition (SBTC) asserts that since October 1, 2018, the UCR Plan has been collecting fees from ''intrastate carriers'' under the new registration system. SBTC claims that such collections from ''intrastate carriers'' are unlawful and could require refunds that might affect the revenues available for distribution to the participating States and for the costs of administering the UCR Agreement. These concerns were, according to SBTC, also communicated directly to the UCR Plan without any response.

FMCSA has considered the concerns expressed by SBTC, and has concluded that they do not require any adjustment in the fees established by this final rule. An intrastate motor carrier operating in any one of 37 States must register with the Agency and receive a USDOT number (see 49 U.S.C. 31134(a) and (e) and *https://www.fmcsa.dot.gov/registration/do-i-need-usdot-number*). It is the responsibility of the carrier to indicate correctly when registering with FMCSA whether it is an intrastate motor carrier. FMCSA does provide information to the UCR Plan about motor carriers that are issued USDOT numbers for the purpose of administering the UCR Agreement (cf. 49 U.S.C. 13908). It is the responsibility of each motor carrier to determine if it is required to register with the UCR Plan under the UCR Agreement because it is an interstate carrier, including carriers engaged in interstate transportation in a single state that involved a prior or subsequent movement across a State line.

SBTC has not provided any data on the number of intrastate carriers, if any, that have registered incorrectly or have been registered incorrectly by a third-party service. It has also not provided any estimate of the impact on the revenues of any incorrect registrations by intrastate motor carriers. It appears from the information submitted for the record by the UCR Plan in its comments that, since 2019 registrations began, revenue collections by the Plan and the participating States through August 2019 have already generated almost $104 million towards the 2019 total revenue target of just over $111 million. The UCR Plan anticipates receiving an additional amount of over $4 million when 2019 registration closes in September 2020. FMCSA considers it unlikely that incorrect registration of intrastate motor carriers will have any significant impact on the revenues derived from the fees.

Daniel Rodriguez

Mr. Rodriguez submitted a comment stating that lowering the fees would be good for trucking companies. The continuing reduction in the fees after 2020 would provide additional benefits to trucking companies and other entities required to register with the UCR Plan.

VIII. Approval of Total Revenue Target

The comments from the UCR Plan, as indicated above, addressed the adjustment proposed in the NPRM in the total revenue target to $111,002,060, based on the original recommendation in February, which reflected a reduction in the amount of the administrative costs from $3,500,000 to $3,225,000. The UCR Plan is now recommending an adjustment up to $4,000,000 for administrative costs, resulting in a total revenue target of $111,777,060. The adjustment is based on an analysis approved by the board of directors that indicated that legal expenses for the administration of the UCR Agreement will be significantly higher on an ongoing basis. Therefore, in accordance with 49 U.S.C. 14504a(d)(7) and (g)(4), FMCSA approves the following table of State revenue entitlements, administrative costs, and the total revenue target under the UCR Agreement, as proposed in the NPRM and revised to reflect the updated recommendation. These State revenue entitlements, the administrative costs, and the total revenue target will remain in effect for 2020 and subsequent years unless and until approval of a revision occurs.

STATE UCR REVENUE ENTITLEMENTS AND FINAL 2020 TOTAL REVENUE TARGET

State	Total 2020 UCR revenue entitlements
Alabama	$2,939,964.00
Arkansas	1,817,360.00
California	2,131,710.00
Colorado	1,801,615.00
Connecticut	3,129,840.00
Georgia	2,660,060.00
Idaho	547,696.68
Illinois	3,516,993.00
Indiana	2,364,879.00
Iowa	474,742.00
Kansas	4,344,290.00
Kentucky	5,365,980.00
Louisiana	4,063,836.00
Maine	1,555,672.00
Massachusetts	2,282,887.00
Michigan	7,520,717.00
Minnesota	1,137,132.30
Missouri	2,342,000.00
Mississippi	4,322,100.00
Montana	1,049,063.00
Nebraska	741,974.00
New Hampshire	2,273,299.00
New Mexico	3,292,233.00
New York	4,414,538.00
North Carolina	372,007.00
North Dakota	2,010,434.00
Ohio	4,813,877.74
Oklahoma	2,457,796.00
Pennsylvania	4,945,527.00
Rhode Island	2,285,486.00
South Carolina	2,420,120.00
South Dakota	855,623.00
Tennessee	4,759,329.00
Texas	2,718,628.06
Utah	2,098,408.00
Virginia	4,852,865.00
Washington	2,467,971.00
West Virginia	1,431,727.03
Wisconsin	2,196,680.00
Sub-Total	106,777,059.81
Alaska	500,000.00
Delaware	500,000.00
Total State Revenue Entitlement	107,777,060.00
Administrative Costs	4,000,000.00
Total Revenue Target	111,777,060.00

IX. International Impacts

Motor carriers and other entities involved in interstate and foreign transportation in the United States that do not have a principal office in the United States are nonetheless subject to the fees for the UCR Plan. They are required to designate a participating State as a base State and pay the appropriate fees to that State. 49 U.S.C. 14504a(a)(2)(B)(ii) and (f)(4).

X. Section-by-Section Analysis

Under this final rule, provisions of 49 CFR 367.60 (which were adopted in the December 28, 2018, final rule) are

revised to establish new reduced fees applicable beginning in registration year 2020. These fees will remain in effect in subsequent registration years unless and until revised, so the new 49 CFR 367.70 proposed in the NPRM is not necessary and will not be adopted.

XI. Regulatory Analyses

A. E.O. 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

FMCSA determined that this final rule is not a significant regulatory action under section 3(f) of E.O. 12866, 58 FR 51735 (October 4, 1993), Regulatory Planning and Review, as supplemented by E.O. 13563, Improving Regulation and Regulatory Review (76 FR 3821, January 21, 2011), and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. Accordingly, OMB has not reviewed it under that Order. It is also not significant within the meaning of DOT regulatory policies and procedures (DOT Order 2100.6 dated Dec. 20, 2018).

The changes imposed by this final rule adjust the registration fees paid by motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies to the UCR Plan and the participating States. Fees are considered by OMB Circular A–4, Regulatory Analysis, as transfer payments, not costs. Transfer payments are payments from one group to another that do not affect total resources available to society. By definition, transfers are not considered in the monetization of societal costs and benefits of rulemakings.

This rule establishes reductions in the annual registration fees for the UCR Plan and Agreement. The entities affected by this rule are the participating States, motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. Because the State UCR revenue entitlements will remain unchanged, the participating States will not be impacted by this rule. The primary impact of this rule will be a reduction in fees paid by individual motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. The reduction of the current 2019 registration year fees (finalized on December 28, 2018) ranges from approximately $3 to $2,712 per entity, depending on the number of vehicles owned or operated by the affected entities.

B. E.O. 13771 Reducing Regulation and Controlling Regulatory Costs

This final rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.[5]

C. 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).[6]

D. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Pub. L. 104–121, 110 Stat. 857), requires Federal agencies to consider the impact of their regulatory proposals on small entities, analyze effective alternatives that minimize small entity impacts, and make their analyses available for public comment. The term ''small entities'' means small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000.[7] Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these entities. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

This rule will directly affect the participating States, motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. Under the standards of the RFA, as amended by the SBREFA, the participating States are not considered small entities because they do not meet the definition of a small entity in section 601 of the RFA. Specifically, States are not considered small governmental jurisdictions under section 601(5) of the RFA, both because State government is not included among the various levels of government listed in section 601(5), and because, even if this were the case, no State nor the District of Columbia has a population of less than 50,000, which is the criterion by which a governmental jurisdiction is considered small under section 601(5) of the RFA.

The Small Business Administration (SBA) size standard for a small entity (13 CFR 121.201) differs by industry code. The entities affected by this rule fall into many different industry codes. In order to determine if this rule would have an impact on a significant number of small entities, FMCSA examined the 2012 Economic Census[8] data for two different industries; truck transportation (Subsector 484) and transit and ground transportation (Subsector 485). According to the 2012 Economic Census, approximately 99 percent of truck transportation firms, and approximately 97 percent of transit and ground transportation firms, had annual revenue less than the SBA revenue threshold of $27.5 million and $15 million, respectively. Therefore, FMCSA has determined that this rule will impact a substantial number of small entities.

However, FMCSA has determined that this rule will not have a significant impact on the affected entities. The effect of this rule will be to reduce the registration fee motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies are currently required to pay. The reduction will range from approximately $3 to $2,712 per entity depending on the number of vehicles owned and/or operated by the affected entities. FMCSA asserts that the reduction in fees will not have a significant impact on the affected small entities. Accordingly, I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

E. Assistance for Small Entities

In accordance with section 213(a) of the SBREFA, FMCSA wants to assist small entities in understanding this final rule so that they can better evaluate its effects on themselves and participate in the rulemaking initiative.

[5] Executive Office of the President, Office of Management and Budget. Guidance Implementing Executive Order 13771, Titled ''Reducing Regulation and Controlling Regulatory Costs.'' Memorandum M–17–21. April 5, 2017.

[6] A ''major rule'' means any rule that the Administrator of Office of Information and Regulatory Affairs at the Office of Management and Budget finds has resulted in or is likely to result in (a) an annual effect on the economy of $100 million or more; (b) a major increase in costs or prices for consumers, individual industries, Federal agencies, State agencies, local government agencies, or geographic regions; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets (5 U.S.C. 804(2)).

[7] Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

[8] U.S. Census Bureau, *2012 US Economic Census.* Available at: *https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_48SSSZ4&prodType=table* (accessed October 24, 2018).

If the final rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the FMCSA point of contact, Gerald Folsom, listed in the **FOR FURTHER INFORMATION CONTACT** section of this final rule.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration's 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 FMCSA, call 1–888–REG–FAIR (1–888–734–3247). DOT has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

F. Unfunded Mandates Reform Act of 1995

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 $165 million (which is the value equivalent of $100 million in 1995, adjusted for inflation to 2018 levels) or more in any one year. Though this final rule will not result in any such expenditure, the Agency discusses the effects of this rule elsewhere in this preamble.

G. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from OMB for each collection of information they conduct, sponsor, or require through regulations. FMCSA determined that no information collection requirements are associated with this final rule. Therefore, the PRA does not apply to this final rule.

H. E.O. 13132 (Federalism)

A rule has implications for federalism under section 1(a) of E.O. 13132 if it has ''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.'' FMCSA has determined that this rule would not have substantial direct costs on or for States, nor would it limit the policymaking discretion of States. Nothing in this document preempts any State law or regulation, imposes substantial direct unreimbursed compliance costs on any State, or diminishes the power of any State to enforce its own laws. As detailed above, the UCR Board includes substantial State representation. The States have already had opportunity for input through their representatives. Accordingly, this rulemaking does not have federalism implications warranting the application of E.O. 13132.

I. E.O. 12988 (Civil Justice Reform)

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminates ambiguity, and reduce burden.

J. E.O. 13045 (Protection of Children)

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks, 62 FR 19885 (April 23, 1997), requires agencies issuing ''economically significant'' rules, if the regulation also concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children, to include an evaluation of the regulation's environmental health and safety effects on children. The Agency determined this final rule is not economically significant. Therefore, no analysis of the impacts on children is required. In any event, the Agency does not anticipate that this regulatory action could in any respect present an environmental or safety risk that could disproportionately affect children.

K. E.O. 12630 (Taking of Private Property)

FMCSA reviewed this final rule in accordance with E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and has determined it will not effect a taking of private property or otherwise have taking implications.

L. Privacy Impact Assessment

Section 522 of title I of division H of the Consolidated Appropriations Act, 2005, enacted December 8, 2004 (Pub. L. 108–447, 118 Stat. 2809, 3268, 5 U.S.C. 552a note), requires the Agency to conduct a privacy impact assessment of a regulation that will affect the privacy of individuals. This rule does not require the collection of personally identifiable information and will not affect the privacy of individuals.

M. E.O. 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

N. E.O. 13211 (Energy Supply, Distribution, or Use)

FMCSA has analyzed this final rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency has determined that this rule is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

O. E.O. 13175 (Indian Tribal Governments)

This rule does not have Tribal implications under E.O. 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.

P. National Technology Transfer and Advancement Act (Technical Standards)

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) are standards that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, FMCSA did not consider the use of voluntary consensus standards.

Q. National Environmental Policy Act

FMCSA analyzed this rule for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or

environmental impact statement under FMCSA Order 5610.1, 69 FR 9680 (March 1, 2004), Appendix 2, paragraph 6.h. The Categorical Exclusion (CE) in paragraph 6.h. covers regulations and actions taken pursuant to the regulations implementing procedures to collect fees that will be charged for motor carrier registrations. The content in this rule is covered by this CE and the final action does not have any effect on the quality of the environment. The CE determination is available in the docket.

List of Subjects in 49 CFR Part 367

Insurance, Intergovernmental relations, Motor carriers, Surety bonds.

For the reasons discussed in the preamble, FMCSA is amending title 49 CFR chapter III, part 367 as follows:

PART 367—STANDARDS FOR REGISTRATION WITH STATES

■ 1. The authority citation for part 367 continues to read as follows:

Authority: 49 U.S.C. 13301, 14504a; and 49 CFR 1.87.

■ 2. Revise § 367.60 to read as follows:

§ 367.60 Fees under the Unified Carrier Registration Plan and Agreement for registration years beginning in 2020.

TABLE 1 TO § 367.60—FEES UNDER THE UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT FOR REGISTRATION YEAR 2020 AND EACH SUBSEQUENT REGISTRATION YEAR THEREAFTER

Bracket	Number of commercial motor vehicles owned or operated by exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for broker or leasing company
B1	0–2	$59	$59
B2	3–5	176	
B3	6–20	351	
B4	21–100	1,224	
B5	101–1,000	5,835	
B6	1,001 and above	56,977	

Issued under authority delegated in 49 CFR 1.87 on:

Dated: January 24, 2020.

Jim Mullen,

Acting Administrator.

[FR Doc. 2020–01761 Filed 2–12–20; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 200121–0025]

RIN 0648–BH48

International Fisheries; Pacific Tuna Fisheries; Procedures for the Active and Inactive Vessel Register; Correction

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

ACTION: Final rule; Correcting amendment.

SUMMARY: On December 20, 2019, NMFS published a final rule under the Tuna Conventions Act of 1950 (TCA), as amended, and the Marine Mammal Protection Act (MMPA), as amended, to implement International Maritime Organization (IMO) requirements in Inter-American Tropical Tuna Commission (IATTC) Resolution C–18–06 (*Resolution (Amended) on a Regional Vessel Register*) and amendments to existing regulations governing inclusion on the IATTC Regional Vessel Register (Vessel Register) by purse seine vessels fishing in the eastern Pacific Ocean (EPO). The December 20th final rule inadvertently contained provisions allowing for the collection of a ''business email address'' without Office of Management and Budget (OMB) approval under the Paperwork Reduction Act. This amendment is necessary to correct those two revised collection-of-information requirements, because they became effective before approval by OMB.

DATES: Effective February 13, 2020.

ADDRESSES: Copies of supporting documents are available via the Federal eRulemaking Portal: *http://www.regulations.gov,* docket NOAA–NMFS–2018–0030, or by contacting Daniel Studt, NMFS West Coast Region, 501 W Ocean Blvd., Suite 4200, Long Beach, CA 90802, or emailing *WCR.HMS@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Daniel Studt, NMFS, West Coast Region, 562–980–4073.

SUPPLEMENTARY INFORMATION:

Federal Register Correction

On December 20, 2019, NMFS published a final rule in the **Federal Register** (84 FR 70040) to implement IMO requirements in IATTC Resolution C–18–06 (*Resolution (Amended) on a Regional Vessel Register*) and amendments to existing regulations governing inclusion on the Vessel Register by purse seine vessels fishing in the EPO. That final rule is effective January 21, 2020 that included new or revised information collections, which are delayed until publication of a document in the **Federal Register** announcing the effective date.

The final rule amended paragraphs 50 CFR 300.22(b)(4)(ii)(A) and 50 CFR 300.22(b)(4)(iii)(B) to require a ''business email address'' in the written notification from purse seine vessels with a carrying capacity of 400 short tons or less requesting active or inactive status on the Vessel Register. The provision requiring a ''business email address'' in 50 CFR 300.22(b)(4)(ii)(A) and 50 CFR 300.22(b)(iii)(B) is a collection-of-information requirement subject that was submitted for review and approval by OMB under the Paperwork Reduction Act (PRA) under control number 0648–0387 upon publication of the December 20 final rule. The business email address requirement found in these paragraphs is not yet approved and the regulatory text is corrected here. Once reviewed and approved by OMB, NMFS will issue another correcting amendment that implements the requirement for a ''business email address''.

Classification

This final rule has been determined to be not significant for the purposes of Executive Order 12866. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

This final rule correction amends two paragraphs that contain existing collection-of-information requirements approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) under control number 0648–0387.

The NOAA Assistant Administrator for Fisheries (AA) finds that the need to immediately implement this regulatory correction constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B) of the Administrative Procedure Act (APA), because prior notice and opportunity for public comment on this final rule is unnecessary and contrary to the public interest. Such procedures are unnecessary and contrary to the public interest, because the rules implementing revisions and updates to NMFS' Tuna Convention Act regulations have already been subject to notice and comment and not correcting the regulatory text would result in confusion and uncertainty for the affected entities.

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

These measures are thus exempt from the procedures of the Regulatory Flexibility Act because prior notice and comment are not required under the APA.

List of Subjects in 50 CFR Part 300

Fish, Fisheries, Fishing, Fishing vessels, Reporting and recordkeeping requirements.

Dated: January 21, 2020.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 300 is corrected by making the following correcting amendments:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart C—Eastern Pacific Tuna Fisheries

■ 1. The authority citation for part 300, subpart C, continues to read as follows:

Authority: 16 U.S.C. 951 *et seq.*

■ 2. In § 300.22, revise paragraphs (b)(4)(ii)(A) and (b)(4)(iii)(B) to read as follows:

§ 300.22 Recordkeeping and reporting requirements.

* * * * *

(b) * * *

(4) * * *

(ii) * * *

(A) To request a purse seine vessel of 400 st (362.8 mt) carrying capacity or less be listed on the Vessel Register and be categorized as active, the vessel owner or managing owner must submit to the HMS Branch written notification including, but not limited to, a vessel photograph, the vessel information as described under paragraph (b)(3) of this section, and the owner or managing owner's signature and business telephone and fax numbers. If a purse seine vessel of 400 st (362.8 mt) carrying capacity or less is required by the Agreement on the IDCP to carry an observer, the vessel owner or managing owner must also submit payment of the vessel assessment fee to the IATTC.

* * * * *

(iii) * * *

(B) To request a tuna purse seine vessel of 400 st (362.8 mt) carrying capacity or less be listed on the Vessel Register and categorized as inactive for the following calendar year, the vessel owner or managing owner must submit to the HMS Branch a written notification including, but not limited to, the vessel name and registration number and the vessel owner or managing owner's name, signature, business address, and business telephone and fax numbers. Payment of the vessel assessment fee is not required for vessels of 400 st (362.8 mt) carrying capacity or less to be categorized as inactive.

* * * * *

[FR Doc. 2020–01198 Filed 2–12–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 200204–0043]

RIN 0648–XX032

Atlantic Surfclam and Ocean Quahog Fisheries; 2020 Fishing Quotas for Atlantic Surfclams and Ocean Quahogs; and Suspension of Minimum Atlantic Surfclam Size Limit

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

ACTION: Final rule.

SUMMARY: NMFS announces that the quotas for the Atlantic surfclam and ocean quahog fisheries for 2020 will remain status quo. NMFS also suspends the minimum size limit for Atlantic surfclams for the 2020 fishing year. Regulations for these fisheries require NMFS to notify the public of the allowable harvest levels for Atlantic surfclams and ocean quahogs from the Exclusive Economic Zone if the previous year's quota specifications remain unchanged.

DATES: Effective January 1, 2020, through December 31, 2020.

FOR FURTHER INFORMATION CONTACT: Laura Hansen, Fishery Management Specialist, 978–281–9225.

SUPPLEMENTARY INFORMATION: The Atlantic Surfclam and Ocean Quahog Fishery Management Plan (FMP) requires that NMFS issue a notice in the **Federal Register** of the upcoming year's quota, even if the quota remains unchanged from the previous year. At its April 2019 meeting, the Mid-Atlantic Fishery Management Council approved changes to the overfishing limits (OFL) for the 2019 and 2020 fishing years. The OFL for the 2020 fishing year is 74,110 mt. The annual catch targets and commercial quota remain unchanged by the modification to the OFL. At its June 2019 meeting, the Council recommended no change to the quota specifications for Atlantic surfclams and ocean quahogs for the 2020 fishing year. We are announcing 2020 quota levels of 3.4 million bushels (bu) (181 million L) for Atlantic surfclams, 5.33 million bu (288 million L) for ocean quahogs, and 100,000 Maine bu (3.52 million L) for Maine ocean quahogs. These quotas were published as projected 2020 limits in the **Federal Register** on February 6, 2018 (83 FR 5212). This rule establishes

these quotas as unchanged from 2019 and final.

The regulations at 50 CFR 648.75(b)(3) allow the Regional Administrator, to annually suspend, the minimum size limit for Atlantic surfclams unless discard, catch, and biological sampling data indicate that 30 percent or more of the Atlantic surfclam resource have a shell length less than 4.75 inches (121 mm) and the overall reduced size is not attributable to harvest from beds where growth of the individual clams has been reduced because of density-dependent factors. At its June 2019 meeting, the Council recommended the Regional Administrator suspend the minimum size limit for Atlantic surfclams for the 2020 fishing year. Commercial surfclam data for 2019 indicated that 22 percent of the overall commercial landings were composed of surfclams that were less than the 4.75-in (121-mm) default minimum size.

Based on the information available, the Regional Administrator concurs with the Council's recommendation, and is suspending the minimum size limit for Atlantic surfclams in the upcoming fishing year (January 1 through December 31, 2020).

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator for Fisheries, NOAA, has determined that this rule is consistent with the Atlantic Surfclam and Ocean Quahog FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This action does not introduce any new reporting, recordkeeping, or other compliance requirements. This rule does not duplicate, overlap, or conflict with other Federal rules.

This rule is exempt from the requirements of E.O. 12866.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

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

Dated: February 4, 2020.

Samuel D. Rauch III,

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

[FR Doc. 2020–02533 Filed 2–12–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 180625576–8999–02]

RIN 0648–BJ43

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2019–2020 Biennial Specifications and Management Measures; Inseason Adjustments; Correction

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

ACTION: Final rule; correcting amendments.

SUMMARY: NMFS published a final rule on January 3, 2020 that made routine inseason adjustments to management measures in commercial groundfish fisheries. This action corrects publication errors in the trip limit tables for non-individual fishing quota (IFQ) species and limited entry fixed gear (LEFG) vessels that were implemented through the final rule.

DATES: Effective February 13, 2020.

FOR FURTHER INFORMATION CONTACT: Karen Palmigiano, NMFS West Coast Regional Office, telephone: 206–526–4491 or email: *karen.palmigiano@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

This final rule is accessible via the internet at the Office of the Federal Register's website at *http://www.gpoaccess.gov/fr/index.html.* Background information and documents are available at the Pacific Fishery Management Council's (Council's) website at *http://www.pcouncil.org/.*

Background

NMFS published a final rule (85 FR 250; January 3, 2020), effective January 2, 2020, that made routine inseason adjustments to managements measures in commercial groundfish fisheries. The final rule implemented recommendations made by the Pacific Fishery Management Council (Council) at its November 14–20, 2019 meeting. These recommendations included adjustments to the trip limits for vessels in the limited entry fixed gear (LEFG) and open access (OA) fisheries that are targeting sablefish, lingcod, the Minor Slope rockfish complex and darkblotched rockfish, the Minor Nearshore Rockfish complex, deeper nearshore rockfish complex, and bocaccio for 2020, as well as adjustments to the Shorebased individual fishing quota (IFQ) Program fishery trip limits for big skate for 2020. After publication of the final rule, three publication errors were noted.

Need for Correction

Three corrections are needed so that the implementing regulations are accurate and implement the adjustments to management measures as intended by the Council and described in the preamble of the final rule (85 FR 250).

First, the implementing regulations on pages 257 and 258 of the final rule (85 FR 250; January 3, 2020) for Tables 1 (North) and (South) to part 660, subpart D, included formatting errors that inadvertently removed the label for the big skate trip limits leaving a trip limit in Line 10 of each table without a species label. This correction would update Line 10 of each of the tables to include the label of ''Big Skate'' for those trip limits.

Second, the implementing regulations on page 260, Table 2 (South) to part 660, subpart E, inadvertently omitted the Council's recommended decrease to the trip limit for LEFG vessels targeting sablefish between 40°10′ North latitude (N lat.) and 36° N lat. from ''1,700 pounds (lb) (771 kilograms [kg]) per week, not to exceed 5,100 lb (2,313 kg) per two months'' to ''1,300 lb (560 kg) per week, not to exceed 3,900 (1,769 kg) per two months.'' This correction would replace the current limit in Line 6 of Table 2 (South) with the new lower trip limit for LEFG vessels targeting sablefish between 40°10′ N lat. and 36° N lat consistent with the Council's intent and as described in the preamble to the final rule.

Lastly, the implementing regulations on 260, Table 2 (South) to part 660, subpart E, included a formatting error in Line 39 that inadvertently removed the label for the Pacific cod trip limit leaving a trip limit in Line 39 without a species label. This action would update Line 39 of Table 2 (South) to include the label of ''Pacific Cod'' for the trip limits on Line 39.

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries (AA) finds there is good cause to waive prior notice and an opportunity for public comment on this correction, as notice and comment would be unnecessary and contrary to public interest. Notice and comment are unnecessary and contrary to the public interest because this action corrects inadvertent errors in regulations made in the final rule published on January 3, 2020 (85 FR 250), and immediate notice of the error and correction is necessary to prevent confusion among participants in the fishery that could result in issues with reporting, recordkeeping, and enforcement. To effectively correct the errors, the changes in this action must go into effect upon publication. In addition, notice and comment is unnecessary because this action makes only minor changes to correct the final rule. The public, states and the Council are aware of the correct intent of the regulations through the Council's public process used to develop the final rule and had the opportunity to comment on these adjustments during public comment at the Council's November meeting. The preamble to the January 3, 2020, final rule also correctly describes the intent of the regulations. These corrections will not affect the results of analyses conducted to support management decisions in the Pacific Coast Groundfish fishery nor change any operating practices in the fishery.

For the same reasons stated above, the AA has determined that good cause exists to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d). This notice makes only minor corrections to the final rule which was effective January 2, 2020. Delaying effectiveness of these corrections would result in conflicts in the regulations and confusion among fishery participants. Because prior notice and an opportunity for public comment are not required to be provided for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable. Accordingly, no Regulatory Flexibility Analysis is required for this rule and none has been prepared.

This action is taken under the authority of 50 CFR 660.60(c) and is exempt from review under Executive Order 12866.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Indian Fisheries.

Dated: January 29, 2020.

Jennifer M. Wallace,

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

For reasons explained in the preamble, 50 CFR part 660 is corrected by making the following correcting amendments:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

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

■ 2. Tables 1 (North) and (South) to part 660, subpart D are corrected to read as follows:

Table 1 (North) to Part 660, Subpart D -- Limited Entry Trawl Rockfish Conservation Areas and Landing Allowances for non-IFQ Species and Pacific Whiting North of 40°10' N. Lat.

This table describes Rockfish Conservation Areas for vessels using limited entry bottom trawl gear. This table describes incidental landing allowances for vessels registered to a Federal limited entry trawl permit and using groundfish trawl or groundfish non-trawl gears to harvest individual fishing quota (IFQ) species. This table will describe Block Area Closures for vessels using limited entry bottom trawl gear that are in effect for more than one year.

Other Limits and Requirements Apply -- Read § 660.10 - § 660.399 before using this table 01/28/2020

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	North of 46°16' N. lat.	100 fm line[1/] - 150 fm line[1/]					
	South of 46°16' N. lat., Block Area Closures (BACs) may be implemented, and will be announced in the *Federal Register*						
	See provisions at § 660.130(c) and (e) for gear restrictions and requirements by area. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry groundfish trawl fishery landing allowances in this table, regardless of the type of fishing gear used. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry fixed gear non-trawl RCA, as described in Tables 2 (North) and 2 (South) to Part 660, Subpart E.						
	See § 660.60, § 660.130, and § 660.140 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §660.11, §§660.70-660.74, §§ 660.76-660.79 and §660.111 for Conservation Area Definitions and Coordinates.						
	State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
2	**Minor Nearshore Rockfish, Washington Black rockfish & Oregon Black/blue/deacon rockfish**	300 lb/ month					
3	**Whiting[2/]**						
4	midwater trawl	Before the primary whiting season: CLOSED. -- During the primary season: mid-water trawl permitted in the RCA. See §660.131 for season and trip limit details. -- After the primary whiting season: CLOSED.					
5	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.					
6	**Oregon Cabezon/Kelp Greenling complex**	50 lb/ month					
7	**Cabezon in California**	50 lb/ month					
8	**Shortbelly rockfish**	Unlimited					
9	**Spiny dogfish**	60,000 lb/ month					
10	**Big Skate**	70,000 lb/ 2 months					
11	**Longnose skate**	Unlimited					
12	**Other Fish [3/]**	Unlimited					

TABLE 1 (North)

1/ The Rockfish Conservation Area is a type of Groundfish Conservation Area, defined at §660.11, and defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours, and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to the RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting. See §§660.112 and 660.130 for more information.

2/ As specified at §660.131(d), when fishing in the Eureka Area, no more than 10,000 lb of whiting may be taken and retained, possessed, or landed by a vessel that, at any time during the fishing trip, fished in the fishery management area shoreward of 100 fm contour.

3/ "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 1 (South) to Part 660, Subpart D -- Limited Entry Trawl Landing Allowances for non-IFQ Species and Pacific Whiting South of 40°10' N. Lat.

This table describes incidental landing allowances for vessels registered to a Federal limited entry trawl permit and using groundfish trawl or groundfish non-trawl gears to harvest individual fishing quota (IFQ) species.This table will describe Block Area Closures for vessels using limited entry bottom trawl gear that are in effect for more than one year.

Other Limits and Requirements Apply -- Read § 660.10 - § 660.399 before using this table 01/28/2020

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Block Area Clousres (BACs) may be implemented, and will be announced in the *Federal Register*						
	See provisions at §660.130(c) and (e) for gear restrictions and requirements by area. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at §660.140, are subject to the limited entry groundfish trawl fishery landing allowances in this table, regardless of the type of fishing gear used. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at §660.140, are subject to the limited entry fixed gear non-trawl RCA, as described in Tables 2 (North) and 2 (South) to Part 660, Subpart E						
	See §660.60, §660.130, and §660.140 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §660.11, §§660.70-660.74, §§660.76-660.79 and §660.111 for Conservation Area Definitions and Coordinates.						
	State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
1	**Longspine thornyhead**						
2	South of 34°27' N. lat.	24,000 lb/ 2 months					
3	**Minor Nearshore Rockfish, California Black rockfish, & Oregon Black/Blue/Deacon rockfish**	300 lb/ month					
4	**Whiting**						
5	midwater trawl	During the Primary whiting season allowed with the depth restrictions described at §660.130(c).					
6	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.					
7	**Cabezon**	50 lb/ month					
8	**Shortbelly rockfish**	Unlimited					
9	**Spiny dogfish**	60,000 lb/ month					
10	**Big Skate**	70,000 lb/ 2 months					
11	**Longnose skate**	Unlimited					
12	**California scorpionfish**	Unlimited					
13	**Other Fish** [1/]	Unlimited					

[1/] "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

TABLE 1 (South)

* * * * *

■ 2. Table 2 (South) to part 660, subpart E is corrected to read as follows:

Table 2 (South) to Part 660, Subpart E -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear South of 40°10' N. lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table — 01/28/2020

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	40°10' N. lat. - 34°27' N. lat.	40 fm line[1/] - 125 fm line[1/]					
2	South of 34°27' N. lat.	75 fm line[1/] - 150 fm line[1/] (also applies around islands)					
	See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than Federal trip limits or seasons, particularly in waters off Oregon and California.						
3	**Minor Slope rockfish[2/] & Darkblotched rockfish**	40,000 lb/ 2 months, of which no more than 1,375 lb may be blackgill rockfish		40,000 lb/ 2 months, of which no more than 4,000 lb may be blackgill rockfish			
4	**Splitnose rockfish**	40,000 lb/ 2 months					
5	**Sablefish**						
6	40°10' N. lat. - 36°00' N. lat.	1,300 lb week, not to exceed 3,900 lbs/2months					
7	South of 36°00' N. lat.	2,000 lb/ week					
8	**Longspine thornyhead**	10,000 lb/ 2 months					
9	**Shortspine thornyhead**						
10	40°10' N. lat. - 34°27' N. lat.	2,000 lb/ 2 months			2,500 lb/ 2 months		
11	South of 34°27' N. lat.	3,000 lb/ 2 months					
12 13 14 15 16 17	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/]**	5,000 lb/ month South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 0.44 in (11 mm) point to shank, and up to two 1 lb (0.45 kg) weights per line, are not subject to the RCAs.					
18	**Whiting**	10,000 lb/ trip					
19	**Minor Shelf Rockfish[2/], Shortbelly rockfish, Widow rockfish (including Chilipepper between 40°10' - 34°27' N. lat.)**						
20	40°10' N. lat. - 34°27' N. lat.	Minor shelf rockfish, shortbelly, widow rockfish, & chilipepper: 2,500 lb/ 2 months, of which no more than 500 lb may be any species other than chilipepper.					
21	South of 34°27' N. lat.	4,000 lb/ 2 months	CLOSED	4,000 lb/ 2 months			
22	**Chilipepper**						
23	40°10' N. lat. - 34°27' N. lat.	Chilipepper included under minor shelf rockfish, shortbelly and widow rockfish limits - - See above					
24	South of 34°27' N. lat.	2,000 lb/ 2 months, this opportunity only available seaward of the non-trawl RCA					
25	**Canary rockfish**						
26	40°10' N. lat. - 34°27' N. lat.	300 lb/ 2 months					
27	South of 34°27' N. lat.	300 lb/ 2 months	CLOSED	300 lb/ 2 months			
28	**Yelloweye rockfish**	CLOSED					
29	**Cowcod**	CLOSED					
30	**Bronzespotted rockfish**	CLOSED					
31	**Bocaccio**						
32	40°10' N. lat. - 34°27' N. lat.	1,500 lb/ 2 months					
33	South of 34°27' N. lat.	1,500 lb/ 2 months	CLOSED	1,500 lb/ 2 months			
34	**Minor Nearshore Rockfish, California Black rockfish, & Oregon Black/Blue/Deacon rockfish**						
35	Shallow nearshore[4/]	1,200 lb/ 2 months	CLOSED	1,200 lb/ 2 months			
36	Deeper nearshore[5/]	1,200 lb/ 2 months	CLOSED	1,200 lb/ 2 months			
37	**California Scorpionfish**	1,500 lb/ 2 months	CLOSED	1,500 lb/ 2 months			
38	**Lingcod[6/]**	1,200 lb/ 2 months	CLOSED	1,200 lb/ 2 months			
39	**Pacific Cod**	1,000 lb/ 2 months					
40	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
41	**Longnose skate**	Unlimited					
42	**Other Fish[7/] & Cabezon in California**	Unlimited					
43	**Big Skate**	Unlimited					

TABLE 2 (South)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ POP is included in the trip limits for Minor Slope Rockfish. Blackgill rockfish have a species specific trip sub-limit within the Minor Slope Rockfish cumulative limit. Yellowtail rockfish are included in the trip limits for Minor Shelf Rockfish. Bronzespotted rockfish have a species specific trip limit.

3/ "Other Flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ "Shallow Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*1*).

5/ "Deeper Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*2*).

6/ The commercial mimimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.

7/ "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

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[FR Doc. 2020–02044 Filed 2–12–20; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 85, No. 30
Thursday, February 13, 2020

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 532

RIN 3206–AN95

Prevailing Rate Systems; Redefinition of the Little Rock, Arkansas, and Tulsa, Oklahoma, Appropriated Fund Federal Wage System Wage Areas

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a proposed rule that would redefine the geographic boundaries of the Little Rock, Arkansas, and Tulsa, Oklahoma, appropriated fund Federal Wage System (FWS) wage areas. The proposed rule would redefine the Fort Chaffee portion of Franklin County, AR, to the Tulsa wage area. This change is based on a recent consensus recommendation of the Federal Prevailing Rate Advisory Committee (FPRAC).

DATES: Send comments on or before March 16, 2020.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

All submissions received must include the agency name and docket number or RIN for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Madeline Gonzalez, by telephone at (202) 606–2838 or by email at *pay-leave-policy@opm.gov.*

SUPPLEMENTARY INFORMATION: OPM is issuing a proposed rule to redefine the Little Rock, AR, and Tulsa, OK, appropriated fund FWS wage areas. This proposed rule would redefine the Fort Chaffee portion of Franklin County, AR, from the Little Rock wage area to the Tulsa wage area. This change is based on a recent recommendation of FPRAC, the statutory national labor-management committee responsible for advising OPM on matters affecting the pay of FWS employees. From time to time, FPRAC reviews the boundaries of wage areas and provides OPM with recommendations for changes if the Committee finds that changes are warranted.

As provided by 5 CFR 532.211, this regulation allows consideration of the following criteria when defining wage area boundaries: distance, transportation facilities, and geographic features; commuting patterns; and similarities in overall population, employment, and the kinds and sizes of private industrial establishments.

In addition, under OPM regulations at 5 CFR 532.211(2)(b), it is permissible for Metropolitan Statistical Areas (MSAs) to be split between FWS wage areas only in very unusual circumstances.

The Office of Management and Budget (OMB) defines MSAs and maintains and periodically updates the definitions of MSA boundaries. MSAs are composed of counties and are defined on the basis of a central urbanized area—a contiguous area of relatively high population density. Additional surrounding counties are included in MSAs if they have strong social and economic ties to central counties.

When the boundaries of wage areas were first established in the 1960s, there were fewer MSAs than there are today and the boundaries of the then existing MSAs were much smaller. Most MSAs were contained within the boundaries of a wage area. With each OMB update, MSAs have expanded and in some cases now extend beyond the boundaries of the wage area.

Crawford, Franklin, and Sebastian Counties, AR, and Sequoyah County, OK, comprise the Fort Smith, AR–OK MSA. The Fort Smith MSA is split between the Little Rock, AR, and Tulsa, OK, wage areas. Crawford, Sebastian, and Sequoyah Counties are part of the Tulsa wage area, and Franklin County is part of the Little Rock wage area.

Crawford, Sebastian, and Sequoyah Counties continue to be appropriately defined to the Tulsa wage area. Managed by the Forest Service, the Ozark National Forest is located in parts of 16 counties in northwestern Arkansas. There are FWS Forest Service employees working in the Ozark National Forest portion of Franklin and Stone Counties. To avoid splitting the Forest Service employees working in the Ozark National Forest between two wage areas, Franklin County also continues to be appropriately defined to the Little Rock wage area.

However, in addition to the Forest Service employees currently working in Franklin County, there are now three Department of the Army employees working in the portion of Fort Chaffee located in Franklin County. The Department of the Army also employs 74 FWS employees in the portion of Fort Chaffee located in Sebastian County. So that the FWS employees working at Fort Chaffee are not split between two wage areas, OPM proposes that the Fort Chaffee portion of Franklin County be redefined to the Tulsa wage area. Fort Chaffee would then be entirely defined to the Tulsa wage area. This change would provide equal pay treatment for FWS employees working at Fort Chaffee.

FPRAC, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, recommended this change by consensus. This change would be effective on the first day of the first applicable pay period beginning on or after 30 days following publication of the final regulations.

Regulatory Impact Analysis

This action is not a ''significant regulatory action'' under the terms of Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under E.O. 12866 and 13563 (76 FR 3821, January 21, 2011).

Reducing Regulation and Controlling Regulatory Costs

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

Regulatory Flexibility Act

OPM certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

Civil Justice Reform

This regulation meets the applicable standard set forth in Executive Order 12988.

Unfunded Mandates 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 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

Accordingly, OPM is proposing to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

■ 1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

■ 2. In Appendix C to subpart B amend the table by revising the wage area listings for the States of ''Arkansas'' and ''Oklahoma'' to read as follows:

Appendix C to Subpart B of Part 532—Appropriated Fund Wage and Survey Areas

DEFINITIONS OF WAGE AREAS AND WAGE AREA SURVEY AREAS

* * * * *

ARKANSAS

Little Rock

Survey Area

Arkansas:
- Jefferson
- Pulaski
- Saline

Area of Application. Survey area plus:

Arkansas:
- Arkansas
- Ashley
- Baxter
- Boone
- Bradley
- Calhoun
- Chicot
- Clay
- Clark
- Cleburne
- Cleveland
- Conway
- Dallas
- Desha
- Drew
- Faulkner
- Franklin (Does not include the Fort Chaffee portion)
- Fulton
- Garland
- Grant
- Greene
- Hot Spring
- Independence
- Izard
- Jackson
- Johnson
- Lawrence
- Lincoln
- Logan
- Lonoke
- Marion
- Monroe
- Montgomery
- Newton
- Ouachita
- Perry
- Phillips
- Pike
- Polk
- Pope
- Prairie
- Randolph
- Scott
- Searcy
- Sharp
- Stone
- Union
- Van Buren
- White
- Woodruff
- Yell

* * * * *

OKLAHOMA

Oklahoma City

Survey Area

Oklahoma:
- Canadian
- Cleveland
- McClain
- Oklahoma
- Pottawatomie

Area of Application. Survey area plus:

Oklahoma:
- Alfalfa
- Atoka
- Beckham
- Blaine
- Bryan
- Caddo
- Carter
- Coal
- Custer
- Dewey
- Ellis
- Garfield
- Garvin
- Grady
- Grant
- Harper
- Hughes
- Johnston
- Kingfisher
- Lincoln
- Logan
- Love
- Major
- Marshall
- Murray
- Noble
- Payne
- Pontotoc
- Roger Mills
- Seminole
- Washita
- Woods
- Woodward

Tulsa

Survey Area

Oklahoma:
- Creek
- Mayes
- Muskogee
- Osage
- Pittsburg
- Rogers
- Tulsa
- Wagoner

Area of Application. Survey area plus:

Arkansas:
- Benton
- Carroll
- Crawford
- Franklin (Only includes the Fort Chaffee portion)
- Madison
- Sebastian
- Washington

Missouri:
- McDonald

Oklahoma:
- Adair
- Cherokee
- Choctaw
- Craig
- Delaware
- Haskell
- Kay
- Latimer
- LeFlore
- McCurtain
- McIntosh
- Nowata

Okfuskee
Okmulgee
Ottawa
Pawnee
Pushmataha
Sequoyah
Washington

* * * * *

[FR Doc. 2020–02833 Filed 2–12–20; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0095; Product Identifier 2019–NM–192–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 747–8 and 747–8F series airplanes. This proposed AD was prompted by an evaluation by the design approval holder (DAH) indicating that the skin lap joints at certain stringers are subject to widespread fatigue damage (WFD). This proposed AD would require modifying the left and right side lap joints of the fuselage skin, repetitive post-modification inspections for cracking, and applicable on-condition actions. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by March 30, 2020.

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

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

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0095.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0095; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Bill Ashforth, Senior Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3520; email: *bill.ashforth@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0095; Product Identifier 2019–NM–192–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM because of those comments.

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

Discussion

Fatigue damage can occur locally, in small areas or structural design details, or globally, in widespread areas. Multiple-site damage is widespread damage that occurs in a large structural element such as a single rivet line of a lap splice joining two large skin panels. Widespread damage can also occur in multiple elements such as adjacent frames or stringers. Multiple-site damage and multiple-element damage cracks are typically too small initially to be reliably detected with normal inspection methods. Without intervention, these cracks will grow, and eventually compromise the structural integrity of the airplane. This condition is known as WFD. It is associated with general degradation of large areas of structure with similar structural details and stress levels. As an airplane ages, WFD will likely occur, and will certainly occur if the airplane is operated long enough without any intervention.

The FAA's WFD final rule (75 FR 69746, November 15, 2010) became effective on January 14, 2011. The WFD rule requires certain actions to prevent structural failure due to WFD throughout the operational life of certain existing transport category airplanes and all of these airplanes that will be certificated in the future. For existing and future airplanes subject to the WFD rule, the rule requires that DAHs establish a limit of validity (LOV) of the engineering data that support the structural maintenance program. Operators affected by the WFD rule may not fly an airplane beyond its LOV, unless an extended LOV is approved.

The WFD rule (75 FR 69746, November 15, 2010) does not require identifying and developing maintenance actions if the DAHs can show that such actions are not necessary to prevent WFD before the airplane reaches the LOV. Many LOVs, however, do depend on accomplishment of future maintenance actions. As stated in the WFD rule, any maintenance actions necessary to reach the LOV will be mandated by airworthiness directives through separate rulemaking actions.

In the context of WFD, this action is necessary to enable DAHs to propose LOVs that allow operators the longest operational lives for their airplanes, and still ensure that WFD will not occur. This approach allows for an implementation strategy that provides flexibility to DAHs in determining the timing of service information development (with FAA approval), while providing operators with certainty regarding the LOV applicable to their airplanes.

The FAA received an evaluation by the DAH indicating that the skin lap joints at stringers S–6 and S–23 for Model 747–8 series airplanes, and stringers S–6, S–23 and S–44 for Model 747–8F series airplanes, are subject to

WFD as a result of cyclic pressurization of the fuselage. Any fatigue cracking of the lap joints of the fuselage skin could go undetected and grow in length. This condition, if not addressed, could result in sudden decompression and reduced structural integrity of the airplane.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin 747–53A2895 RB, dated September 12, 2019. This service information describes procedures for modifying the left and right side lap joints of the fuselage skin, repetitive post-modification internal detailed and surface high frequency eddy current (HFEC) inspections for cracking, and applicable on-condition actions. On-condition actions include repair. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishment of the actions identified in Boeing Alert Requirements Bulletin 747–53A2895 RB, dated September 12, 2019, described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

For information on the procedures and compliance times, see this service information at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0095.

Explanation of Requirements Bulletin

The FAA worked in conjunction with industry, under the Airworthiness Directive Implementation Aviation Rulemaking Committee (AD ARC), to enhance the AD system. One enhancement is a process for annotating which steps in the service information are ''required for compliance'' (RC) with an AD. Boeing has implemented this RC concept into Boeing service bulletins.

In an effort to further improve the quality of ADs and AD-related Boeing service information, a joint process improvement initiative was worked between the FAA and Boeing. The initiative resulted in the development of a new process in which the service information more clearly identifies the actions needed to address the unsafe condition in the ''Accomplishment Instructions.'' The new process results in a Boeing Requirements Bulletin, which contains only the actions needed to address the unsafe condition (*i.e.,* only the RC actions).

Explanation of Compliance Time

The compliance time for the replacement specified in this proposed AD for addressing WFD was established to ensure that discrepant structure is replaced before WFD develops in airplanes. Standard inspection techniques cannot be relied on to detect WFD before it becomes a hazard to flight. The FAA will not grant any extensions of the compliance time to complete any AD-mandated service bulletin related to WFD without extensive new data that would substantiate and clearly warrant such an extension.

Costs of Compliance

The FAA estimates that this proposed AD affects 14 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS *

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification of S–6 and S–23.	1,856 work-hours × $85 per hour = $157,760 ...	*	$157,760	$2,208,640.
Post-mod inspection of S–6 and S–23.	68 work-hours × $85 per hour = $5,780 per inspection cycle.	$0	$5,780 per inspection cycle.	$80,920 per inspection cycle.
Modification of S–44	1,216 work-hours × $85 per hour = $103,360 ...	*	$103,360	$1,447,040.
Post-mod inspection of S–44.	28 work-hours × $85 per hour = $2,380 per inspection cycle.	$0	$2,380 per inspection cycle.	$33,320 per inspection cycle.

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

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2020–0095; Product Identifier 2019–NM–192–AD.

(a) Comments Due Date

The FAA must receive comments by March 30, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 747–8 and 747–8F series airplanes, certificated in any category, as identified in Boeing Alert Requirements Bulletin 747–53A2895 RB, dated September 12, 2019.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the skin lap joints at certain stringers are subject to widespread fatigue damage (WFD). The FAA is issuing this AD to address undetected fatigue cracks, which could result in sudden decompression and reduced structural integrity of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 747–53A2895 RB, dated September 12, 2019, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 747–53A2895 RB, dated September 12, 2019.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 747–53A2895, dated September 12, 2019, which is referred to in Boeing Alert Requirements Bulletin 747–53A2895 RB, dated September 12, 2019.

(h) Exception to Service Information Specifications

Where Boeing Alert Requirements Bulletin 747–53A2895 RB, dated September 12, 2019, specifies contacting Boeing for repair instructions: This AD requires doing the repair before further flight using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(j) Related Information

(1) For more information about this AD, contact Bill Ashforth, Senior Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3520; email: *bill.ashforth@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued on February 7, 2020.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–02863 Filed 2–12–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0096; Product Identifier 2019–NM–211–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2016–07–28, which applies to all The Boeing Company Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) airplanes, and Model MD–88 airplanes. AD 2016–07–28 requires repetitive eddy current high frequency (ETHF) inspections for any cracking in the left and right side center wing lower skin, and repair if any crack is found. Since the FAA issued AD 2016–07–28, the FAA has determined it is necessary to expand the inspection area to include adjacent stringers with similar stress levels and to perform an inspection with increased sensitivity for crack detection. This proposed AD would retain certain requirements of AD 2016–07–28, expand the inspection area, and require new inspections. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by March 30, 2020.

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

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

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view

this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0096.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0096; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Mohit Garg, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5264; fax: 562–627–5210; email: *mohit.garg@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0096; Product Identifier 2019–NM–211–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM because of those comments.

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

Discussion

The FAA issued AD 2016–07–28, Amendment 39–18473 (81 FR 21253, April 11, 2016) (''AD 2016–07–28''), for all The Boeing Company Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) airplanes, and Model MD–88 airplanes. AD 2016–07–28 requires repetitive ETHF inspections for any cracking in the left and right side center wing lower skin, and repair if any crack is found. AD 2016–07–28 resulted from reports of cracking at certain stringers, associated end fittings, and skins in the center wing fuel tank where the stringers meet the end fittings. The FAA issued AD 2016–07–28 to detect and correct cracking in the center wing lower skin. Such cracking could cause structural failure of the wings.

Actions Since AD 2016–07–28 Was Issued

Since the FAA issued AD 2016–07–28, there have been additional reports of cracks at certain stringers, including one at stringer S–13, which was not addressed in AD 2016–07–28. The FAA has determined it is necessary to expand the inspection area to include adjacent stringers with similar stress levels and to perform a new inspection with increased sensitivity for crack detection in the area (eddy current low frequency (ETLF) inspection). This proposed AD would retain certain requirements of AD 2016–07–28, expand the inspection area and require new inspections.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Service Bulletin MD80–57A244, Revision 1, dated October 1, 2019. This service information describes procedures for a general visual inspection (GVI) for existing repairs; repetitive ETLF inspections of the left and right side fastener holes common to stringers 11 through 22 and the forward and aft skins for any crack; repetitive ETHF inspections of the lower skin at stringers 18 through 20 for any crack; an ETHF inspection of the left side and right side center wing lower skin for any crack; and applicable on-condition actions. On-condition actions include repair and an internal GVI for any cracks in stringers 11 through 22 between Xcw=0.0 and Xcw=20.0. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Proposed AD Requirements

Although this proposed AD does not explicitly restate the requirements of AD 2016–07–28, this proposed AD would retain some of the requirements of AD 2016–07–28. Those requirements are referenced in the service information identified previously, which, in turn, is referenced in paragraph (g) of this proposed AD. This proposed AD would also require accomplishment of the actions identified as ''RC'' (required for compliance) in the Accomplishment Instructions of Boeing Alert Service Bulletin MD80–57A244, Revision 1, dated October 1, 2019, described previously.

For information on the procedures and compliance times, see this service information at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0096.

Costs of Compliance

The FAA estimates that this proposed AD affects 288 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection (retained actions from AD 2016–07–02).	14 work-hours × $85 per hour = $1,190 per inspection cycle.	$0	$1,190 per inspection cycle.	$342,720 per inspection cycle.
Expanded inspection (new proposed action).	Up to 48 work-hours × $85 per hour = $4,080 per inspection cycle.	0	Up to $4,080 per inspection cycle.	Up to $1,175,040 per inspection cycle.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2016–07–28, Amendment 39–18473 (81 FR 21253, April 11, 2016), and adding the following new AD:

The Boeing Company: Docket No. FAA–2020–0096; Product Identifier 2019–NM–211–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by March 30, 2020.

(b) Affected ADs

This AD replaces AD 2016–07–28, Amendment 39–18473 (81 FR 21253, April 11, 2016) (''AD 2016–07–28'').

(c) Applicability

This AD applies to all The Boeing Company Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) airplanes, and Model MD–88 airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of cracking at certain stringers, associated end fittings, and skins in the center wing fuel tank where the stringers meet the end fittings. The FAA is issuing this AD to detect and correct cracking in the center wing lower skin. Such cracking could cause structural failure of the wings.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraph (h) of this AD: At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin MD80–57A244, Revision 1, dated October 1, 2019, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin MD80–57A244, Revision 1, dated October 1, 2019.

Note 1 to paragraph (g) of this AD: Boeing Alert Service Bulletin MD80–57A244, Revision 1, dated October 1, 2019, refers to Drawing SN09570007 for certain inspection sequences. If the pages of Drawing SN09570007 are illegible, guidance can be found in Boeing Multi Operator Message MOM–MOM–19–0549–01B, dated October 4, 2019.

(h) Exception to Service Information Specifications

Where Boeing Alert Service Bulletin MD80–57A244, Revision 1, dated October 1, 2019, specifies contacting Boeing for repair instructions or for alternative inspections: This AD requires doing the repair, or doing the alternative inspections and applicable on-condition actions before further flight using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved previously for AD 2016–07–28 are not approved as AMOCs for this AD.

(5) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (i)(5)(i) and (ii) of this AD apply.

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

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

(j) Related Information

(1) For more information about this AD, contact Mohit Garg, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5264; fax: 562–627–5210; email: *mohit.garg@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued on February 7, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–02862 Filed 2–12–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0085; Airspace Docket No. 20–ASO–2]

RIN 2120–AA66

Proposed Amendment of Class D Airspace; Jacksonville NAS, FL, and Proposed Amendment of Class D and Class E Airspace; Mayport, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D airspace for Jacksonville NAS, FL, by updating the name and geographical coordinates of Jacksonville NAS, (Towers Field, previously Jacksonville NAS), and Herlong Recreational Airport (previously Herlong Airport). This action would also amend Class D airspace and Class E airspace designated as an extension to Class D or E surface area by updating geographic coordinates of Mayport NAS, and the name and geographic coordinates of Jacksonville Executive Airport at Craig, (previously Craig Municipal Airport). Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area. This action also would make an editorial change replacing the term Airport/Facility Directory with the term Chart Supplement in the legal descriptions of associated Class D and E airspace.

DATES: Comments must be received on or before March 30, 2020.

ADDRESSES: Send comments on this proposal to: The U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2020–0085; Airspace Docket No. 20–ASO–2, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11D at NARA, email *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class D and E airspace in Jacksonville NAS, FL and Mayport, FL, to support IFR operations in the area.

Comments Invited

Interested persons are invited to comment on this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (Docket No. FAA–2020–0085 and Airspace Docket No. 20–ASO–2) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2020–0085; Airspace Docket No. 20–ASO–2.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this document may be changed in light of the comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m., and 4:30 p.m., Monday through Friday, except federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order 7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11D lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA proposes an amendment to Title 14 Code of Federal Regulations (14

CFR) part 71 to amend Class D airspace at Jacksonville NAS (Towers Field), Jacksonville NAS, FL, by updating the name and geographical coordinates of the airport, and the name of Herlong Recreational Airport. Also, the geographic coordinates of Mayport NAS, Mayport, FL, would be updated under Class D airspace and Class E surface airspace designated as an extension to a Class D surface area, as well as the name and geographic coordinates of Jacksonville Executive Airport at Craig. In addition, the FAA proposes to replace the outdated term Airport/Facility Directory with the term Chart Supplement in the associated Class D airspace and Class E surface airspace designated as an extension to a Class D surface area in the legal descriptions for Mayport NAS, Mayport, FL.

Class D airspace designations, and Class E airspace areas designated as an extension to a Class D or E surface area are published in Paragraphs 5000, and 6004, respectively of FAA Order 7400.11D, dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO FL D Jacksonville NAS, FL [Amended]

Jacksonville NAS (Towers Field), FL
(Lat. 30°14′01″ N, long. 81°40′34″ W)
Jacksonville TACAN
(Lat. 30°14′05″ N, long. 81°40′30″ W)
Herlong Recreational Airport, FL
(Lat. 30°16′40″ N, long. 81°48′21″ W)

That airspace extending upward from the surface of the Earth, to and including 2,600 feet MSL, within a 5.3-mile radius of Jacksonville NAS (Towers Field), and within 1 mile north and 2.5 miles south of the Jacksonville TACAN 270 radial, extending from the 5.3-mile radius to 6.5 miles west of the TACAN; excluding that airspace within a 1.8-mile radius of the Herlong Recreational Airport.

ASO FL D Mayport, FL [Amended]

Mayport NAS, FL
(Lat. 30°23′29″ N, long. 81°25′28″ W)
Jax Executive Airport at Craig
(Lat. 30°20′11″ N, long. 81°30′52″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.2-mile radius of Mayport NAS, excluding the portion southwest of a line connecting the two points of intersection with a 4.2-mile radius circle centered on Jacksonville Executive Airport at Craig. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will, thereafter, be continuously published in the Chart Supplement.

Paragraph 6004 Class E Airspace Designated as an Extension to Class D or E Surface Area.

* * * * *

ASO FL E4 Mayport, FL [Amended]

Mayport NAS, FL
(Lat. 30°23′29″ N, long. 81°25′28″ W)
Mayport (Navy) TACAN
(Lat. 30°23′19″ N, long. 81°25′23″ W)

That airspace extending upward from the surface within 3.2-miles each side of the Mayport (Navy) TACAN 035° radial extending from the 4.2-mile radius of Mayport NAS to 5 miles northeast of the TACAN. This Class E airspace is effective during the dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Issued in College Park, Georgia, on January 31, 2020.

Ryan Almasy,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2020–02826 Filed 2–12–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

Initiation of Review of Management Plan for Stellwagen Bank National Marine Sanctuary; Intent To Conduct Scoping and Prepare Draft Environmental Analysis and Management Plan

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

ACTION: Initiation of review of management plan; intent to conduct scoping and prepare environmental analysis under the National Environmental Policy Act.

SUMMARY: In accordance with Section 304(e) of the National Marine Sanctuaries Act, as amended (NMSA), the Office of National Marine Sanctuaries (ONMS) of the National Oceanic and Atmospheric Administration (NOAA) is initiating a review of the Stellwagen Bank National Marine Sanctuary (SBNMS or the sanctuary) management plan, to evaluate substantive progress toward implementing the goals of the sanctuary, and to make revisions to the management plan as necessary to fulfill the purposes and policies of the NMSA. NOAA anticipates management plan

changes will require preparation of an environmental analysis under the National Environmental Policy Act (NEPA). NOAA will conduct public scoping meetings to gather information and other comments from individuals, organizations, tribes and government agencies on the scope, types, and significance of issues related to the SBNMS management plan and the proper scope of environmental analysis for the management plan review. The scoping meetings are scheduled as detailed in the **DATES** section.

DATES: Written comments should be received on or before April 10, 2020. Public scoping meetings will be held on:

(1) *Date:* Wednesday, March 11, 2020, *Location:* New England Aquarium, 1 Central Wharf, Boston, MA, 02110, *Time:* 6:30–8 p.m.

(2) *Date:* Thursday, March 12, 2020, *Location:* Maritime Gloucester, 23 Harbor Loop, Gloucester, MA, 01930, *Time:* 6:30–8 p.m.

(3) *Date:* Wednesday, March 18, 2020, *Location:* Massachusetts Maritime Academy, 101 Academy Drive, Buzzards Bay, MA, 02532, *Time:* 6:30–8 p.m.

ADDRESSES: You may submit comments on this document, identified by NOAA–NOS–2020–0003, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NOS-2020-0003,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Stellwagen Bank NMS, 175 Edward Foster Road, Scituate, MA, 02066, Attn: Management Plan Revision.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NOAA. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personally identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NOAA will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Ben Haskell, 781–545–8026, *sbnmsmanagementplan@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

SBNMS was designated in October 1992. It spans 842-square-miles (638-square-nautical-mile) at the mouth of Massachusetts Bay. The sanctuary boundary is somewhat rectangular, stretching from three miles southeast of Cape Ann to three miles north of Cape Cod. The sanctuary is about 25 miles east of Boston, and lies totally within federal waters. It encompasses all of Stellwagen and Tillies Banks, and the southern portion of Jeffreys Ledge. SBNMS is administered by NOAA, within the U.S. Department of Commerce, and was designated to conserve, protect, and enhance the biodiversity, ecological integrity, and cultural legacy of marine resources for current and future generations. Sanctuary programs in education, conservation, science, and stewardship help protect SBNMS and its nationally-significant resources, while promoting public use and enjoyment through compatible human activities.

The current SBNMS management plan was published in 2010, and is available on the internet here: *https://stellwagen.noaa.gov/management/fmp/fmp2010.html.*

In 2016, NOAA completed an internal assessment of progress toward implementation of the 2010 management plan. The assessment found that 66% (69 of 104 activities) of the management plan's activities had been fully or partially completed or were still being implemented as ongoing functions, while 35% (36 of 104 activities) were not yet started or had been placed on hold. Results of the 2016 internal assessment were discussed at a public meeting of the sanctuary advisory council in October, 2016.

Reviewing the SBNMS management plan may result in proposed changes to existing programs and policies to address contemporary issues and challenges, and to better protect and manage the sanctuary's resources and qualities. The review process is composed of four major stages: (1) Information collection and characterization; (2) preparation and release of a draft management plan and environmental document under NEPA, and any proposed amendments to the regulations; (3) public review and comment; and (4) preparation and release of a final management plan and environmental document, and any final amendments to the regulations, if applicable. NOAA will also address other statutory and regulatory requirements that may be required pursuant to the Endangered Species Act (ESA), Marine Mammal Protection Act, Essential Fish Habitat (EFH) provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Coastal Zone Management Act (CZMA), National Historic Preservation Act (NHPA), and tribal consultation responsibilities under Executive Order 13175.

Condition Report

To inform the SBNMS management plan review, NOAA has updated the Stellwagen Bank National Marine Sanctuary Condition Report, which was first published in 2007. The 2007 report provided a summary of resources in SBNMS, pressures on those resources, current conditions and recent trends within the sanctuary, and management responses to mitigate negative impacts. The 2020 Condition Report has updated current conditions and recent changes for water quality, habitat, living resources and maritime archaeological resources in the sanctuary. The report is available to the general public on the internet at: *http://sanctuaries.noaa.gov/science/condition/welcome.html.*

Preliminary Priority Topics

NOAA has prepared a preliminary list of priority topics to consider during the SBNMS management plan review process. NOAA is interested in public comment on these topics, as well as any other issues of interest that are relevant to the SBNMS management plan review (including additional topics raised through public comment, and tribal and interagency consultation).

Climate Change

Climate change is widely acknowledged, yet there is considerable uncertainty about current and future consequences at local, ecosystem and oceanic scales. Increased coordination and cooperation among science and resource management agencies are required to improve planning, monitoring and adaptive management to address this phenomenon as it pertains to the protection of SBNMS resources. NOAA is interested in ideas about how to best incorporate management efforts seeking to mitigate the effects of climate change into the SBNMS management plan.

Water Quality Monitoring

Water quality is key to ensuring protection for all sanctuary resources. Relatively little is known about the types, sources, or levels of emerging contaminants and marine debris (including lost fishing gear) within the sanctuary. NOAA believes more focused attention on specific water quality issues is needed, to understand both

their status in the sanctuary as well as their role in the larger Gulf of Maine ecosystem.

Education, Outreach and Citizen Science

Enhancing the public's awareness and appreciation of sanctuary resources is a cornerstone of the SBNMS mission. NOAA is seeking the public's view on developing and enhancing programs designed to enhance public awareness, including opportunities to participate in environmental research and monitoring, integrating outreach into all education levels, and more effective partnering with Federal and state agencies, local businesses and organizations, and other user groups.

Sanctuary Soundscape

SBNMS is an active area with significant populations of marine mammals, as well as extensive human activity and vessel movements, particularly transiting to and from the major US port in Boston Harbor. NOAA is concerned about impacts to the SBNMS soundscape from the cumulative effects of underwater noise generated by a variety of human activities (including the potential offshore energy development), and expanded use of unmanned aircraft systems over the sanctuary.

Maritime Heritage Management

SBNMS contains a rich repository of submerged maritime heritage resulting from over 400 years of maritime activity in the region. NOAA seeks public input on the history and context of the ancient, historic, and modern communities who have depended on sanctuary waters for their livelihood and culture, the ships and the industries of the region and options to best conserve and protect these cultural assets in the future.

Regulatory and Boundary Changes

In preparing for public scoping, NOAA has not identified the need for any changes to SBNMS regulations. However, regulatory changes may be considered based on a review of public scoping comments and, if proposed, would be presented for public review with the publication of a proposed rulemaking.

Public Comments

NOAA is interested in hearing the public's views on:

- The effectiveness of the existing management plan in meeting both the mandates of the NMSA and SBNMS goals and objectives.
- The public's view on the effectiveness of the SBNMS programs, including programs focused on: Resource protection; research and monitoring; education; volunteer; and outreach.
- NOAA's implementation of SBNMS regulations and permits.
- Adequacy of existing boundaries to protect sanctuary resources.
- Assessment of the existing operational and administrative framework (staffing, offices, vessels, etc.).
- The potential impacts of the proposed actions discussed above and ways to mitigate these impacts.
- The relevance and timeliness of management issues identified above.

Federal Consultations

This document also advises the public that NOAA will coordinate its consultation responsibilities under section 7 of the ESA, EFH under the Magnuson-Stevens Act, section 106 of the NHPA (16 U.S.C. 470), and Federal Consistency review under the CZMA. Through its ongoing NEPA process and the use of NEPA documents and public and stakeholder meetings, NOAA will also coordinate compliance with other federal laws.

In fulfilling its responsibility under the NHPA and NEPA, NOAA intends to identify consulting parties; identify historic properties and assess the effects of the undertaking on such properties; initiate formal consultation with the State Historic Preservation Officer, the Advisory Council of Historic Preservation, and other consulting parties; involve the public in accordance with NOAA's NEPA procedures; and develop in consultation with identified consulting parties alternatives and proposed measures that might avoid, minimize, or mitigate any adverse effects on historic properties and describe them in any environmental analysis.

NOAA will also initiate communications and consultation steps with relevant federally recognized tribal governments pursuant to Executive Order 13175, Department of Commerce tribal consultation policies, and NOAA procedures for government-to-government consultation with federally recognized Indian Tribes.

Authority: 16 U.S.C. 1431 *et seq.*

John Armor,

Director, Office of National Marine Sanctuaries.

[FR Doc. 2020–02832 Filed 2–12–20; 8:45 am]

BILLING CODE 3510–NE–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5, 92 and 578

[Docket No FR–6130–P–01]

RIN 2501–AD91

Equal Participation of Faith-Based Organizations in HUD Programs and Activities: Implementation of Executive Order 13831

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend U.S. Department of Housing and Urban Development (HUD) regulations to implement Executive Order 13831 (Establishment of a White House Faith and Opportunity Initiative). Among other changes, this rule proposes to provide clarity regarding the rights and obligations of faith-based organizations participating in HUD's programs. This proposed rulemaking aligns with HUD's goal of implementing its programs and activities consistent with the First Amendment to the Constitution and the requirements of Federal law, including the Religious Freedom Restoration Act.

DATES: *Comment Due Date:* April 13, 2020.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, U.S. Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500.

2. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *www.regulations.gov* website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

No Facsimile Comments. Facsimile (fax) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m., weekdays, at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202–402–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay, toll-free, at 800–877–8339. Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Richard Youngblood, Director, Center for Faith-Based and Neighborhood Partnerships, U.S. Department of Housing and Urban Development, 451 7th Street SW, Room 6230, Washington, DC 20410; telephone number 202–402–5958 (this is not a toll-free number). Individuals with hearing- and speech-impairments may access this number through TTY by calling the Federal Relay, toll-free, at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

Shortly after taking office in 2001, President George W. Bush signed Executive Order 13199, ''Establishment of White House Office of Faith-based and Community Initiatives.'' [1] That Executive order sought to ensure that ''private and charitable groups, including religious ones . . . have the fullest opportunity permitted by law to compete on a level playing field'' in the delivery of social services. To do so, it created the White House Office of Faith-Based and Community Initiatives, with the primary responsibility to ''establish policies, priorities, and objectives for the Federal Government's comprehensive effort to enlist, equip, enable, empower, and expand the work of faith-based and other community organizations to the extent permitted by law.''

On December 12, 2002, President Bush signed Executive Order 13279, ''Equal Protection of the Laws for Faith-Based and Community Organizations.'' [2] Executive Order 13279 set forth the principles and policymaking criteria to guide Federal agencies in formulating and implementing policies with implications for faith-based organizations and other community organizations, to ensure equal protection of the laws for faith-based and community organizations and to expand opportunities for, and strengthen the capacity of, faith-based and other community organizations to meet social needs in America's communities. In addition, Executive Order 13279 directed specified agency heads, including the Secretary of HUD, to review and evaluate existing policies that created barriers to faith-based organizations participating equally compared to other community organizations in programs receiving Federal financial assistance and, where appropriate, to implement new policies that were consistent with and necessary to further the fundamental principles and policymaking criteria articulated in the order. Consistent with Executive Order 13279, HUD promulgated regulations at 24 CFR part 5.

HUD undertook three rulemakings to implement Executive Order 13279. HUD undertook a comprehensive review of its program requirements and regulations, particularly those that would be expected to attract interest and participation by nonprofit organizations. HUD identified regulations for eight programs administered by HUD's Office of Community Planning and Development that imposed (or appeared to impose) barriers to participation of faith-based organizations in these programs. On September 30, 2003, HUD issued a final rule entitled ''Participation in HUD Programs by Faith-Based Organizations; Providing for Equal Treatment of All HUD Program Participants.'' [3] The final rule eliminated the regulatory program barriers identified by HUD, to ensure that these programs were open to all qualified organizations regardless of their religious character.

On July 9, 2004, HUD published a second final rule entitled, ''Equal Participation of Faith-Based Organizations.'' [4] The July 9, 2004, final rule added a new § 5.109 to HUD's regulations in 24 CFR part 5 containing the requirements generally applicable to all of HUD's programs and activities. The new § 5.109 clarified that faith-based organizations are eligible, on the same basis as any other organization, to participate in HUD's programs and activities. By codifying the policy in those HUD regulations that contain across-the-board requirements, HUD ensured the broadest application of the faith-based requirements of Executive Order 13279.

The July 9, 2004, final rule, however, did not apply to HUD's Native American housing programs. HUD determined that making the policies and procedures contained in the final rule applicable to its Native American programs required prior consultation with tribal governments, in accordance with Executive Order 13175.[5] Executive Order 13175 requires Federal departments and agencies, to the extent practicable and permitted by law, to consult with tribal governments prior to taking actions that have substantial direct effects on federally recognized tribal governments. HUD consulted with tribal governments and undertook separate rulemaking to address the applicability of the regulatory changes. HUD's final rule addressing equal participation of faith-based organizations in Native American programs, entitled ''Participation in HUD's Native American Programs by Religious Organizations; Providing for Equal Treatment of All Program Participants,'' was published on October 22, 2004.[6]

President Obama maintained President Bush's program but modified it in certain respects. Shortly after taking office, President Obama signed Executive Order 13498, ''Amendments to Executive Order 13199 and Establishment of the President's Advisory Council for Faith-Based and Neighborhood Partnerships.'' [7] Among other things, this Executive order changed the name of the White House Office of Faith-Based and Community Initiatives to the White House Office of Faith-Based and Neighborhood Partnerships and created an Advisory Council that subsequently submitted a report of recommendations to President Obama, including recommendations concerning partnerships between the

[1] Executive Order 13199 was signed by President Bush on January 29, 2001, and subsequently published in the **Federal Register** on January 31, 2001, at 66 FR 8499.

[2] Executive Order 13279 was published in the **Federal Register** on December 16, 2002, at 67 FR 77141.

[3] 68 FR 56395.

[4] 69 FR 41711.

[5] Executive Order 13175 was signed on November 6, 2000, and is entitled ''Consultation and Coordination with Indian Tribal Governments.'' It was subsequently published in the **Federal Register** on November 9, 2000, at 65 FR 67249.

[6] 69 FR 62163.

[7] President Obama signed Executive Order 13498 on February 5, 2009, and it was subsequently published in the **Federal Register** on February 9, 2009, at 74 FR 6533.

Federal Government and religious and other nongovernmental organizations.

On November 17, 2010, President Obama signed Executive Order 13559, ''Fundamental Principles and Policymaking Criteria for Partnerships with Faith-Based and Other Neighborhood Organizations''.[8] Executive Order 13559 made various changes to Executive Order 13279, which included: (1) Making minor and substantive textual changes to the fundamental principles; (2) adding a provision requiring that any religious social service program provider supported with Federal financial assistance refer beneficiaries or prospective beneficiaries to an alternative provider if the beneficiaries object to the provider's religious character; (3) adding a provision requiring that the faith-based provider give notice of potential referral to potential beneficiaries; and (4) adding a provision that awards must be free of political interference and not be based on religious affiliation of a recipient organization or lack thereof. This Executive order also established an interagency working group tasked with developing model changes to regulations and guidance to implement Executive Order 13279 as amended by Executive Order 13559, including provisions that clarified the prohibited uses of direct Federal financial assistance, allowed religious social service providers to maintain their religious identities, and distinguished between direct and indirect Federal financial assistance. These efforts eventually resulted in amendments to agency regulations, including HUD's 24 CFR part 5. The revised regulations defined ''indirect Federal financial assistance'' as Government aid to a beneficiary, such as a voucher, that flows to a religious provider only through the genuine and independent choice of the beneficiary.[9]

To implement the directives of Executive Order 13559, on August 6, 2015, HUD issued a proposed rule entitled, ''Equal Participation of Faith-Based Organizations in HUD Programs: Implementation of E.O. 13559.'' [10] The proposed rule was made final through an interagency final rule entitled, ''Federal Agency Final Regulations Implementing Executive Order 13559: Fundamental Principles and Policymaking Criteria for Partnerships With Faith-Based and Other Neighborhood Organizations'' published on April 4, 2016.[11] In addition to HUD, eight other Federal departments and agencies joined in the final rule to amend or establish their regulations implementing Executive Order 13559. This final rule required not only that faith-based providers give the notice of the right to an alternative provider specified in Executive Order 13559, but also required faith-based providers, but not other providers, to give written notice to beneficiaries and potential beneficiaries of programs funded with direct Federal financial assistance of various rights, including nondiscrimination based on religion, the requirement that participation in any religious activity must be voluntary and that they must be provided separately from the federally funded activity, and that beneficiaries may report violations.

President Trump has given new direction to the policy established by President Bush and continued by President Obama. On May 4, 2017, President Trump issued Executive Order 13798, ''Promoting Free Speech and Religious Liberty.'' [12] Executive Order 13798 states that ''Federal law protects the freedom of Americans and their organizations to exercise religion and participate fully in civic life without undue interference by the Federal Government. The executive branch will honor and enforce those protections.'' It directed the Attorney General to ''issue guidance interpreting religious liberty protections in Federal law.''

Pursuant to this instruction, the Attorney General, on October 6, 2017, issued the Memorandum for All Executive Departments and Agencies, ''Federal Law Protections for Religious Liberty,'' (Attorney General's Memorandum on Religious Liberty).[13] The Attorney General's Memorandum on Religious Liberty emphasized that individuals and organizations do not give up religious liberty protections by providing Government-funded social services, and that ''[g]overnment may not exclude religious organizations as such from secular aid programs . . . when the aid is not being used for explicitly religious activities such as worship or proselytization.'' [14]

On May 3, 2018, President Trump signed Executive Order 13831, entitled ''Establishment of a White House Faith and Opportunity Initiative.'' [15] Among other things, Executive Order 13831 changed the name of the ''White House Office of Faith-Based and Neighborhood Partnerships,'' as established in Executive Order 13498, to the ''White House Faith and Opportunity Initiative;'' changed the way that the Initiative is to operate; directed departments and agencies with ''Centers for Faith-Based and Neighborhood Partnerships'' to change those names to ''Centers for Faith and Opportunity Initiatives;'' and ordered that departments and agencies without a Center for Faith and Opportunity Initiatives designate a ''Liaison for Faith and Opportunity Initiatives.'' Executive Order 13831 also eliminated the alternative provider referral requirement and requirement of notice thereof in Executive Order 13559 described above.

Finally, recent Supreme Court decisions have addressed the freedoms and anti-discrimination protections that must be afforded religion-exercising organizations and individuals under the U.S. Constitution and Federal law. *See, e.g., Masterpiece Cakeshop, Ltd.* v. *Colo. Civil Rights Comm'n,* 138 S. Ct. 1719, 1731 (2018) (Government violates the Free Exercise Clause of the First Amendment when its decisions are based on hostility to religion or a religious viewpoint); *Trinity Lutheran Church of Columbia, Inc.* v. *Comer,* 137 S. Ct. 2012, 2022 (2017) (Government violates the Free Exercise Clause of the First Amendment when it conditions a generally available public benefit on an entity's giving up its religious character, unless that condition withstands the strictest scrutiny); *Burwell* v. *Hobby Lobby Stores, Inc.,* 134 S. Ct. 2751, 2775 (2014) (the Religious Freedom Restoration Act applies to Federal regulation of the activities of for-profit closely held corporations); *Hosanna-Tabor Evangelical Lutheran Church & Sch.* v. *EEOC,* 565 U.S. 171, 196 (2012) (the ministerial exception, grounded in the Establishment and Free Exercise Clauses of the First Amendment, bars an employment-discrimination suit brought on behalf of a minister against the religious school for which she worked). While these decisions are not specific to HUD, they have reminded the Federal Government of its duty to protect religious exercise—and not to impede it.

[8] Executive Order 13559 was published in the **Federal Register** on November 22, 2010, at 75 FR 71319.

[9] 24 CFR 5.109(b).

[10] 80 FR 47301.

[11] 81 FR 19353.

[12] Executive Order 13798 was subsequently published in the **Federal Register** on May 9, 2017, at 82 FR 21675.

[13] 82 FR 49668.

[14] *Id.* at page 2.

[15] Executive Order 13831 was subsequently published in the **Federal Register** on May 8, 2018, at 83 FR 20715.

II. This Proposed Rule

A. Overview

HUD proposes to amend its regulations governing equal participation of faith-based organizations to implement Executive Order 13831 and conform more closely to the Supreme Court's current First Amendment jurisprudence; relevant Federal statutes such as the Religious Freedom Restoration Act of 1993 (RFRA) (42 U.S.C. 2000bb *et seq.*); Executive Order 13279, as amended by Executive Orders 13559 and 13831, and the Attorney General's Memorandum on Religious Liberty. Consistent with these authorities, this proposed rule would delete the requirement in 24 CFR 5.109(g) that faith-based social service providers that carry out programs and activities with direct Federal financial assistance provide written notice to beneficiaries and refer beneficiaries objecting to the organization's religious character to an alternative provider, and the requirement that faith-based organizations provide notices that are not required of secular organizations.

This proposed rule would also make clear that a faith-based organization that applies or requests to participate in any HUD funded program or activity, is assessed for eligibility in any HUD funded programs or activity, or actually participates in any HUD funded program or activity retains its autonomy, right of expression, religious character, and independence. It would further clarify that none of the guidance documents that HUD or any intermediary or recipient uses in administering HUD's financial assistance shall require faith-based organizations to provide assurances or notices where similar requirements are not imposed on secular organizations and that any restrictions on the use of grant funds apply equally to faith-based and secular organizations.

This proposed rule would also require that HUD's notices of funding availability (NOFAs), grant agreements, and cooperative agreements include language clarifying the rights and obligations of faith-based organizations that apply for and receive Federal funding. The language provides notice to those applying for HUD funds that, among other things, faith-based organizations may apply for awards on the same basis as any other organization; that HUD will not, in the selection of recipients, discriminate against an organization on the basis of the organization's religious exercise or affiliation; and that a faith-based organization that applies to participate in, participates in, or is assessed for eligibility to participate in, a HUD program retains its independence from the Government and may continue to carry out its mission consistent with religious freedom protections in Federal law, including the Free Speech and Free Exercise Clauses of the First Amendment to the Constitution.

This proposed rule, in the event of any conflict, will control over any HUD guidance document. This is intended to be consistent with Executive Order 13891, dated October 9, 2019, which provides that guidance documents lack the force of law, except as authorized by law or as incorporated into a contract.

Finally, the proposed rule would directly reference the definition of ''religious exercise'' in the Religious Land Use and Individualized Persons Act of 2000, 42 U.S.C. 2000cc–5(7)(A), and would amend the definition of ''indirect Federal Financial assistance'' to align more closely with the Supreme Court's definition in *Zelman* v. *Simmons–Harris,* 536 U.S. 639 (2002).

B. Alternative Provider and Alternative Provider Notice Requirement

Executive Order 13559 imposed notice and referral burdens on faith-based organizations not imposed on secular organizations. Section 1(b) of Executive Order 13559, entitled ''Fundamental Principles,'' amended section 2 of Executive Order 13279 by, in pertinent part, adding a new subsection (h) to section 2. As amended by Executive Order 13559, section 2(h)(i) directed agencies to ensure that ''[i]f a beneficiary or a prospective beneficiary of a social service program supported by Federal financial assistance objects to the religious character of an organization that provides services under the program, that organization shall, within a reasonable time after the date of the objection, refer the beneficiary to an alternative provider.'' Section 2(h)(ii) directed agencies to establish policies and procedures to ensure that referrals are timely and follow privacy laws and regulations, that providers notify agencies of and track referrals, and that each beneficiary ''receive[] written notice of the protections set forth in this subsection prior to enrolling in or receiving services from such program.''

In revising its regulations, HUD explained in 2015 that the revisions would implement the alternative provider provisions in Executive Order 13559. Executive Order 13831, however, has removed the alternative provider requirements articulated in Executive Order 13559. HUD also explained that the alternative provider provisions would protect religious liberty rights of social service beneficiaries. But the methods of providing such protections were not required by the Constitution or any applicable law. Indeed, the selected methods are in tension with more recent Supreme Court precedent regarding nondiscrimination against religious organizations, with the Attorney General's Memorandum on Religious Liberty, and with the RFRA, 42 U.S.C. 2000bb–2000bb–4.

As the Supreme Court recently clarified in *Trinity Lutheran Church of Columbia, Inc.* v. *Comer,* 137 S. Ct. 2012, 2019 (2017): ''The Free Exercise Clause 'protect[s] religious observers against unequal treatment' and subjects to the strictest scrutiny laws that target the religious for 'special disabilities' based on their 'religious status.''' (quoting *Church of Lukumi Babalu Aye, Inc.* v. *Hialeah,* 508 U.S. 520, 533 (1993) (alteration in original)). The Court in *Trinity Lutheran* added: ''[T]his Court has repeatedly confirmed that denying a generally available benefit solely on account of religious identity imposes a penalty on the free exercise of religion that can be justified only by a state interest 'of the highest order.''' *Id.* (quoting *McDaniel* v. *Paty,* 435 U.S. 618 (1978) (plurality opinion); *see also Mitchell* v. *Helms,* 530 U.S. 793, 827 (2000) (plurality opinion) (''The religious nature of a recipient should not matter to the constitutional analysis, so long as the recipient adequately furthers the government's secular purpose.''); Attorney General's Memorandum on Religious Liberty, principle 6 (''Government may not target religious individuals or entities for special disabilities based on their religion.'').

Applying the alternative provider requirement categorically to all faith-based providers and not to other providers of federally funded social services is thus in tension with the nondiscrimination principle articulated in *Trinity Lutheran* and the Attorney General's Memorandum on Religious Liberty.

In addition, the alternative provider requirement raises implications under RFRA. Under RFRA, where the Government substantially burdens an entity's exercise of religion, the Government must prove that the burden is in furtherance of a compelling government interest and is the least restrictive means of furthering that interest. 42 U.S.C. 2000bb–1(b). The World Vision OLC opinion makes clear that when a faith-based grant recipient carries out its social service programs, it may engage in an exercise of religion protected by RFRA. *See Application of the Religious Freedom Restoration Act*

to the Award of a Grant Pursuant to a Juvenile Justice and Delinquency Prevention Act, 31 O.L.C. 162, 169–71 (June 29, 2007).

Requiring faith-based organizations to comply with certain conditions in receiving social service grants may substantially burden their religious exercise. *Id.* at 174–83. When imposing the alternative provider requirement in 2016, the agencies asserted an interest in informing beneficiaries of protections of their religious liberty. 81 FR 19353, 19365. In addition, the alternative provider requirement could in certain circumstances raise concerns under RFRA. Under RFRA, where the Government substantially burdens an entity's exercise of religion, the Government must prove that the burden is in furtherance of a compelling government interest and is the least restrictive means of furthering that interest. 42 U.S.C. 2000bb–1(b). When a faith-based grant recipient carries out its social service programs, it may engage in an exercise of religion protected by RFRA and certain conditions on receiving those grants may substantially burden the religious exercise of the recipient. *See Application of the Religious Freedom Restoration Act to the Award of a Grant Pursuant to a Juvenile Justice and Delinquency Prevention Act,* 31 O.L.C. 162, 169–71, 174–83 (June 29, 2007). Requiring faith-based organizations to comply with the alternative provider requirement could impose such a burden, such as in a case in which a faith-based organization has a religious objection to referring the beneficiary to an alternative provider that provided services in a manner that violated the organization's religious tenets. *See Burwell* v. *Hobby Lobby Stores, Inc.,* 573 U.S. 682, 720–26 (2014). And it is far from clear that this requirement would meet the strict scrutiny that RFRA requires of laws that substantially burden religious practice.

With adoption of this rule, HUD would no longer require its program participants to identify or refer beneficiaries to alternate providers. In addition, the absence of a secular alternate provider will no longer be a block to the application, eligibility, or participation by faith-based entities in any HUD program or activity.

Executive Order 13831 chose to eliminate the alternative provider requirement for good reason. This decision avoids tension with the nondiscrimination principle articulated in *Trinity Lutheran* and the Attorney General's Memorandum on Religious Liberty, avoids problems with RFRA that may arise, and fits within the Administration's broader deregulatory agenda.

C. Other Notice Requirements

As noted above, Executive Order 13559 amended Executive Order 13279 by adding a right to an alternative provider and notice of this right. While Executive Order 13559's requirement of notice to beneficiaries was limited to notice of alternative providers, 24 CFR part 5 as recently amended goes further than Executive Order 13559 by requiring that faith-based social service providers that carry out programs and activities with direct Federal financial assistance from HUD provide a much broader notice to beneficiaries and potential beneficiaries. This requirement applies only to faith-based providers and not to other providers. In addition to the notice of the right to an alternative provider, the rule requires notice of nondiscrimination based on religion; that participation in religious activities must be voluntary and separate in time or space from activities funded with direct Federal funds; and that beneficiaries or potential beneficiaries may report violations.

Separate and apart from these notice requirements, Executive Order 13279, as amended, clearly set forth the underlying requirements of nondiscrimination, voluntariness, and the holding of religious activities separate in time or place from any federally funded activity. Faith-based providers of social services, like other providers of social services, are required to follow the law and the requirements of awards they receive. (*See, e.g.,* 2 CFR part 200). There is no basis on which to presume that they are less likely than other social service providers to follow the law. *See Mitchell,* 530 U.S. at 856–57 (O'Connor, J., concurring in judgment) (noting that in *Tilton* v. *Richardson,* 403 U.S. 672 (1971), the Court's upholding of grants to universities for construction of buildings with the limitation that they only be used for secular educational purposes ''demonstrate[d] our willingness to presume that the university would abide by the secular content restriction.''). There is thus no need for prophylactic protections that create administrative burdens on faith-based providers and that are not imposed on other providers.

D. Definition of Indirect Federal Financial Assistance

Executive Order 13559 directed its Interagency Working Group on Faith-Based and Other Neighborhood Partnerships (Working Group) to propose model regulations and guidance documents regarding, among other things, ''the distinction between 'direct' and 'indirect' Federal financial assistance[.]'' 75 FR 71319, 71321 (2010). Following issuance of the Working Group's report, the 2016 joint final rule amended existing regulations to make that distinction, and to clarify that ''organizations that participate in programs funded by indirect financial assistance need not modify their program activities to accommodate beneficiaries who choose to expend the indirect aid on those organizations' programs,'' need not provide notices or referrals to beneficiaries, and need not separate their religious activities from supported programs. 81 FR 19355, 19358 (2016). In so doing, the final rule attempted to capture the definition of ''indirect'' aid that the U.S. Supreme Court employed in *Zelman* v. *Simmons–Harris,* 536 U.S. 639 (2002). *See* 81 FR 19355, 19361–62 (2016).

In *Zelman,* the Court emphasized that the government may provide indirect aid to a faith-based where the aid reaches the faith-based entity by way of ''true private choice,'' with ''no evidence that the State deliberately skewed incentives'' to faith-based service providers. The Court upheld the challenged school-choice program because it conferred assistance ''directly to a broad class of individuals defined without reference to religion'' (*i.e.,* parents of schoolchildren); it permitted participation by both religious and nonreligious educational providers; it allocated aid ''on the basis of neutral, secular criteria that neither favor nor disfavor religion''; and it made aid available ''to both religious and secular beneficiaries on a nondiscriminatory basis.'' *Id.* at 653–54 (quotation marks and citations omitted). While the Court noted the availability of secular providers, it specifically declined to make its definition of indirect aid hinge on the ''preponderance of religiously affiliated private'' providers in the city, as that preponderance arose apart from the program; doing otherwise, the Court concluded, ''would lead to the absurd result that a neutral school-choice program might be permissible in some parts of Ohio, . . . but not in'' others. *Id.* at 656–58. The Court found that ''[t]he constitutionality of a neutral . . . aid program simply does not turn on whether and why, in a particular area, at a particular time, most [providers] are run by religious organizations, or most recipients choose to use the aid at a religious [provider].'' *Id.* at 658.

The final rule issued after the Working Group's report included among its criteria for indirect Federal financial assistance a requirement that

beneficiaries have ''at least one adequate secular option'' for use of the Federal financial assistance. *See* 81 FR 19355, 19407–19426 (2016). In other words, the rule amended regulations to make the definition of ''indirect'' aid hinge on the availability of secular providers. A regulation defining ''indirect Federal financial assistance'' to require the actual availability of ''one adequate secular option'' is in tension with the Supreme Court's choice not to make the definition of indirect aid hinge on the geographically varying availability of secular providers. Thus, it is appropriate to amend existing regulations to bring the definition of ''indirect'' aid more closely into line with the Supreme Court's definition in *Zelman.*

Explanations for the Proposed Amendments

HUD proposes to revise § 5.109 entitled, ''Equal participation of faith-based organizations in HUD programs and activities,'' consistent with Executive Order 13831, 83 Fed. 20715 (May 8, 2018). Specifically, the definition in § 5.109(b) of ''Indirect Federal financial assistance'' is proposed to be changed in order to align the text more closely with the First Amendment as described in II(D) above. *See, e.g., Zelman* v. *Simmons-Harris,* 536 U.S. 639 (2002); *Trinity Lutheran Church of Columbia, Inc.* v. *Comer,* 137 S. Ct. 2012 (2017).

Section 5.109(b) would also be revised to add a definition of ''Religious exercise'' in order to align the text more closely with the definitions used in the Religious Freedom Restoration Act of 1993 (RFRA), 42 U.S.C. 2000bb *et seq.,* and with the Religious Land Use and Individualized Persons Act of 2000 (RLUIPA), 42 U.S.C. 2000cc–5(7)(A). *See, e.g.,* principles 10–15 of the Attorney General's Memorandum on Religious Liberty, 82 FR 49668 (October 26, 2017).

Section 5.109(c) would also be revised by adding clarifying language and to align it more closely with RFRA. The language would clarify that religious organizations may be eligible for religious accommodations appropriate under the Constitution or other provisions of federal law, including but not limited to 42 U.S.C. 2000bb *et seq.,* 42 U.S.C. 238n, 42 U.S.C. 18113, 42 U.S.C. 2000e–1(a) and 2000e–2(e), 42 U.S.C. 12113(d), and the Weldon Amendment. It would also require notices of funding availability, grant agreements, and cooperative agreements to include Appendix A, which clarifies the rights of religious applicants. *See, e.g.,* principles 6, 10–15, and 20 of the Attorney General's Memorandum on Religious Liberty, 82 FR 49668 (October 26, 2017); *Application of the Religious Freedom Restoration Act to the Award of a Grant Pursuant to the Juvenile Justice and Delinquency Prevention Act,* 31 Op. O.L.C. 162 (2007) (World Vision Opinion).

Appendix A adds language to all Notices of Funding Availability that clarifies the rights of faith-based organizations applying for the relevant award, including rights that spring from the First Amendment and RFRA *See, e.g., Zelman* v. *Simmons-Harris,* 536 U.S. 639 (2002); *Trinity Lutheran Church of Columbia, Inc.* v. *Comer,* 137 S. Ct. 2012 (2017); principles 2, 3, 6–7, 9–17, 19, and 20 of the Attorney General's Memorandum on Religious Liberty, 82 FR 49668 (October 26, 2017); Exec. Order No. 13279, 67 FR 77141 (December 12, 2002), *as amended by* Exec. Order No. 13559, 75 FR 71319 (November 17, 2010), *and* Exec. Order No. 13831, 83 FR 20715 (May 8, 2018).

HUD also proposes to revise § 5.109(d) to eliminate extraneous language relating to direct Federal financial assistance that is covered in § 5.109(e) and provide language to align it more closely with the First Amendment and with RFRA. This language clarifies the scope of the independence that faith-based organizations receive when they apply for or participate in a HUD program, and that they do not lose any protections of law highlighted by the Attorney General's Memorandum on Religious Liberty merely by applying for or participating in such programs. *See, e.g.,* Exec. Order No. 13279, 67 FR 77141 (December 12, 2002), *as amended by* Exec. Order No. 13831, 83 FR 20715 (May 8, 2018); principles 9–15, 19, and 20 of the Attorney General's Memorandum on Religious Liberty, 82 FR 49668 (October 26, 2017).

Section 5.109(e) would be revised to bring consistency with Executive Order No. 13559, 75 FR 71319 (November 22, 2010), by further clarifying that the restrictions in § 5.109(e) do not apply to the use of indirect Federal financial assistance.

As discussed in II(B)–(C) above, § 5.109(g) would be deleted in accordance with Executive Order 13831. These changes would also align the text more closely with the First Amendment and with RFRA. *See, e.g., Zelman* v. *Simmons-Harris,* 536 U.S. 639 (2002), *Trinity Lutheran Church of Columbia, Inc.* v. *Comer,* 137 S. Ct. 2012 (2017); principles 2, 3, 6–7, 9–17, 19, and 20 of the Attorney General's Memorandum on Religious Liberty, 82 FR 49668 (October 26, 2017); Exec. Order No. 13279, 67 FR 77141 (December 12, 2002), *as amended by* Exec. Order No. 13559, 75 FR 71319 (November 17, 2010), *and* Exec. Order No. 13831, 83 FR 20715 (May 8, 2018).

Section 5.109(g) ''Nondiscrimination requirements,'' as redesignated, is proposed to be changed in order to align the text more closely with the First Amendment and with RFRA by clarifying that organizations receiving indirect financial aid may require attendance to fundamentally important programmatic activities. This follows the definition of indirect financial assistance as discussed in II(D) above. *See, e.g., Zelman* v. *Simmons-Harris,* 536 U.S. 639 (2002)); principles 10–15 of the Attorney General's Memorandum on Religious Liberty, 82 FR 49668 (October 26, 2017).

HUD proposes to add a new § 5.109(h) in order to clarify the text and align it more closely with the First Amendment and with RFRA. This section prevents HUD or intermediaries from targeting faith-based organizations by asking them to provide additional assurances that similarly situated secular organizations do not have to provide. *See, e.g., Trinity Lutheran Church of Columbia, Inc.* v. *Comer,* 137 S. Ct. 2012 (2017)); principles 6, 7, and 10–15 of the Attorney General's Memorandum on Religious Liberty, 82 FR 49668 (October 26, 2017).

Section 5.109(l) is proposed to be added in order to align more closely with RFRA. This clarifies HUD's treatment of tax-exempt organizations including for entities that sincerely believe that they cannot register for tax exemption. *See, e.g.,* principles 10–15 of the Attorney General's Memorandum on Religious Liberty, 82 FR 49668 (October 26, 2017).

Section 5.109(m) is proposed to be added in order to align the text more closely with the First Amendment by providing a rule of construction to interpret these provisions in a way that does not favor or disfavor religious organizations. *See, e.g., Larson* v. *Valente,* 456 U.S. 228 (1982)); principle 8 of the Attorney General's Memorandum on Religious Liberty, 82 FR 49668 (October 26, 2017).

III. Tribal Consultation

HUD's policy is to consult with Indian tribes early in the process on matters that have tribal implications. Accordingly, on July 16, 2019, HUD sent letters to all tribal leaders participating in HUD programs, informing them of the nature of this forthcoming rulemaking. HUD received one comment in response to those letters, regarding the ability of faith-based organizations to access funds designated for Indian tribes under

the Indian Community Development Block Grant program. Tribal leaders are welcome to provide public comments on this proposed rule.

IV. Findings and Certifications

Executive Order 12866 and 13563—Regulatory Planning and Review

This proposed rule has been drafted in accordance with Executive Order 13563, ''Improving Regulation and Regulatory Review,'' of January 18, 2011, 76 FR 3821, and Executive Order 12866, ''Regulatory Planning and Review,'' of September 30, 1993, 58 FR 51735. Executive Order 13563 directs agencies, to the extent permitted by law, to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; tailor the regulation to impose the least burden on society, consistent with obtaining the regulatory objectives; and, in choosing among alternative regulatory approaches, select those approaches that maximize net benefits. Executive Order 13563 recognizes that some benefits and costs are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitatively values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

Under Executive Order 12866, the Office of Information and Regulatory Affairs (OIRA) must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive Order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a regulation that may (1) 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 (also referred to as an ''economically significant'' regulation); (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in Executive Order 12866. OIRA has determined that this proposed regulatory action is a significant, but not economically significant, regulatory action subject to review by OMB under section 3(f) of Executive Order 12866. Accordingly, OMB has reviewed this rule.

HUD has also reviewed these regulations under Executive Order 13563, which supplements and reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, section 1(b) of Executive Order 13563 requires that an agency: (1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives, and taking into account—among other things and to the extent practicable—the costs of cumulative regulations; (3) in choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or providing information that enables the public to make choices. 76 FR 3821, 3821 (Jan. 21, 2011). Section 1(c) of Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' *Id.* OIRA has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.'' Memorandum for the Heads of Executive Departments and Agencies, and of Independent Regulatory Agencies, from Cass R. Sunstein, Administrator, Office of Information and Regulatory Affairs, Re: Executive Order 13563, ''Improving Regulation and Regulatory Review'', at 1 (Feb. 2, 2011), available at: *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2011/m11-10.pdf.*

HUD is issuing these proposed regulations upon a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, HUD selected those approaches that maximize net benefits. Based on the analysis that follows, HUD believes that this proposed regulation is consistent with the principles in Executive Order 13563. It is the reasoned determination of HUD that this proposed action would, to a significant degree, eliminate costs that have been incurred by faith-based organizations as they complied with the requirements of section 2(b) of Executive Order 13559, while not adding any other requirements for those organizations. HUD also has determined that this regulatory action does not unduly interfere with State, local, or tribal governments in the exercise of their governmental functions.

In accordance with Executive Orders 12866 and 13563, HUD has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs and cost savings associated with this regulatory action are those resulting from the removal of the notification and referral requirements of Executive Order 13279, as amended by Executive Order 13559 and further amended by Executive Order 13831. HUD recognizes that the removal of the notice and referral requirements could impose some costs on beneficiaries who may now need to investigate alternative providers on their own if they object to the religious character of a potential provider. HUD invites comment on any information that it could use to quantify this potential cost. HUD also notes a quantifiable cost savings of the removal of the notice requirements. HUD estimates this cost savings as $656,128. HUD invites comment on any data by which it could assess the actual implementation costs of the notice and referral requirement—including any estimates of staff time spent on compliance with the requirement, in addition to the printing costs for the notices referenced above—and thereby accurately quantify the cost savings of removing these requirements.

In terms of benefits, HUD recognizes a benefit to religious liberty that comes from removing requirements imposed solely on faith-based organizations in tension with the principles of free exercise articulated in *Trinity Lutheran.* HUD also recognizes a benefit to grant recipients and beneficiaries alike that comes from increased clarity in the regulatory requirements that apply to faith-based organizations' operating programs and activities funded by the Federal Government. Beneficiaries will also benefit from the increased capacity of faith-based social-service providers to provide services, both because these providers will be able to shift resources

otherwise spent fulfilling the notice and referral requirements to provision of services, and because more faith-based social service providers may participate in the marketplace once reassured that the government will not impose burdensome obligations based on their religious character.

Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs

Executive Order 13771, entitled ''Reducing Regulation and Controlling Regulatory Costs,'' was issued on January 30, 2017 (82 FR 9339, February 3, 2017). Section 2(a) of Executive Order 13771 requires an agency, unless prohibited by law, to identify at least two existing regulations to be repealed when the agency publicly proposes for notice and comment, or otherwise promulgates, a new regulation. In furtherance of this requirement, section 2(c) of Executive Order 13771 requires that the new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations. This proposed rule is expected to be an E.O. 13771 deregulatory action.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 553) or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. HUD has determined that this rule will not have a significant economic impact on a substantial number of small entities. Consequently, HUD has not prepared a regulatory flexibility analysis.

Executive Order 12988: Civil Justice Reform

This proposed rule has been reviewed in accordance with Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729, February 6, 1996). The provisions of this proposed rule will not have preemptive effect with respect to any State or local laws, regulations, or policies that conflict with such provision or which otherwise impede their full implementation. The rule will not have retroactive effect.

Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 4, 1999) directs that, to the extent practicable and permitted by law, an agency shall not promulgate any regulation that has federalism implications, that imposes substantial direct compliance costs on State and local governments, that is not required by statute, or that preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. Because each change proposed by this rule does not have federalism implications as defined in the Executive Order, does not impose direct compliance costs on State and local governments, is required by statute, and does not preempt State law within the meaning of the Executive Order, HUD has concluded that compliance with the requirements of section 6 is not necessary.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number. The current collection for this rule is approved as OMB control number 2535–0122. HUD previously estimated a cost of no more than 2 burden hours and $100 annual materials cost for the notices and 2 burden hours per referral. 81 FR 19389. The overall reporting and recordkeeping burden will be removed if this rule is finalized as proposed and the hours reduced by 25,620 and costs of $656,128. The change to the information collection will be as follows:

Information collection	Number of respondents	Frequency of response per annum	Burden hour per response	Annual burden hours	New burden hours
5.109(g) (Written Notice of Rights)	726,053	1	.0333	24,178	0
5.109(g) (Referral)	726	1	2	1,452	0
Total Savings				25,620	0

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning the information collection requirements in the proposed rule regarding:

(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) Whether the proposed collection of information enhances the quality, utility, and clarity of the information to be collected; and

(4) Whether the proposed information collection minimizes 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).

Interested persons are invited to submit comments regarding the information collection requirements in this rule. The proposed information collection requirements in this rule have been submitted to OMB for review under section 3507(d) of the Paperwork Reduction Act. Under the provisions of 5 CFR part 1320, OMB is required to make a decision concerning this collection of information between 30 and 60 days after the publication date. Therefore, a comment on the information collection requirements is best assured of having its full effect if OMB receives the comment within 30 days of the publication. This time frame does not affect the deadline for comments to the agency on the proposed rule, however. Comments must refer to the proposed rule by name and docket number (FR–6085) and must be sent to:

HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Fax number: 202–395–6947.

and

Colette Pollard, HUD Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street SW, Room 2204, Washington, DC 20410.

Interested persons may submit comments regarding the information collection requirements electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *http://www.regulations.gov* website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private sector. This proposed rule does not impose a Federal mandate on any state, local, or tribal government, or on the private sector, within the meaning of UMRA.

List of Subjects

24 CFR Part 5

Administrative practice and procedure, Aged, Claims, Crime, Government contracts, Grant programs-housing and community development, Individuals with disabilities, Intergovernmental relations, Loan programs-housing and community development, Low and moderate income housing, Mortgage insurance, Penalties, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

24 CFR Part 92

Administrative practice and procedure, Low and moderate income housing, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 578

Community development, Community facilities, Grant programs-housing and community development, Grant programs-social programs, Homeless, Reporting and recordkeeping requirements.

Accordingly, for the reasons set forth in the preamble, parts 5, and 92 of Title 24 of the Code of Federal Regulations is proposed to be amended as follows:

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

■ 1. The authority citation for part 5 is revised to read as follows:

Authority: 12 U.S.C. 1701x; 42 U.S.C. 1437a, 1437c, 1437f, 1437n, 3535(d); Sec. 327, Pub. L. 109–115, 119 Stat. 2936; Sec. 607, Pub. L. 109–162, 119 Stat. 3051 (42 U.S.C. 14043e *et seq.*); E.O. 13279, 67 FR 77141; E.O. 13559, 75 FR 71319; E.O 13831, 83 FR 20715.

■ 2. Amend § 5.109 by:
■ a. Revising paragraphs (a);
■ b. In paragraph (b), revising the definition ''Indirect Federal financial assistance'' and adding the definition ''Religious exercise'' in alphabetical order;
■ c. Revising paragraphs (c) and (d);
■ d. In paragraph (e), adding a sentence at the end of the paragraph;
■ e. Removing paragraph (g);
■ f. Redesignating paragraph (h) as paragraph (g) and revising newly redesignated paragraph (g)''; and
■ g. Adding paragraphs (h), (l), and (m).

The revisions and additions read as follows:

§ 5.109 Equal participation of faith-based organizations in HUD programs and activities.

(a) *Purpose.* Consistent with Executive Order 13279, entitled ''Equal Protection of the Laws for Faith-Based and Community Organizations,'' as amended by Executive Order 13559, entitled ''Fundamental Principles and Policymaking Criteria for Partnerships With Faith-Based and Other Neighborhood Organizations,'' and as amended by Executive Order 13831, entitled ''Establishment of a White House Faith and Opportunity Initiative,'' this section describes requirements for ensuring the equal participation of faith-based organizations in HUD programs and activities. These requirements apply to all HUD programs and activities, including all of HUD's Native American Programs, except as may be otherwise noted in the respective program regulations in title 24 of the Code of Federal Regulations (CFR), or unless inconsistent with certain HUD program authorizing statutes.

* * *

(b) * * *

Indirect Federal financial assistance means Federal financial assistance provided when the choice of the provider is placed in the hands of the beneficiary, and the cost of that service is paid through a voucher, certificate, or other similar means of Government-funded payment. Federal financial assistance provided to an organization is considered indirect when the Government program through which the beneficiary receives the voucher, certificate, or other similar means of Government-funded payment is neutral toward religion meaning that it is available to providers without regard to the religious or non-religious nature of the institution and there are no program incentives that deliberately skew for or against religious or secular providers; and the organization receives the assistance as a result of a genuine, independent choice of the beneficiary.

* * * * *

Religious exercise has the meaning given to the term in 42 U.S.C. 2000cc–5(7)(A).

(c) *Equal participation of faith-based organizations in HUD programs and activities.* Faith-based organizations are eligible, on the same basis as any other organization, to participate in any HUD program or activity, considering any permissible accommodations, particularly under the Religious Freedom Restoration Act. Neither the Federal Government, nor a State, tribal or local government, nor any other entity that administers any HUD program or activity, shall discriminate against an organization on the basis of the organization's religious character, affiliation, or lack thereof, or exercise. In addition, decisions about awards of Federal financial assistance must be free from political interference or even the appearance of such interference and must be made on the basis of merit, not based on the organization's religious character, affiliation, or lack thereof, or exercise. Notices of funding availability, grant agreements, and cooperative agreements shall include language substantially similar to that in Appendix A to this subpart, where faith-based organizations are statutorily eligible for such opportunities.

(d) *Independence and Identity of Faith-Based Organizations.* (1) A faith-based organization that applies for, or participates in, a HUD program or activity supported with Federal financial assistance retains its autonomy, right of expression, religious character, authority over its governance, and independence, and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs. A faith-based organization that receives Federal financial assistance from HUD does not lose the protections of law.

Note 1 to paragraph (d)(1): Memorandum for All Executive Departments and Agencies, From the Attorney General, ''Federal Law Protections for Religious Liberty'' (Oct. 6, 2017) (describing federal law protections for religious liberty).

(2) A faith-based organization that receives direct Federal financial assistance may use space (including a sanctuary, chapel, prayer hall, or other space) in its facilities (including a temple, synagogue, church, mosque, or other place of worship) to carry out activities under a HUD program without concealing, altering, or removing religious art, icons, scriptures, or other religious symbols. In addition, a faith-based organization participating in a HUD program or activity retains its authority over its internal governance, and may retain religious terms in its organization's name, select its board members and employees on the basis of their acceptance of or adherence to the religious tenets of the organization, and include religious references in its organization's mission statements and other governing documents.

(e) * * * The use of indirect Federal financial assistance is not subject to this restriction. Nothing in this part restricts HUD's authority under applicable Federal law to fund activities, that can be directly funded by the Government consistent with the Establishment Clause of the U.S. Constitution.

* * * * *

(g) *Nondiscrimination requirements.* Any organization that receives Federal financial assistance under a HUD program or activity shall not, in providing services with such assistance or carrying out activities with such assistance, discriminate against a beneficiary or prospective beneficiary on the basis of religion, religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice. However, this section does not require any organization that only receives indirect Federal financial assistance to modify its program or activities to accommodate a beneficiary that selects the organization to receive indirect aid or prohibit such organization from requiring attendance at all activities that are fundamental to the program.

(h) *No additional assurances from faith-based organizations.* A faith-based organization is not rendered ineligible by its religious nature to access and participate in HUD programs. No notice of funding availability, grant agreement, cooperative agreement, covenant, memorandum of understanding, policy, or regulation that is used by HUD or a recipient or intermediary in administering Federal financial assistance from HUD shall require otherwise eligible faith-based organizations to provide assurances or notices where they are not required of similarly situated secular organizations. All organizations that participate in HUD programs or activities, including organizations with religious character or affiliations, must carry out eligible activities in accordance with all program requirements, subject to any required or appropriate accommodation, particularly under the Religious Freedom Restoration Act, and other applicable requirements governing the conduct of HUD-funded activities, including those prohibiting the use of direct financial assistance to engage in explicitly religious activities. No notice of funding availability, grant agreement, cooperative agreement, covenant, memorandum of understanding, policy, or regulation that is used by HUD or a recipient or intermediary in administering financial assistance from HUD shall disqualify otherwise eligible faith-based organizations from participating in HUD's programs or activities because such organization is motivated or influenced by religious faith to provide such programs and activities, or because of its religious exercise or affiliation.

* * * * *

(l) *Tax exempt organizations.* In general, HUD does not require that a recipient, including a faith-based organization, obtain tax-exempt status under section 501(c)(3) of the Internal Revenue Code to be eligible for funding under HUD programs. Many grant programs, however, do require an organization to be a nonprofit organization in order to be eligible for funding. Notices of funding availability that require organizations to have nonprofit status will specifically so indicate in the eligibility section of the notice of funding availability. In addition, if any notice of funding availability requires an organization to maintain tax-exempt status, it will expressly state the statutory authority for requiring such status. Applicants should consult with the appropriate HUD program office to determine the scope of any applicable requirements. In HUD programs in which an applicant must show that it is a nonprofit organization but this is not statutorily defined, the applicant may do so by any of the following means:

(1) Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code;

(2) A statement from a State or other governmental taxing body or the State secretary of State certifying that—

(i) The organization is a nonprofit organization operating within the State; and

(ii) No part of its net earnings may benefit any private shareholder or individual;

(3) A certified copy of the applicant's certificate of incorporation or similar document that clearly establishes the nonprofit status of the applicant;

(4) Any item described in paragraphs (l)(1) through (l)(3) of this section, if that item applies to a State or national parent organization, together with a statement by the state or parent organization that the applicant is a local nonprofit affiliate; or

(5) For an entity that holds a sincerely-held religious belief that it cannot apply for a determination as an entity that is tax-exempt under section 501(c)(3) of the Internal Revenue Code, evidence sufficient to establish that the entity would otherwise qualify as a nonprofit organization under paragraphs (l)(1) through (l)(4) of this section.

(m) *Rule of construction.* Neither HUD nor any recipient or other intermediary receiving funds under any HUD program or activity shall construe these provisions in such a way as to advantage or disadvantage faith-based organizations affiliated with historic or well-established religions or sects in comparison with other religions or sects.

■ 3. Add Appendix A to Subpart A of Part 5 to read as follows:

Appendix A to Subpart A of Part 5—Notice of Funding Availability

Faith-based organizations may apply for this award on the same basis as any other organization, as set forth at, and subject to the protections and requirements of 42 U.S.C. 2000bb *et seq.,* HUD will not, in the selection of recipients, discriminate against an organization on the basis of the organization's religious exercise or affiliation.

A faith-based organization that participates in this program will retain its independence, and may continue to carry out its mission consistent with religious freedom protections in Federal law, including the Free Speech and Free Exercise clauses of the Constitution, 42 U.S.C. 2000bb *et seq.,* 42 U.S.C. 238n, 42 U.S.C. 18113, 42 U.S.C. 2000e–1(a) and 2000e–2(e), 42 U.S.C. 12113(d), and the Weldon Amendment, among others. Religious accommodations may also be sought under many of these religious freedom protection laws, particularly under the Religious Freedom Restoration Act.

A faith-based organization may not use direct financial assistance from HUD to support or engage in any explicitly religious activities except where consistent with the Establishment Clause and any other applicable requirements. Such an organization also may not, in providing services funded by HUD, discriminate against a program beneficiary or prospective program

beneficiary on the basis of a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.

PART 92—HOME INVESTMENT PARTNERSHIPS PROGRAM

■ 4. The authority citation for part 92 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 12 U.S.C. 1701x and 4568.

§ 92.508 [Amended]

■ 5. Amend § 92.508 by removing paragraph (a)(2)(xiii).

Dated: January 2, 2020.

Benjamin S. Carson, Sr.,

Secretary.

[FR Doc. 2020–02495 Filed 2–12–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2020–0019

RIN 1625–AA00

Safety Zone; Tanapag Harbor, Saipan, CNMI

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a safety zone for navigable waters within Tanapag Harbor, Saipan. This safety zone will encompass the designated swim course for the Escape from Managaha swim event in the waters of Tanapag Harbor, Saipan, Commonwealth of the Northern Mariana Islands. This action is necessary to protect all persons and vessels participating in this marine event from potential safety hazards associated with vessel traffic in the area. Race participants, chase boats, and organizers of the event will be exempt from the safety zone. Entry of persons or vessels into the safety zone is prohibited unless authorized by the Captain of the Port (COTP) Guam. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before March 16, 2020.

ADDRESSES: You may submit comments identified by docket number USCG–2020–0019 using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Chief Petty Officer Robert Davis, Sector Guam, U.S. Coast Guard, by telephone at (671) 355–4866, or email at *WWMGuam@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, Purpose, and Legal Basis

The Escape from Managaha swim event is a recurring annual event. We have established safety zones for this swim event in past years.

The purpose of this rule is to ensure the safety of the participants and the navigable waters in the safety zone before, during, and after the scheduled swim event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C 70034 (previously codified in 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone from 6:30 a.m. to 8:30 a.m. on March 28, 2020 or April 04, 2020. This safety zone is necessary to protect all persons and vessels participating in this marine event from potential safety hazards associated with vessel traffic in the area. Race participants, chase boats, and organizers of the event will be exempt from the safety zone. Entry of persons or vessels into this safety zone is prohibited unless authorized by the COTP. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone, which will impact a small designated area of Tanapag Harbor for 2 hours. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule allows 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting for 2 hours that will prohibit entry within 100-yards of swim participants. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's Correspondence System of Records notice (84 FR 48645, September 26, 2018).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

PART 165—SAFETY ZONE; TANAPAG HARBOR, SAIPAN, CNMI.

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

Authority: 46 U.S.C. 70034; 46 U.S.C. 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.T05–0019 to read as follows:

§ 165. T05–0019 Safety Zone; Tanapag Harbor, Saipan, CNMI.

(a) *Location.* The following area, within the Guam Captain of the Port (COTP) Zone (See 33 CFR 3.70–15), all navigable waters within a 100-yard radius of race participants in Tanapag Harbor, Saipan. Race participants, chase boats, and organizers of the event will be exempt from the safety zone.

(b) *Effective dates.* This rule is effective from 6:30 a.m. to 8:30 a.m. on March 28, 2020 or April 04, 2020.

(c) *Regulations.* (1) In accordance with the general regulations in section § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the COTP or a designated on-scene representative.

(2) This safety zone is closed to all persons and vessel traffic, except as may be permitted by the COTP or a designated on-scene representative.

(3) The ''on-scene representative'' of the COTP is any Coast Guard commissioned, warrant, or petty officer who has been designated by the COTP to act on his or her behalf.

(4) Persons and Vessel operators desiring to enter or operate within the safety zone must contact the COTP or an on-scene representative to obtain permission to do so. The COTP or an on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or an on-scene representative.

(d) *Waiver.* The COTP may waive any of the requirements of this rule for any

person, vessel, or class of vessel upon finding that application of the safety zone is unnecessary or impractical for the purpose of maritime security.

(e) *Penalties.* Vessels or persons violating this rule are subject to the penalties set forth in 46 U.S.C. 70036 (previously codified in 33 U.S.C. 1232) and 46 U.S.C. 70052 (previously codified in 50 U.S.C. 192).

Dated: February 10, 2020.

Christopher M. Chase,

Captain, U.S. Coast Guard, Captain of the Port, Guam.

[FR Doc. 2020–02876 Filed 2–12–20; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2020–0040; FRL–10005–20–Region 7]

Air Plan Approval; Missouri; Control of Emissions From Batch Process Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a State Implementation Plan (SIP) revision submitted by Missouri on February 15, 2019. The submission revises a Missouri regulation which limits the volatile organic compound (VOC) emissions from batch process operations by incorporating reasonably available control technology (RACT) as required by the Clean Air Act Amendments of 1990. The revisions to this rule include adding incorporations by reference to other state rules, including definitions specific to the rule, revising unnecessarily restrictive language, making other administrative wording changes, and do not impact the stringency of the SIP or air quality. Approval of these revisions will ensure consistency between state and federally-approved rules.

DATES: Comments must be received on or before March 16, 2020.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R07–OAR–2020–0040 to *https://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Written Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Will Stone, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7714; email address *stone.william@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refer to the EPA.

Table of Contents

I. Written Comments
II. What is being addressed in this document?
III. Have the requirements for approval of a SIP revision been met?
IV. What action is the EPA taking?
V. Incorporation by Reference
VI. Statutory and Executive Order Reviews

I. Written Comments

Submit your comments, identified by Docket ID No. EPA–R07–OAR–2020–0040, at *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. What is being addressed in this document?

The EPA is proposing to approve revisions to 10 Code of State Regulation (CSR) 10–5.540, *Control of Emissions from Batch Process Operations* in the Missouri SIP. Missouri made several revisions to the rule. These revisions are described in detail in the technical support document (TSD) included in the docket for this action.

Missouri received three comments from EPA during the comment period. Missouri responded to all comments as noted in the state submission included in the docket for this action and the TSD. EPA finds that Missouri has adequately addressed the comments.

Therefore, EPA is proposing to approve the revisions to this rule because it will not have a negative impact on air quality.

III. Have the requirements for approval of a SIP revision been met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The state provided public notice on this SIP revision from June 15, 2018, to September 6, 2018, and received four comments. The state revised the rule based on the comments submitted. In addition, as explained above and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

IV. What action is the EPA taking?

The EPA is proposing to approve Missouri's request to revise 10 CSR 10–5.540. We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

V. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Missouri Regulations described in the proposed amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices,

provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 6, 2020.

James Gulliford,

Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart AA—Missouri

■ 2. In § 52.1320, the table in paragraph (c) is amended by revising the entry ''10–5.540'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 5—Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area				
*	*	*	*	*
10–5.540	Control of Emissions from Batch Process Operations.	2/28/2019	[Date of publication of the final rule in the **Federal Register**], [**Federal Register** citation of the final rule].	
*	*	*	*	*

* * * * *

[FR Doc. 2020–02830 Filed 2–12–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2020–0033; FRL–10004–98–Region 7]

Air Plan Approval; Missouri; Control of Emissions From the Manufacturing of Paints, Varnishes, Lacquers, Enamels, and Other Allied Surface Coating Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a State Implementation Plan (SIP) revision submitted by Missouri on February 15, 2019. The submission revises a Missouri regulation that controls emissions from facilities that manufacture paints, varnishes, enamels, and other allied surface coating products. The revisions to this rule include adding incorporations by reference to other State rules, including definitions specific to the rule, revising unnecessarily restrictive language, making other administrative wording changes, and do not impact the stringency of the SIP or air quality. Approval of these revisions will ensure consistency between state and federally-approved rules.

DATES: Comments must be received on or before March 16, 2020.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R07–OAR–2020–0033 to *https://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Written Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Will Stone, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7714; email address *stone.william@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refer to the EPA.

Table of Contents

I. Written Comments
II. What is being addressed in this document?
III. Have the requirements for approval of a SIP revision been met?
IV. What action is the EPA taking?
V. Incorporation by Reference
VI. Statutory and Executive Order Reviews

I. Written Comments

Submit your comments, identified by Docket ID No. EPA–R07–OAR–2020–0033, at *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. What is being addressed in this document?

The EPA is proposing to approve revisions to 10 Code of State Regulation (CSR) 10–2.300, *Control of Emissions from the Manufacturing of Paints, Varnishes, Lacquers, Enamels and Other Allied Surface Coating Products* in the Missouri SIP. Missouri made several revisions to the rule. These revisions are described in detail in the technical support document (TSD) included in the docket for this action.

Missouri received four comments from EPA during the comment period. Missouri responded to all comments as noted in the State submission included in the docket for this action. Missouri responded to EPA's comments and, as described in the TSD for this action, amended the rule in response to some of EPA's comments. EPA finds that Missouri has adequately addressed the comments.

Therefore, EPA is proposing to approve the revisions to this rule because it will not have a negative impact on air quality.

III. Have the requirements for approval of a SIP revision been met?

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from June 15, 2018, to September 6, 2018, and received four comments. The State revised the rule based on the comments submitted. In addition, as explained above and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

IV. What action is the EPA taking?

The EPA is proposing to approve Missouri's request to revise 10 CSR 10–2.300. We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

V. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Missouri Regulations described in the proposed amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735,

October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 6, 2020.

James Gulliford,

Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart AA—Missouri

■ 2. In § 52.1320, the table in paragraph (c) is amended by revising the entry ''10–2.300'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 2—Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area				
*	*	*	*	*
10–2.300	Control of Emissions from Manufacturing of Paints, Varnishes, Lacquers, Enamels and Other Allied Surface Coating Products.	2/28/2019	[Date of publication of the final rule in the **Federal Register**], [**Federal Register** citation of the final rule].	
*	*	*	*	*

* * * * *

[FR Doc. 2020–02828 Filed 2–12–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2020–0039; FRL–10005–03–Region 7]

Air Plan Approval; Missouri; Removal of Control of Emissions From the Application of Automotive Underbody Deadeners

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a State Implementation Plan (SIP) revision submitted by the State of Missouri on December 3, 2018, and supplemented by letter on May 22, 2019. Missouri requests that the EPA remove a rule related to control of emissions from the application of automotive underbody deadeners in the Kansas City, Missouri area from its SIP. This removal does not have an adverse effect on air quality. The EPA's proposed approval of this rule revision

is in accordance with the requirements of the Clean Air Act (CAA).

DATES: Comments must be received on or before March 16, 2020.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R07–OAR–2020–0039 to *https://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Written Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: William Stone, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7714; email address *stone.william@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refer to the EPA.

Table of Contents

I. Written Comments
II. What is being addressed in this document?
III. Background
IV. What is the EPA's analysis of Missouri's SIP revision request?
V. Have the requirements for approval of a SIP revision been met?
VI. What action is the EPA taking?
VII. Incorporation by Reference
VIII. Statutory and Executive Order Reviews

I. Written Comments

Submit your comments, identified by Docket ID No. EPA–R07–OAR–2020–0039 at *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. What is being addressed in this document?

The EPA is proposing to approve the removal of 10 Code of State Regulations (CSR) 10–2.310, *Control of Emissions from the Application of Automotive Underbody Deadeners,* from the Missouri SIP.

According to the May 22, 2019 letter from the Missouri Department of Natural Resources, available in the docket for this proposed action, Missouri rescinded the rule because the only source subject to the rule ceased operations in 1988, and the rule is no longer necessary for attainment and maintenance of the 1979, 1997, or 2008 National Ambient Air Quality Standards (NAAQS) for Ozone.

III. Background

The EPA established a 1-hour ozone NAAQS in 1971. 36 FR 8186 (April 30, 1971). On March 3, 1978, the EPA designated Clay, Platte and Jackson counties (hereinafter referred to in this document as the ''Kanas City Area'') in nonattainment of the 1971 1-hour ozone NAAQS,[1] as required by the CAA Amendments of 1977. 43 FR 8962 (March 3, 1978). On February 8, 1979, the EPA revised the 1-hour ozone NAAQS, referred to as the 1979 ozone NAAQS. 44 FR 8202 (February 8, 1979). On February 20, 1985, the EPA notified Missouri that the SIP was substantially inadequate (hereinafter referred to as the ''SIP Call'') to attain the 1-hour ozone NAAQS in the Kansas City Area. *See* 50 FR 26198 (July 25, 1985).

To address the SIP Call, Missouri submitted an attainment demonstration on May 21, 1986, and volatile organic compound (VOC) control regulations on December 18, 1987. *See* 54 FR 10322 (March 13, 1989) and 54 FR 46232 (November 2, 1989). The EPA subsequently approved the revised control strategy for the Kansas City Area. *See id.* The VOC control regulations approved by EPA into the SIP included reasonably available control technology (RACT) rules as required by CAA section 172(b)(2), including 10 CSR 10–2.310 *Control of Emissions from the Application of Automotive Underbody Deadeners.*

The EPA redesignated the Kansas City Area to attainment of the 1979 1-hour ozone standard on July 23, 1992. 57 FR 27939 (June 23, 1992). Pursuant to section 175A of the CAA, the first 10-year maintenance period for the 1-hour ozone standard began on July 23, 1992, the effective date of the redesignation approval. The maintenance plan for the second maintenance period was effective February 12, 2004. 69 FR 1921 (January 13, 2004). Missouri achieved the required maintenance of the 1979 1-hour ozone standard in 2014 after completing a twenty-two year maintenance period.

On April 30, 2004, the EPA published a final rule in the **Federal Register** stating the 1-hour ozone NAAQS would no longer apply (*i.e.,* would be revoked) for an area one year after the effective date of the area's designation for the 8-hour ozone NAAQS. 69 FR 23951 (April 30, 2004). The effective date of the revocation of the 1979 1-hour ozone standard for the Kansas City Area was June 15, 2005. *See* 70 FR 44470 (August 3, 2005).

As noted above, 10 CSR 10–2.310, *Control of Emissions from the Application of Automotive Underbody Deadeners,* was approved into the Missouri SIP as a RACT rule on March 13, 1989. 54 FR 10322 (March 13, 1989). At the time that the rule was approved into the SIP, 10 CSR 10–2.310 applied to all installations in the Clay, Jackson and Platte Counties in Missouri that had the uncontrolled potential to emit more than 100 tons per year or 250 kilograms per day of VOCs from the application of automotive underbody deadeners.

By letter dated December 3, 2018, Missouri requested that the EPA remove 10 CSR 10–2.310 from the SIP. Section 110(l) of the CAA prohibits EPA from approving a SIP revision that interferes with any applicable requirement concerning attainment and reasonable further progress (RFP), or any other applicable requirement of the CAA. The State supplemented its SIP revision with a March 22, 2019 letter in order to address the requirements of section 110(l) of the CAA.

IV. What is the EPA's analysis of Missouri's SIP revision request?

In its May 22, 2019 letter, Missouri states that it intended its RACT rules, such as 10 CSR 10–2.310, to solely apply to existing sources in accordance with section 172(c)(1) of the CAA.[2] Missouri states that although the applicability section of 10 CSR 10–2.310

[1] Missouri's May 22, 2019 letter incorrectly states that the Kansas City area was designated as a nonattainment area for the 1979 ozone NAAQS in 1978.

[2] The EPA agrees with Missouri's interpretation of CAA section 172(c)(1) in regards to whether RACT is required for existing sources, but also notes that the State regulation establishing RACT may apply to new sources as well, dependent upon the State regulation's language.

states that the rule applies to all installations (located within the Clay, Jackson and Platte Counties), the rule applied to a single existing source, the Leeds General Motors plant, as indicated in the general provisions and emission limit sections of the rule. In addition, Missouri states that the rule does not impose an emission limit for any other source besides the Leeds General Motors plant.

Missouri, in its May 22, 2019 letter, indicates that the Leeds General Motors plant ceased operations in 1988 and the emitting equipment was subsequently decommissioned. Missouri also states that the General Motors Corporation sold the facility in June 1993. The EPA has confirmed that the facility is decommissioned and is no longer subject to 10 CSR 10–2.310.

As stated above, Missouri argues that 10 CSR 10–2.310 may be removed from the SIP because section 172(c)(1) of the CAA requires RACT for existing sources, and because 10 CSR 10–2.310 was applicable to a single source that has permanently ceased operations and therefore the rule no longer reduces VOC emissions. Because the Leeds General Motor plant was the only source that was subject to the rule, and because the facility has been shut-down and dismantled since 1988, the EPA is proposing to find that the rule no longer provides an emission reduction benefit to the Kansas City Area and is proposing to remove it from the SIP.

Missouri's May 22, 2019 letter states that any new sources or major modifications of existing sources are subject to new source review (NSR) permitting. Under NSR, a new major source or major modification of an existing source with a (potential to emit) PTE of 250 tons per year (tpy) or more of any NAAQS pollutant is required to obtain a Prevention of Significant Deterioration (PSD) permit when the area is in attainment or unclassifiable, which requires an analysis of Best Available Control Technology (BACT) in addition to an air quality analysis and an additional impacts analysis. Sources with a PTE greater than 100 tpy, but less than 250 tpy, are required to obtain a minor permit in accordance with Missouri's New Source Review permitting program, which is approved into the SIP.[3] The EPA agrees with this analysis.

Missouri's May 22, 2019 letter also includes information concerning ozone air quality in the Kansas City area from 1996 through 2018 that indicates a downward trend in monitored ozone design values. Missouri states that despite promulgation of more stringent ozone NAAQS in 1997, 2008 and 2015, the Kansas City area continues to monitor attainment. The EPA has confirmed that certified ambient air quality data for Kansas City Area as monitored at the Rocky Creek, Clay County state and local air monitoring station is compliant with the most recent ozone standard—the 2015 ozone NAAQS.[4] The 2016–2018 design value for that monitor is 70 parts per million.[5]

Because Missouri has demonstrated that removal of 10 CSR 10–2.310 will not interfere with attainment of the NAAQS, RFP[6] or any other applicable requirement of the CAA because the single source subject to the rule has permanently ceased operations and removal of the rule will not cause VOC emissions to increase, the EPA proposes to approve removal of 10 CSR 10–2.310 from the SIP.

V. Have the requirements for approval of a SIP revision been met?

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from February 28, 2018, to April 5, 2018 and received five comments from the EPA that related to Missouri's lack of an adequate demonstration that the rule could be removed from the SIP in accordance with section 110(l) of the CAA. Missouri's May 22, 2019 letter addressed the EPA's comments. In addition, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

VI. What action is the EPA taking?

The EPA is proposing to approve Missouri's request to rescind 10 CSR 2.310 from the SIP because the rule applied to a single source that has permanently ceased operations and because the rule was not applicable to additional sources, it no longer serves to reduce emmissions. Additionally, the maintenance period for the 1979 ozone NAAQS for the Kansas City Area ended in 2014 and the area continues to monitor attainment of the 2015 Ozone NAAQS. Any new sources or major modifications of existing sources in the Kansas City Area are subject to NSR permitting. We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

VII. Incorporation by Reference

In this document, the EPA is proposing to amend regulatory text that includes incorporation by reference. As described in the proposed amendments to 40 CFR part 52 set forth below, the EPA is proposing to remove provisions of the EPA-Approved Missouri Regulation from the Missouri State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

VIII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, 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

[3] EPA's latest approval of Missouri's NSR permitting program rule was published in the **Federal Register** on October 11, 2016. 81 FR 70025.

[4] In accordance 40 CFR part 50.19(b), the 2015 8-hour primary O_3 NAAQS is met at an ambient air quality monitoring site when 3-year average of the annual fourth-highest daily maximum 8-hour average O_3 concentration is less than or equal to 0.070 ppm, as determined in accordance with appendix U to 40 CFR part 50.

[5] The monitoring data was reported, quality assured, and certified in accordance with the requirements set forth in 40 CFR part 58.

[6] RFP is not applicable to the Kansas City Area because the area is in attainment of all applicable ozone standards.

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 the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications 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, Incorporation by reference, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 6, 2020.

James Gulliford,

Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart AA—Missouri

§ 52.1320 [Amended]

■ 2. In § 52.1320, the table in paragraph (c) is amended by removing the entry ''10–2.310'' under the heading ''Chapter 2-Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area''.

[FR Doc. 2020–02829 Filed 2–12–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2018–0684; FRL–10005–32–Region 2]

Approval and Promulgation of Implementation Plans; New York; Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standards in the New York Metropolitan Area Moderate Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) submitted by the State of New York for purposes of implementing Reasonably Available Control Technology (RACT) in the New York portion of the New York-Northern New Jersey-Long Island NY-NJ-CT nonattainment area (New York Metropolitan Area or NYMA) for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS) as it relates to major sources emitting oxides of nitrogen (NO_X), control technique guidelines (CTG) for sources of volatile organic compounds (VOCs), and non-CTG major sources of VOCs. In addition, the EPA is proposing to approve portions of the SIP revision submitted by New York to address the 2008 ozone NAAQS that certify that the State has satisfied the requirements for an enhanced vehicle Inspection and Maintenance Program, an emissions statement program, and a nonattainment new source review program. The EPA is also proposing to approve New York's RACT plan as it applies to the CTG for industrial cleaning solvents and to solvent metal cleaning processes. This action is being taken in accordance with the requirements of the Clean Air Act.

DATES: Written comments must be received on or before March 16, 2020.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R02–OAR–2018–0684 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Omar Hammad, Environmental Protection Agency, 290 Broadway, New York, New York 10007–1866, at (212) 637–3347, or by email at *Hammad.Omar@epa.gov.*

SUPPLEMENTARY INFORMATION: The Supplementary Information section is arranged as follows:

Table of Contents

I. What action is the EPA proposing?
II. What is the background for this proposed rulemaking?
III. What did New York submit?
IV. What is the EPA's evaluation of New York's SIP submittal?
V. Statutory and Executive Order Reviews

I. What action is the EPA proposing?

The EPA is proposing to approve a (SIP) submitted by the State of New York on November 13, 2017 for purposes of implementing Reasonably Available Control Technology (RACT) [1] for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS or standard) for the New York portion of the NYMA classified as moderate nonattainment. The State's November 2017 SIP submittal consists of a demonstration that New York meets the RACT requirements for the two precursors for ground-level ozone, *i.e.,* NO_X and volatile organic compounds (VOCs), set forth by the Clean Air Act (CAA or Act) with respect to the 2008 8-hour ozone standard. The EPA is proposing to approve New York's November 2017 RACT SIP submittal as it applies to non-control technique guideline (non-CTG) major sources of VOCs, CTG sources of VOCs and to major sources of NO_X.

The EPA is also proposing to approve the following New York certifications that were submitted as part of SIP

[1] The EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762, September 17, 1979).

revisions to address the moderate area 2008 8-hour NAAQS. The certifications, that are applicable state-wide and therefore to the New York portion of NYMA, are: (1) That nonattainment new source review (NNSR) applies to NO_X and VOC emissions from stationary sources; (2) that the State has satisfied the requirements for an enhanced vehicle Inspection and Maintenance Program; and (3) that the State has satisfied the requirements for an emissions statement program.

New York certified that there are no sources located in the State for the following six CTGs: Manufacture of Vegetable Oils; Manufacture of High-Density Polyethylene, Polypropylene and Polystyrene Resins; Natural Gas/Gasoline Processing Plants; Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry; Fiberglass Boat Manufacturing Materials; Agricultural Pesticides. The EPA is not proposing any action on this certification since we previously approved the State's negative declaration for these six CTGs. 82 FR 58342 (December 12, 2017); 40 CFR 52.1683 (a) and (b).

The EPA is proposing to approve New York's RACT plan as it applies to the CTG for industrial cleaning solvents. On December 12, 2017 (82 FR 58342), the EPA published a conditional approval of New York's state-wide RACT submittal, dated December 22, 2014, as supplemented on September 6, 2017, for purposes of satisfying the 2008 8-hour ozone standard RACT requirement as it applies to CTG requirements for VOC sources for industrial cleaning solvents. In its letter dated September 6, 2017, New York committed to adopt, by November 30, 2018, a revised Part 226 of Title 6 of the New York Codes, Rules and Regulations (6 NYCRR), entitled, ''Solvent Metal Cleaning Processes,'' that will address the CTG for industrial cleaning solvents. In the conditional approval, EPA stated that if New York failed to meet its commitment within the one-year time period specified by CAA section 110(k)(4), the conditional approval will, by operation of law, become a disapproval. New York's response to the conditional approval was submitted to the EPA on November 5, 2019, approximately 11 months late, so the conditional approval converted to a disapproval. The EPA is now proposing to approve New York's state-wide RACT submittal dated December 22, 2014, as supplemented on September 6, 2017 and November 5, 2019, for purposes of satisfying the 2008 8-hour ozone standard RACT requirement, as it applies to CTG requirements for VOC sources for industrial cleaning solvents.

The EPA is also proposing to approve New York's RACT plan as it applies to solvent cleaning processes. The EPA approved [2] New York's RACT plan for solvent metal cleaning processes under the 1-hour ozone standard and is now proposing to approve New York's revised and more stringent requirements as the RACT plan for solvent metal cleaning processes for the 2008 8-hour ozone standard.

II. What is the background for this proposed rulemaking?

In 2008, EPA revised the health-based NAAQS for ozone, setting it at 0.075 parts per million (ppm) averaged over an 8-hour time frame. The EPA determined that the revised 8-hour standard would be more protective of human health, especially with regard to children and adults who are active outdoors and individuals with a pre-existing respiratory disease such as asthma.

On April 30, 2012, the EPA finalized its attainment/nonattainment designations for areas across the country with respect to the 2008 8-hour ozone standard. 77 FR 30087 (May 21, 2012). This action became effective on July 20, 2012. The two 8-hour ozone marginal nonattainment areas located in New York State are the New York portion of NYMA and the Jamestown nonattainment area. The remainder of New York State was designated as unclassifiable/attainment. The New York portion of the NYMA, is composed of the five boroughs of New York City and the surrounding counties of Nassau, Suffolk, Westchester, Rockland and the Shinnecock Indian Nation.[3] 40 CFR 81.333. The Jamestown nonattainment area is composed of Chautauqua County. In 2016, the EPA determined that Jamestown attained the 2008 ozone standard by the July 20, 2015 attainment date and that the NYMA nonattainment area did not attain the 2008 ozone standard by the applicable attainment date and was reclassified from a marginal to a moderate nonattainment area. 81 FR 26697 (May 4, 2016).[4] State attainment plans for moderate nonattainment areas were due by January 1, 2017. 81 FR 26697. Jamestown remains classified as a marginal nonattainment area until the State submits a redesignation request [5] to the EPA. Since the NYMA was reclassified to a moderate nonattainment area, New York, on November 13, 2017, submitted a new RACT determination as well as revisions related to the 2008 8-hour ozone moderate standard. This proposed action addresses New York's RACT determination and State certifications portions of New York's November 13, 2017, submittal for the New York portion of NYMA. The remaining portions of New York's attainment demonstration for the 2008 8-hour ozone standard, moderate designation, for the New York portion of NYMA will be addressed in a separate rulemaking action.

The counties in the New York portion of NYMA (and part of Orange County) were previously classified under the 1979 1-hour ozone NAAQS as severe, requiring RACT, while the remaining counties in the State were subject to RACT as part of the moderate classification or as part of the Ozone Transport Region (OTR).[6] Under the 2008 8-hour ozone standard, in areas classified as moderate or located in the OTR (which includes all of New York State), a RACT determination is required for major stationary sources that emit or have the potential to emit 50 tons per year for VOC and 100 tons per year for NO_X. As required by the anti-backsliding provisions of the CAA, for purposes of the RACT analysis for the 2008 ozone standard, New York retained the 1-hour ozone plan emission threshold of 25 tons per year or more for either NO_X or VOC for major sources in

[2] Approval and Promulgation of Implementation Plans; New York State Implementation Plan Revision; 1-Hour Ozone Control Programs. (69 FR 3237, January 23, 2004).

[3] Information pertaining to areas of Indian country is intended for CAA planning purposes only and is not an EPA determination of Indian country status or any Indian country boundary. The EPA lacks the authority to establish Indian country land status and makes no determination of Indian country boundaries at 77 FR 30087 (May 21, 2012).

[4] In 2019 the NY-NJ-CT nonattainment area was reclassified to serious nonattainment. 84 FR 44238 (August 23, 2019). The serious area attainment date and the deadline for RACT measures not tied to attainment is July 20, 2021. 84 FR 44238.

[5] EPA's determination of attainment does not constitute a redesignation to attainment. Redesignation requires states to meet a number of additional statutory criteria, including the EPA approval of a state plan demonstrating maintenance of the air quality standard for 10 years after redesignation. (81 FR 26697 at 26701; May 4, 2016). On October 2, 2018 (83 FR 49492), the EPA made a final determination that the Jamestown Area has attained the 2008 8-hour ozone NAAQS based upon complete, quality-assured, and certified ambient air monitoring data that shows the Area has monitored attainment of the 2008 8-hour ozone NAAQS for both the 2012–2014 and 2015–2017 monitoring periods. This final action does not constitute a redesignation to attainment. The Jamestown area will remain nonattainment for the 2008 8-hour ozone standard until such time as EPA determines that the Jamestown area meets the CAA requirements for designation to attainment, including an approved maintenance plan.

[6] CAA section 184(a) established a single ozone transport region (OTR) comprising all or part of 12 eastern states and the District of Columbia.

the New York portion of NYMA and portions of Orange County that were classified as severe under the 1979 1-hour standard.

Sections 172(c)(1) and 182(b)(2) of the CAA require states to implement RACT in areas classified as moderate (and higher) nonattainment for ozone, while section 184(b)(1)(B) of the CAA requires VOC RACT in states located in the OTR and section 182(f) requires NO_X RACT be adopted in the OTR. These areas are required to implement RACT for all major VOC and NO_X emission sources and for all sources covered by a CTG. A CTG is a document issued by the EPA which establishes a ''presumptive norm'' for RACT for a specific VOC source category. A related set of documents, Alternative Control Techniques (ACT) documents, exists primarily for NO_X control requirements. States must submit rules, or negative declarations when the State has no such sources, for CTG source categories, but not for sources in ACT categories. However, RACT must be imposed on major sources of NO_X, and some of those major sources may be within a sector covered by an ACT document.

On March 6, 2015 (80 FR 12264), the EPA published a final rule that outlines the obligations that areas found to be in nonattainment of the 2008 ozone NAAQS need to address. This rule, herein referred to as the ''2008 ozone implementation rule,'' contains, among other things, a description of the EPA's expectations for states with RACT obligations. The 2008 ozone implementation rule provides that states could meet RACT through the establishment of new or more stringent requirements that meet RACT control levels, through a certification that previously adopted RACT controls in the SIP, that were approved by the EPA under a prior ozone NAAQS, represent adequate RACT control levels for attainment of the 2008 ozone NAAQS, or a combination of these two approaches. In addition, a state must submit a negative declaration in instances where there are no CTG sources. The 2008 ozone implementation rule requires that states with nonattainment areas were required to submit RACT SIPs to EPA within two years from the effective date of nonattainment designation or by July 20, 2014.

III. What did New York submit?

On November 13, 2017, the New York Department of Environmental Conservation (NYSDEC or New York) submitted to the EPA a formal revision to its SIP.[7] The SIP revision consists of information documenting how New York complied with the RACT requirements and the elements of an attainment demonstration for the 2008 8-hour ozone NAAQS for the New York portion of NYMA classified as moderate nonattainment.[8] In its November 2017 RACT submittal, New York certifies that the State's submittal addresses the RACT requirements for the 2008 8-hour ozone standard, with the exception of the CTG for industrial cleaning solvents and for the 2016 oil and natural gas industry CTG. In New York's December 2014 state-wide RACT submittal, as supplemented on September 6, 2017, the State committed to revise 6 NYCRR Part 226, ''Solvent Metal Cleaning Processes,'' and to fulfill that commitment by no later than November 30, 2018. New York supplemented the RACT submittal on November 5, 2019, with a revised version of 6 NYCRR Part 226, to address the CTG for industrial cleaning solvents. In addition, in New York's November 2017 RACT SIP submittal, the State commits to adopting a new regulation to address EPA's CTG for the oil and natural gas industry (EPA–453/B–16–001, October 20, 2016).

New York's November 2017 RACT submittal states that it evaluated its existing RACT regulations, used in its December 2014 state-wide RACT determination to meet the 1997 8-hour ozone standard, to ascertain whether the same regulations constitute RACT for the 2008 8-hour ozone standard. In making its new 8-hour ozone RACT determination, New York relied on EPA's RACT Question and Answer document (May 18, 2006) and the most recent emission control technology and cost evaluations to determine what constitutes technically and economically feasible controls for specific sources. Accordingly, the basic framework for New York's November 2017 RACT SIP determination for the New York portion of NYMA moderate nonattainment area is described as follows:

- Identify all source categories covered by CTG and ACT documents.
- Identify applicable regulations that implement RACT.
- Certify that the existing level of controls for the 1997 8-hour ozone standard equals RACT under the 2008 8-hour ozone standard in certain cases.
- Declare which sources covered by a CTG and ACT do not exist within the state and/or that RACT is not applicable in certain cases.
- Identify and evaluate applicability of RACT to individual sources whose source category does not have a presumptive emission limit covered by a state-wide regulation.
- Identify potential RACT revisions.
- Identify statewide applicability of nonattainment new source review (NNSR).

New York states that its November 2017 RACT SIP submittal for the New York portion of NYMA moderate nonattainment area supports the primary findings of the December 2014 state-wide RACT SIP: Namely, that New York State (and therefore the New York portion of the NYMA) has fulfilled the CAA obligations for RACT in a moderate nonattainment area, with the exception of the industrial cleaning solvents CTG, issued by the EPA in September 2006, for which New York has since finalized a rulemaking to include those requirements in Part 226.[9] In addition, in the November 2017 submittal, New York notes that it intends to adopt and implement the 2016 oil and natural gas industry CTG and that sources subject to the CTG will be regulated through a new rule that is not yet adopted. New York certified that the RACT requirements for the 2008 8-hour ozone NAAQS for the New York portion of NYMA moderate nonattainment area have been satisfied and are consistent with the most recent control technology and economic considerations. The following discusses the results of New York's analysis of RACT under the basic framework identified above.

CTGs and ACTs

New York reviewed its existing RACT regulations adopted under the 1979 1-hour and 1997 8-hour ozone standard to identify source categories covered by the EPA's CTG and ACT documents. New York's RACT SIP submittal lists the CTG and ACT documents and corresponding State RACT regulations that cover the CTG and ACT sources included in New York's emissions inventory. For non-CTG major sources,

[7] The submittal is entitled ''New York State Implementation Plan for the 2008 Ozone National Ambient Air Quality Standard, Reasonably Available Control Technology Demonstration for the New York Metropolitan Area Moderated Nonattainment Area, final proposed revision, November 2017.''

[8] New York, in its November 2017 submittal, requests that EPA reclassify the NYMA to serious nonattainment to allow New York, New Jersey and Connecticut adequate time to develop complete SIPs that forecast attainment in the NYMA by the serious area deadline of July 20, 2021. Effective September 23, 2019, EPA reclassified the NYMA to serious nonattainment, giving each state until July 20, 2021 to achieve the 2008 ozone standard. 84 FR 44238 (Aug. 23, 2019).

[9] New York adopted Part 226 with an effective date of November 1, 2019.

6 NYCRR Part 212, ''General Process Emission Sources,'' regulates RACT compliance for VOC and NO_X. Major sources of NO_X are regulated by 6 NYCRR Part 227–2, ''Reasonably Available Control Technology (RACT) for Major Facilities of Oxides of Nitrogen (NO_X).'' In its November 2017 SIP submittal, New York certified that major non-CTG sources are covered by the Part 212 RACT regulation.

Except as noted, New York has implemented RACT controls state-wide for all CTGs that the EPA had issued as of October 2016. The following table lists the RACT controls that have been promulgated in 6 NYCRR and the corresponding EPA SIP approval dates.

NY regulation	Title	EPA approval date
Part 205	Architectural and Industrial Maintenance Coatings	12/13/04, 69 FR 72118.
Part 211	General Prohibitions	7/12/13, 78 FR 41846.
Part 212	General Process Emission Sources	7/12/13, 78 FR 41486.
Part 214	Byproduct Coke Oven Batteries	7/20/06, 71 FR 41163.
Part 216	Iron and/or Steel Processes	7/20/06, 71 FR 41163.
Part 220	Portland Cement and Glass Plants	7/12/13, 78 FR 41486.
Part 223	Petroleum Refineries	7/19/85, 50 FR 29382.
Part 224	Sulfuric and Nitric Acid Plants	7/19/85, 50 FR 29382.
Part 226	Solvent Metal Cleaning Processes	1/23/04, 69 FR 3237.
Part 227–2	RACT for Oxides of Nitrogen (NO_X)	7/12/13, 78 FR 41486.
Part 228	Surface Coating Processes	3/04/14, 79 FR 12084.
Part 229	Petroleum and Volatile Organic Liquid Storage and Transfer	12/23/97, 62 FR 67006.
Part 230	Gasoline Dispensing Sites and Transport Vehicles	4/30/98, 63 FR 23668.
Part 232	Dry Cleaning	6/17/85, 50 FR 25079.
Part 233	Pharmaceutical and Cosmetic Processes	12/23/97, 62 FR 67006.
Part 234	Graphic Arts	3/08/12, 77 FR 13974.
Part 236	Synthetic Organic Chemical Manufacturing Facility Component Leaks	7/27/93, 58 FR 40059.

New York's November 2017 RACT submittal also contains a table (see Appendix A: Control Technique Guidelines and Alternative Control Techniques Documents) listing all the CTG and ACT categories and the corresponding State regulations or negative declarations that address the requirements. The EPA previously approved and incorporated into the SIP the State's regulations identified in Appendix A that address ACTs and CTGs.

For some source categories, the SIP-approved New York rules have more stringent emission limits and/or lower thresholds of applicability than the recommendations contained in the CTG and ACT documents. In its submittal, New York identified categories where controls may be more stringent than the recommended levels contained in the CTG and ACT documents. For example, Part 228, ''Surface Coating Processes, Commercial and Industrial Adhesives, Sealants and Primers,'' Part 234, ''Graphic Arts,'' Part 241, ''Asphalt Pavement and Asphalt Based Surface Coatings,'' and Part 227–2, ''Reasonably Available Control Technology (RACT) for Major Facilities of Oxides of Nitrogen (NO_X)'' have each been adopted by the State with more stringent limits or applicability than what was recommended by the corresponding CTG or ACT. New York certifies that its SIP-approved regulations meet the RACT requirements for the New York portion of NYMA moderate nonattainment area for the 2008 8-hour ozone standard.

Solvent Cleaning Processes

On November 5, 2019, the State submitted a revised 6 NYCRR Part 226, ''Solvent Cleaning Processes and Industrial Cleaning Solvents.'' The prior 6 NYCRR 226 has been re-numbered as 6 NYCRR Subpart 226–1 and renamed ''Solvent Cleaning Processes'' from ''Solvent Metal Cleaning Processes'' to accommodate the addition of a new rule, 6 NYCRR 226–2, ''Industrial Cleaning Solvents.'' Attendant changes have been made to 6 NYCRR 201, ''Permit and Certificates,'' and those will be reviewed for potential rule making action in the future.

Solvent Cleaning Processes 6 NYCRR 226–1

Subpart 226–1 applies to all owners or operators of facilities who operate cold cleaners (including remote reservoir cold cleaning machines), open-top vapor degreasers, and all types of conveyorized degreasers that carry out solvent cleaning processes of metal objects using a solution containing VOCs. After December 1, 2020, Subpart 226–1 expands applicability to include such cleaning of non-metal objects. Subpart 226–1 also changes the current cold cleaning requirement of using a solvent with a maximum vapor pressure of 1.0 mm Hg, or less, at 20 degrees Celsius, to using a cleaner with no more than twenty-five (25) grams of VOC per liter (25g/l) of cleaning solution. These revisions, and the inclusion of non-metal objects, make the proposed regulation more stringent than the previously approved regulation.

CTG for Industrial Cleaning Solvents

In New York's December 2014 state-wide RACT submittal, as supplemented on September 6, 2017, the State committed to revise 6 NYCRR Part 226, ''Solvent Metal Cleaning Processes,'' and to fulfill that requirement by no later than November 30, 2018. On November 5, 2019, New York submitted the revised 6 NYCRR Part 226 for inclusion into the SIP to address requirements regarding the CTG for industrial cleaning solvents that were identified in the EPA's conditional approval. 82 FR 58342 (December 12, 2017).

The EPA issued a CTG for industrial cleaning solvents in 2006. This category includes the industrial cleaning solvents used by many industries to remove contaminants such as adhesives, inks, paint, dirt, soil, oil and grease. The recommended measures for controlling VOC emissions from the use, storage and disposal of industrial cleaning solvents include work practice standards, limitations on VOC content of the cleaning materials, and an optional alternative limit on composite vapor pressure of the cleaning materials. They also include the use of add-on controls with an overall emission reduction of at least 85 percent by mass.

Based on the EPA's CTG, New York revised 6 NYCRR Part 226, ''Solvent

Metal Cleaning Processes,'' and added a new Subpart, Subpart 226–2 ''Industrial Cleaning Solvents'' which specifies VOC content and vapor pressure limits for solvents used in solvent cleaning of foreign materials from surfaces of unit operations such as large and small manufactured components, parts, equipment, floors, tanks, and vessels. The facility applicability threshold is in line with the CTG, actual emissions of (3) tons per year or more of VOC's from industrial cleaning solvents on a 12-month rolling total basis. Compliance is achieved by implementing the listed work practices and meeting a maximum VOC content, or a maximum VOC composite vapor pressure. Recordkeeping must be maintained which demonstrates compliance. The EPA proposes to find that New York's adopted industrial cleaning solvents rule is as effective in regulating the source category as the EPA's CTG document. Therefore, the EPA is proposing to approve the revisions to 6 NYCRR Part 226, ''Solvent Cleaning Processes and Industrial Cleaning Solvents'' which includes Subpart 226–2 ''Industrial Cleaning Solvents.''

Source Categories Not Applicable in New York State

In New York's November 2017 RACT SIP for the New York portion of NYMA, the State certified that there are no sources in New York State (and therefore the New York portion of the NYMA) for six CTGs. This certification results from a review of the State's emission inventory and emission statements. The CTGs for which the negative declaration applies are as follows: Manufacture of Vegetable Oils; Manufacture of High-Density Polyethylene, Polypropylene and Polystyrene Resins; Natural Gas/Gasoline Processing Plants; Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry; Fiberglass Boat Manufacturing Materials; Agricultural Pesticides. In New York's December 2014 statewide RACT SIP, the State also certified that there were no sources in the State for these same six CTGs. New York previously certified to the satisfaction of the EPA (40 CFR 52.1683(a) and (b)) that there are no sources for these six CTGs in New York State (and therefore the New York portion of the NYMA). The EPA is not proposing any action on this certification since we previously approved the State's negative declaration for these six CTGs. See December 12, 2017 (82 FR 58342) and 40 CFR 52.1683(a) and (b).

Source-Specific RACT Determinations

The 8-hour ozone RACT analysis must address source-specific RACT as it applies to a single regulated entity. A source-specific RACT determination applies to sources that have obtained a facility-specific emission limit or an alternative emission limit, *i.e.,* a variance. A case-by-case RACT analysis is required for sources that are not defined by a specific source category covered by an existing state regulation, that are requesting a variance, or that are not addressed by a CTG. New York's RACT guidance entitled, ''DAR–20 Economic and Technical Analysis for Reasonably Available Control Technology (RACT)'' outlines the process and conditions for granting source-specific RACT determinations. Under the CAA, these individual source-specific RACT determinations need to be submitted by the State as a SIP revision for the EPA's approval. Therefore, New York included in Appendix B of its November 2017 RACT SIP submittal a listing of VOC and NO_X source facilities that are subject to a RACT source-specific SIP revision under the 8-hour ozone SIP and corresponding emission limits, technology and the applicable regulation governing the RACT determinations. In September 2008, August 2010, December 2013, and August 2015, New York submitted to the EPA SIP revisions that included most of the source-specific RACT revisions identified in Appendix B of the RACT SIP submittals. The EPA is performing its technical review of those submittals and will take separate rulemaking actions for each of the source-specific determinations.

In addition, in accordance with New York's NO_X RACT regulation, Part 227–2, owners of combined cycle combustion turbines are required to perform case-by-case RACT determinations that may result in more stringent emission limits. This RACT requirement was approved into the SIP. 78 FR 41846 (July 12, 2013).

Additional Control Measures Needed for Attainment

In New York's December 22, 2014 state-wide RACT SIP submittal, included in the docket for this action, the State's response to comments stated that ''once the NYMA is reclassified as 'moderate' nonattainment for the 2008 ozone NAAQS and an attainment SIP is required, DEC [New York] will undertake a review of its many NO_X control options to determine which would most efficiently and effectively reduce emission in the New York portion of NYMA.''

As part of the State's November 13, 2017 SIP submittal, New York has included an attainment demonstration for the New York portion of NYMA moderate nonattainment area for the 2008 ozone NAAQS. In the State's November 2017 SIP submittal letter, New York stated that the NYMA is unable to reach attainment of the 2008 ozone NAAQS by the statutory deadline of July 20, 2018. The State requested that the EPA issue an expeditious reclassification to serious nonattainment so that New York, New Jersey, and Connecticut have adequate time to develop complete SIPs that forecast attainment in the NYMA by the serious area deadline of July 20, 2021. On August 23, 2019 (84 FR 44238), the EPA announced, among other things, the reclassification of the NYMA from a moderate nonattainment area a serious nonattainment area.[10] The NYMA serious nonattainment area must attain the standards by July 20, 2021.

As stated in our final action on New York's December 2014 state-wide RACT SIP, published December 12, 2017 (82 FR 58342), New York could quantify potential reductions for the following NO_X control options. It should be noted that New York has initiated the regulatory process toward adoption of regulations for some of the source categories addressed in the December 2017 final rule including lowering NO_X or VOC emissions standards for Municipal Waste Combustors, Simple Cycle Combustion Turbines operating as ''peakers,'' and Distributed Generators. The State's September 2018 SIP submittal [11] addressing interstate transport confirms that New York has progressed, in various stages of the rulemaking process, toward regulating these sources, as well as other source categories emitting either NO_X or VOCs. EPA encourages New York to finalize these additional regulations and to explain why they are or are not considered RACT based on economic and technological feasibility.

In addition, considering that in November 2017 New York requested that EPA reclassify the NYMA from moderate to serious nonattainment for the 2008 ozone standard, EPA strongly encourages New York to adopt new regulations for controlling NO_X

[10] On August 23, 2019, the EPA published a document in the **Federal Register** (84 FR 44238) finalizing the reclassification of the New York-North New Jersey-Long Island, New York-New Jersey-Connecticut nonattainment area from moderate to serious.

[11] See page 3 at *https://www.dec.ny.gov/docs/air_pdf/sipprop2008o3trans.pdf.*

emissions at least as stringent as those adopted in the states of Connecticut and New Jersey for municipal waste combustors, simple cycle combustion turbines (''peakers'') operating during high electric demand days (HEDD), and distributed generators. Adoption of such regulations would provide additional NO_X reductions that will help attain the 2008 ozone standard in the NYMA. Further details are discussed in the following sections.

Municipal Waste Combustors

During the public comment period on New York's 2008 ozone RACT proposal a comment was submitted to the State proposing that Municipal Waste Combustors (MWCs) in the New York portion of NYMA should be controlled to at least the RACT level. In its response to the comment, New York estimated that potential NO_X reductions of 1.50 and 1.75 tons per day could be obtained from MWCs located in the New York portion of NYMA. In New York's response, the State also indicated that once the NYMA is classified as moderate the State would undertake a review of its many control options to determine which would most effectively and efficiently reduce emissions in the New York portion of NYMA.

As stated previously, the NYMA was reclassified as a moderate nonattainment area effective June 2016. New York's neighboring states of New Jersey and Connecticut have adopted NO_X emission limits for MWCs that are more stringent than New York's current permitted limits. The EPA has approved New Jersey's and Connecticut's revised NO_X limits into the SIP.[12] The SIP approved NO_X limit for MWCs in New Jersey and Connecticut [13] is 150 parts per million (ppmvd).[14] New York regulates MWCs under Part 219 (Incinerators) and Part 200 (General Provisions). EPA notes that on September 25, 2019, New York announced proposed changes to 6 NYCRR Subpart 219, ''Incinerators,'' which, among other things, would limit oxides of nitrogen emissions from municipal waste combustion units.[15] Inclusion in the SIP of more stringent NO_X emission limits for MWCs located in the New York portion of NYMA would provide additional NO_X reductions to help attain the 2008 ozone NAAQS.

Simple Cycle Combustion Turbines (Firing Distillate Oil or More Than One Fuel)—Also Called ''Peakers''

New York's NO_X RACT regulation at Part 227–2 established NO_X emission limits of 100 ppmvd [16] for simple cycle combustion turbines firing distillate oil or more than one fuel. New York's neighboring state of Connecticut [17] has adopted more stringent NO_X emission limits of 50–75 ppm with a compliance date of June 2018 and 40–50 ppm with a compliance date of June 2023 for this source category. New Jersey has also adopted more stringent NO_X emission limits of 42 ppm.[18] On December 31, 2019, New York announced an approved rule, 6 NYCRR Subpart 227–3, ''Ozone Season Oxides of Nitrogen (NO_X) Emission Limits for Simple Cycle and Regenerative Combustion Turbines.'' [19] Many of the units addressed by New York's approved rule are peaking units located in the New York portion of NYMA; these units generally have either no or low-level NO_X emission controls and typically operate during periods of elevated temperature when electric demand increases, and ozone nonattainment areas see ozone levels rise to unhealthy levels. The EPA will fully assess New York's recently adopted Subpart 227–3 for approvability once the rule is submitted to EPA for inclusion into the New York SIP. Inclusion into the SIP of more stringent NO_X emission limits for simple cycle turbines located throughout the State, and particularly in the New York portion of NYMA, would provide additional NO_X reductions to help attain the 2008 ozone NAAQS.

NYCRR Part 222 for Distributed Generation (DG)

New York has undertaken the regulatory process to adopt 6 NYCRR Part 222 for DG to address NO_X emissions from electric generating units during high electric demand days. New York's neighboring states of Connecticut and New Jersey have adopted regulations [20] for controlling NO_X emissions from DG sources, and New Jersey's DG provisions are approved into the SIP. EPA encourages New York to submit Part 222 as a SIP revision [21] for EPA approval as soon as possible after completion of the regulatory process.

Other New York Certifications

As part of New York's 2008 ozone attainment demonstration for the New York portion of NYMA moderate nonattainment area the State has certified that the following previously-approved SIP elements remain adequate, and no revisions to the state plan are necessary.

State-Wide Nonattainment New Source Review (NNSR)

New York affirms in its November 2017 RACT submittal that, since the State is located entirely in the OTR, regardless of the area's designation status, NNSR applies state-wide for emissions of ozone precursor pollutants, VOC and NO_X, for new major facilities or modifications to existing major or minor sources. New major facilities or modification to existing major or minor facilities in New York State are subject to the provisions of 6 NYCRR Part 231,[22] ''New Source Review for New and Modified Facilities.'' Major-source pollutant thresholds are lower in the NYMA, however, due to the area's former severe classification under the 1-hour ozone NAAQS: 25 Tons per year for VOC or NO_X, as opposed to 50 to 100 tons, respectively, throughout the rest of the state. The NYMA also has a lower significant source project threshold and significant net emission increase threshold, as well as a more stringent offset ratio for both precursors.

NNSR requires the application of Lowest Achievable Emission Rate

[12] For New Jersey, see 75 FR 80340 (December 22, 2010); for Connecticut, see 82 FR 35454 (July 31, 2017).

[13] In Connecticut, the 150 ppmvd limit is for ''mass burn waterwall combustors.''

[14] As measured on a dry volume basis and corrected to 7% oxygen.

[15] On September 25, 2019, New York announced a proposed rule, 6 NYCRR Subpart 219, ''Incinerators.'' The proposed rule is to limit oxides of nitrogen emissions from municipal waste combustion units. The public comment period ended on December 11, 2019.

[16] Corrected to 15% oxygen.

[17] For Connecticut, see 82 FR 35454 (July 31, 2017).

[18] 42 ppm is equivalent to 1.6 lb/megawatt-hour which is the limit at Table 7 of New Jersey's NO_X RACT regulation, Subchapter 19. Subchapter 19 at Table 7 notes that the limit is applicable to high electric demand day (HEDD) units or a stationary combustion turbine that is capable of generating 15 MW or more and that commenced operation on or after May 1, 2005. In accordance with Subchapter 19 definitions, units that commence operation on or after May 1, 2005 are neither HEDD nor non-HEDD units.

[19] On December 31, 2019, New York announced an approved rule, 6 NYCRR Subpart 227–3, ''Ozone Season Oxides of Nitrogen (NO_X) Emission Limits for Simple Cycle and Regenerative Combustion Turbines.'' These controls are for ''peaking'' combustion turbines operating on high electric demand days. See *https://www.dos.ny.gov/info/register/2019/dec31.pdf.*

[20] For Connecticut see DG regulation at 22a–174–42; For New Jersey see Subchapter 19 at section 19.8(e)(1), (2) and (4). The EPA approved Subchapter 19 on December 22, 2010 (75 FR 80340).

[21] On September 4, 2019, New York announced a proposed rule, 6 NYCRR Subpart 222, ''Distributed Generation Sources.'' The proposed rule is to replace the rule adopted on November 1, 2016. The new rule would apply to demand response and price-responsive generation sources located in the NYC metropolitan area. The public comment period ended on November 25, 2019.

[22] The EPA approved Part 231 on December 27, 2016 (81 FR 95049).

(LAER) which is more stringent than RACT. Furthermore, New York certifies in its November 2017 submittal that the State also relies upon federal rules such as the National Emission Standards for Hazardous Air Pollutants (NESHAPs) regulated under CAA section 112. NESHAPs establish MACT which may be more stringent than RACT to control hazardous air pollutants.

The EPA is proposing to approve New York's certification that NNSR applies state-wide for NO_X and VOC emissions from stationary sources and fully meets the requirements of the CAA for the 2008 8-hour ozone NAAQS.

Vehicle Inspection and Maintenance (I/M)

New York certifies that it has implemented an approved state-wide, enhanced motor vehicle I/M program under 6 NYCRR Part 217–6 and 15 NYCRR Part 79 to limit ozone precursor emissions from motor vehicles.[23] The current New York Vehicle Inspection Program (NYVIP2) requires an appropriate emissions inspection (*e.g.,* onboard diagnostic (OBDII) or low enhanced inspection) for most vehicles annually and with changes of vehicle ownership. The emissions inspection is determined by vehicle motor year, gross vehicle weight rating (GVWR), fuel type, and registration class.

Therefore, the EPA is proposing to approve New York's certification that the previously-approved SIP element for the State's enhanced vehicle I/M program remain adequate and fully meet the requirements of the CAA for moderate classification of the 2008 8-hour ozone NAAQS.

Emission Statements

New York certifies that the emission statement requirement of CAA section 182(a)(3)(b) is fully addressed through 6 NYCRR Subpart 202–2 [24] that is applicable state-wide. Therefore, the EPA is proposing to approve New York's emission statement certification that the previously-approved SIP element fully meets the requirements of the CAA for moderate classification of the 2008 8-hour ozone NAAQS.

Other New York Certifications

New York certifies that NO_X and VOC RACT requirements, which are discussed elsewhere in this proposal, are fully addressed. New York also certifies that the State's Emission Inventory requirements are fully addressed through the submission of the 2011 baseline inventory. The EPA is not taking action on the Emissions Inventory certification at the current time but will do so in the future.

IV. What is the EPA's evaluation of New York's SIP submittal?

New York submitted a RACT assessment and an attainment demonstration the 2008 ozone moderate nonattainment standard for the New York portion of NYMA and for New York State as part of the OTR.

The EPA is proposing to approve New York's state-wide RACT submittal dated December 22, 2014, as supplemented on September 6, 2017 and November 5, 2019, for purposes of satisfying the 2008 8-hour ozone standard RACT requirement, as it applies to CTG requirements for sources of VOC, including industrial cleaning solvents. The EPA is proposing to approve the revisions to 6 NYCRR Part 226, ''Solvent Cleaning Processes and Industrial Cleaning Solvents,'' with a State effective date of November 1, 2019.

The EPA is proposing to approve New York's November 13, 2017 SIP submittal as it applies to non-CTG major sources of VOCs, all CTG sources of VOCs, other than the 2016 oil and natural gas CTG, and to major sources of NO_X.

The EPA is also proposing to approve New York's state-wide certifications applicable to the New York portion of NYMA moderate nonattainment area for: (1) Nonattainment new source review; (2) vehicle I/M program; and (3) emission statements.

The EPA is soliciting public comments on the issues discussed in this proposal. These comments will be considered before the EPA takes final action. Interested parties may participate in the federal rulemaking procedure by submitting written comments as discussed in the **ADDRESSES** section of this rulemaking.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993), and 13563 (76 FR 382, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempt 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, this proposed rulemaking action, pertaining to New York's 2008 8-hour ozone RACT submission, 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 any 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

[23] The EPA approved NYCRR Part 217–6 and 15 NYCRR Part 79 on February 28, 2012 (77 FR 11742).

[24] The EPA approved 6 NYCRR Subpart 202–2 on October 31, 2007 (72 FR 61530).

Dated: January 28, 2020.

Peter D. Lopez,

Regional Administrator, Region 2.

[FR Doc. 2020–02819 Filed 2–12–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[EPA–R07–OAR–2020–0036; FRL–10005–25–Region 7]

Air Plan Approval; Nebraska; Approval of State Implementation Plan and Operating Permits Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of the removal of Nebraska Administrative Code title 129, chapter 8, section 007.06 from Nebraska's State Implementation Plan (SIP) and title V provisions. Nebraska submitted this revision to the EPA on July 19, 2019. Title 129, chapter 8 contains Nebraska's operating permit program and is approved under title V and part 52. The EPA is proposing approval because the removal of the language makes the rule consistent with federal regulations and strengthens the SIP and the title V program.

DATES: Comments must be received on or before March 16, 2020.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R07–OAR–2020–0036 to *https://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Written Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Lachala Kemp, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7214; email address *kemp.lachala@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refer to the EPA.

Table of Contents

I. Written comments
II. What is being addressed in this document?
III. Have the requirements for approval of a SIP revision been met?
IV. What action is the EPA taking?
V. Incorporation by Reference
VI. Statutory and Executive Order Reviews

I. Written Comments

Submit your comments, identified by Docket ID No. EPA–R07–OAR–2020–0036, at *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. What is being addressed in this document?

The EPA is proposing to approve the removal of title 129, chapter 8, section 007.06 from the Nebraska Administrative Code of the previously approved SIP. Section 007.06 stated that permits used under title 129 chapter 8 superseded all other previously issued operating or construction permits. This section which was previously approved in Nebraska's SIP, is inconsistent with the EPA's interpretation of the title V program. Title V permits include all SIP-approved permit terms, but do not supersede, void, replace or otherwise eliminate their legal existence and enforceability. This proposed removal of this provision confirms that construction permits are not vacated when an operating permit is issued. Removal of this provision is appropriate, consistent with Federal regulations and strengthens both the title V program and the SIP. The EPA is proposing approval of this revision.

III. Have the requirements for approval of a SIP revision been met?

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from February 28, 2019 to April 3, 2019 and received one comment from EPA on March 5, 2019, supporting the revision. In addition, as explained above the revision meets the substantive SIP requirements of the Clean Air Act (CAA), including section 110 and implementing regulations.

IV. What action is the EPA taking?

EPA is proposing to approve the removal of Chapter 129, title 8, section 007.06 from the Nebraska title V program and SIP because it is inconsistent with EPA's interpretation of the title V program.

We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

V. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Nebraska Regulation described in the proposed amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory

action because SIP approvals are exempted under Executive Order 12866.

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications 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

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.

40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: February 6, 2020.

James Gulliford,

Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR parts 52 and 70 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart—CC Nebraska

■ 2. In § 52.1420, the table in paragraph (c) is amended by revising the entry ''129–8'' to read as follows:

§ 52.1420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED NEBRASKA REGULATIONS

Nebraska citation	Title	State effective date	EPA approval date	Explanation
STATE OF NEBRASKA				
Department of Environmental Quality				
Title 129—Nebraska Air Quality Regulations				
*	*	*	*	*
129–8	Operating Permit Content	6/24/2019	[Date of publication of the final rule in the **Federal Register**], [**Federal Register** citation of the final rule].	
*	*	*	*	*

* * * * *

PART 70—STATE OPERATING PERMIT PROGRAMS

■ 3. The authority citation for part 70 continues to read as follows:

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

■ 4. Appendix A to part 70 is amended by adding paragraph (q) under ''*Nebraska; City of Omaha; Lincoln-Lancaster County Health Department*'' to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Nebraska; City of Omaha; Lincoln-Lancaster County Health Department

* * * * *

(q) The Nebraska Department of Environment and Energy submitted revisions to NDEQ Title 129 Chapter 8 ''Operating Permit Content'' on July 19, 2019. The state effective date is June 24, 2019. The proposed revision effective date is [DATE 30 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE **Federal Register**].

* * * * *

[FR Doc. 2020–02827 Filed 2–12–20; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Parts 804, 805, 849, and 852

RIN 2900–AQ77

VA Acquisition Regulation: Administrative Matters; Publicizing Contract Actions; and Termination of Contracts

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend and update its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the Federal Acquisition Regulation (FAR), to remove procedural guidance internal to VA into the VAAM, and to incorporate any new agency specific regulations or policies. These changes seek to streamline and align the VAAR with the FAR and remove outdated and duplicative requirements and reduce burden on contractors. The VAAM incorporates portions of the removed VAAR as well as other internal agency acquisition policy. VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, will publish them in the **Federal Register**. VA will combine related topics, as appropriate. This rulemaking revises VAAR coverage concerning Administrative Matters, Publicizing Contract Actions, and Termination of Contracts, as well as an affected part concerning Solicitation Provisions and Contract Clauses.

DATES: Comments must be received on or before April 13, 2020 to be considered in the formulation of the final rule.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov*; by mail or hand-delivery to Director, Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue NW, Room 1064, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AQ77—VA Acquisition Regulation: Administrative Matters; Publicizing Contract Actions; and Termination of Contracts.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1064, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. Rafael N. Taylor, Senior Procurement Analyst, Procurement Policy and Warrant Management Services, 003A2A, 425 I Street NW, Washington, DC 20001, (202) 382–2787. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

This action is being taken under the authority of the Office of Federal Procurement Policy (OFPP) Act which provides the authority for an agency head to issue agency acquisition regulations that implement or supplement the FAR. This authority ensures that Government procurements are handled fairly and consistently, that the Government receives overall best value, and that the Government and contractors both operate under a known set of rules.

The proposed rule would update the VAAR to current FAR titles, requirements, and definitions; it would correct inconsistencies and remove redundancies and duplicate material already covered by the FAR; it would also delete outdated material or information and appropriately renumber VAAR text, clauses, and provisions where required to comport with FAR format, numbering and arrangement. All amendments, revisions, and removals have been reviewed and concurred with by an Integrated Product Team of agency stakeholders.

The VAAR uses the regulatory structure and arrangement of the FAR and headings and subject areas are broken up consistent with the FAR content. The VAAR is divided into subchapters, parts (each of which covers a separate aspect of acquisition), subparts, sections, and paragraphs.

The Office of Federal Procurement Policy Act, as codified in 41 U.S.C. 1707, provides the authority for the Federal Acquisition Regulation and for the issuance of agency acquisition regulations consistent with the FAR.

When Federal agencies acquire supplies and services using appropriated funds, the purchase is governed by the FAR, set forth at title 48 Code of Federal Regulations (CFR), chapter 1, parts 1 through 53, and the agency regulations that implement and supplement the FAR. The VAAR is set forth at title 48 CFR, chapter 8, parts 801 to 873.

Discussion and Analysis

The VA proposes to make the following changes to the VAAR in this phase of its revision and streamlining initiative. For procedural guidance cited below that is proposed to be deleted from the VAAR, each section cited for removal has been considered for inclusion in VA's internal agency operating procedures in accordance with FAR 1.301(a)(2). Similarly, delegations of authority that are removed from the VAAR will be included in the VA Acquisition Manual (VAAM) as internal agency guidance. The VAAM is being created in parallel with these revisions to the VAAR and is not subject to the rulemaking process as they are internal VA procedures and guidance. The VAAM will not be finalized until corresponding VAAR parts are finalized, and therefore the VAAM is not yet available on line.

VAAR Part 804—Administrative Matters

Under part 804, Administrative Matters, we propose to add the authority citation for 41 U.S.C. 1702 which addresses the acquisition planning and management responsibilities of Chief Acquisition Officers and Senior Procurement Executives, to include implementation of unique procurement policies, regulations and standards of the executive agency. We propose to revise the authority citation of 40 U.S.C. 121 to remove the reference to paragraph (d), as paragraph (c) which will be retained comports with FAR and VAAR standard usage and reference to paragraph (d) is unnecessary. We propose to remove the authority citation of 38 U.S.C. 8127 and 8128 as the section requiring the citation, 804.1102, Vendor Information Pages (VIP) Database, is being moved to part 819, Small Business Programs. The authorities cited for this part are 40 U.S.C. 121(c); 41 U.S.C. 1702; and 48 CFR 1.301–1.304.

We propose to remove subpart 804.1, Contract Execution, and section 804.101, Contracting officer's signature, because it duplicates coverage in the FAR. This proposed rule would also remove section 804.1102, Vendor Information Pages (VIP) Database, as this information is being moved to part 819, Small Business Programs.

We propose to add subpart 804.13, Personal Identity Verification, and section 804.1303, Contract clause, to prescribe clause 852.204–70, Personal Identity Verification of Contractor Personnel, which requires personal identity verification of all employees performing under a contract when

frequent and continuing access to VA facilities or information systems is required.

VAAR Part 805—Publicizing Contract Actions

We propose to remove and reserve part 805. Under this part, we propose to remove section 805.202, Exceptions, as duplicative of FAR coverage at 6.302–5. This proposed rule would also remove section 805.205, Special situations, since it duplicates coverage at FAR 5.101(b) and 5.502(a). Finally, this proposed rule would remove section 805.207, Preparation and transmittal of synopses, as the guidance it provides is outdated and does not add value.

VAAR Part 849—Termination of Contracts

Under part 849, Termination of Contracts, we propose to remove 41 U.S.C. 1121(c)(3), which addresses the authority of the Administrator of OFPP to prescribe Government-wide policies to be implemented in the FAR. The authorities cited for this part are 40 U.S.C. 121(c); 41 U.S.C. 1702; and 48 CFR 1.301–1.304.

We propose to remove the entire subpart 849.1, General Principles, as it contains internal guidance. Specifically, sections 849.101, Authorities and responsibilities, and 849.106, Fraud or other criminal conduct, are proposed for removal as they contain internal procedures which will be addressed in VAAM. We propose to remove sections 849.811, Review of proposed settlements, 849.111–70, Required review, and 849.111–71, Submission of information, as they include outdated information and internal procedures which will be updated and addressed in the VAAM.

This proposed rule would add subpart 849.5, Contract Termination Clauses, and section 849.504–70, Termination of mortuary services, to prescribe clause 852.249–70, Termination for Default—Supplement for Mortuary Services, in all solicitations and contracts for mortuary services containing the FAR clause 52.249–8, Default (Fixed-Price Supply and Service).

VAAR Part 852—Solicitation Provisions and Contract Clauses

We propose to add clause 852.204–70, Personal Identity Verification of Contractor Personnel, to require contractor compliance with Department of Veterans Affairs policy for personal identity verification of all employees performing under a contract that requires frequent and continuing access to VA facilities or information systems.

We propose to add clause 852.249–70, Termination for Default—Supplement for Mortuary Services, which supplements FAR clause 52.249–8, Default (Fixed-Price Supply and Service), to identify specific circumstances in which the Government may terminate for default in contracts for mortuary services.

Executive Orders 12866, 13563 and 13771

Executive Orders (EOs) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). E.O. 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866.

VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at *http://www.va.gov/orpm/,* by following the link for ''VA Regulations Published From FY 2004 Through Fiscal Year to Date.''

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.

Paperwork Reduction Act

This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

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). This rulemaking does not change VA's policy regarding small businesses, does not have an economic impact to individual businesses, and there are no increased or decreased costs to small business entities. On this basis, the proposed rule would not have an economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

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.

List of Subjects

48 CFR Parts 804, 805, and 849

Government procurement.

48 CFR Part 852

Government procurement, Reporting and recordkeeping requirements.

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 January 28, 2020, for publication.

Consuela Benjamin,

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

For the reasons set out in the preamble, VA proposes to amend 48 CFR parts 804, 805, 849, and 852 as follows:

PART 804—ADMINISTRATIVE MATTERS

■ 1. The authority citation for part 804 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 41 U.S.C. 1702; and 48 CFR 1.301 through 1.304.

Subpart 804.1 [Removed and Reserved]

■ 2. Subpart 804.1, consisting of sections 804.101 and 804.1102, is removed and reserved.

■ 3. Subpart 804.13 is added to read as follows:

Subpart 804.13—Personal Identity Verification

804.1303 Contract clause.

The contracting officer shall insert the clause at 852.204–70, Personal Identity Verification of Contractor Personnel, in solicitations and contracts that require contractor employees to have routine access to a VA facility or to VA information systems. This clause is used in conjunction with FAR clause 52.204–9, Personal Identity Verification of Contractor Personnel.

PART 805 [Removed and Reserved]

■ 4. Part 805, consisting of sections 805.202, 805.205, and 805.207, is removed and reserved under the authority of 40 U.S.C. 121(c) and 48 CFR 1.301 through 1.304.

PART 849—TERMINATION OF CONTRACTS

■ 5. The authority citation for part 849 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 41 U.S.C. 1702; and 48 CFR 1.301 through 1.304.

Subpart 849.1 [Removed and Reserved]

■ 6. Subpart 849.1, consisting of sections 849.101, 849.106, 849.111, 849.111–70, and 849.111–71, is removed and reserved.

■ 7. Subpart 849.5 is revised to read as follows:

Subpart 849.5—Contract Termination Clauses

849.504–70 Termination of mortuary services.

Use the clause at 852.249–70, Termination for Default—Supplement for Mortuary Services, in all solicitations and contracts for mortuary services containing the FAR clause 52.249–8, Default (Fixed-Price Supply and Service).

PART 852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 8. The authority citation for part 852 continues to read as follows:

Authority: Pub. L. 101–647; 20 U.S.C. 7181–7183; 38 U.S.C. 8127–8128, and 8151–8153; 40 U.S.C. 121(c); 41 U.S.C. 1121(c)(3); 41 U.S.C. 1303; 41 U.S.C 1702; and 48 CFR 1.301 through 1.304.

Subpart 852.2—Text of Provisions and Clauses

■ 9. Section 852.204–70 is added to read as follows:

852.204–70 Personal Identity Verification of Contractor Personnel.

As prescribed in 804.1303, insert the following clause:

Personal Identity Verification of Contractor Personnel (Date)

(a) The Contractor shall comply with current Department of Veterans Affairs policy for personal identity verification of all employees performing under this contract when frequent and continuing access to VA facilities or information systems is required.

(b) The Contractor shall insert this clause in all subcontracts when the subcontractor's employees will require frequent and continuing access to VA facilities or information systems.

(End of clause)

■ 10. Section 852.249–70 is revised to read as follows:

852.249–70 Termination for Default—Supplement for Mortuary Services.

As prescribed in 849.504–70, insert the following clause:

Termination for Default—Supplement for Mortuary Services (Date)

The FAR clause entitled Default (Fixed-Price Supply and Service), at 52.249–8, is supplemented as follows:

The Contracting Officer may terminate this contract for default by written notice without the ten day notice required by paragraph (a)(2) of the Default clause if—

(a) The Contractor, through circumstances reasonably within its control or that of its employees, performs any act under or in connection with this contract, or fails in the performance of any service under this contract and the act or failures may reasonably be considered to reflect discredit upon the Department of Veteran Affairs in fulfilling its responsibility for proper care of remains;

(b) The Contractor, or its employees, solicits relatives or friends of the deceased to purchase supplies or services not under this contract. (The Contractor may furnish supplies or arrange for services not under this contract, only if representatives of the deceased voluntarily request, select, and pay for them.);

(c) The services or any part of the services are performed by anyone other than the Contractor or the Contractor's employees without the written authorization of the Contracting Officer;

(d) The Contractor refuses to perform the services required for any particular remains; or

(e) The Contractor mentions or otherwise uses this contract in its advertising in any way.

(End of clause)

[FR Doc. 2020–02425 Filed 2–12–20; 8:45 am]

BILLING CODE 8320–01–P

Notices

Federal Register
Vol. 85, No. 30
Thursday, February 13, 2020

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

February 10, 2020.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC; New Executive Office Building, 725—17th Street NW, Washington, DC, 20503. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602.

Comments regarding these information collections are best assured of having their full effect if received by March 16, 2020. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Marketing Service

Title: Application for Plant Variety Protection Certificate and Objective Description of Variety—Asexually Reproduced Varieties

OMB Control Number: 0581-New.

Summary of Collection: The Plant Variety Protection Act (PVPA) (December 24, 1970; 84 Stat. 1542, 7 U.S.C. 2321 *et seq.*) was established to encourage the development of novel varieties of sexually-reproduced plants and make them available to the public, providing intellectual property rights (IPR) protection to those who breed, develop, or discover such novel varieties, and thereby promote progress in agriculture in the public interest. Regulations implementing the PVPA appear at 7 CFR par 92. The 2018 Farm Bill amended section 2402 of the PVPA (7 U.S.C. F;2402) to include asexually reproduced plant varieties. The PVPA is a voluntary user funded program that grants intellectual property ownership rights to breeders of new and novel seed-and tuber-reproduced plant varieties. To obtain these rights the applicant must provide information that shows the variety is eligible for protection and that it is indeed new, distinct, uniform, and stable, as the law requires. Applicants are provided with applications to identify the information that is required to issue a certificate of protection.

Need and Use of the Information: Applicants must complete the ST–470, ''Application for Plant Variety Protection Certificate,'' and the ST–470 series of forms, ''Objective Description of Variety'' along with other forms. The Agricultural Marketing Service will use the information from the applicant to be evaluated by examiners to determine if the variety is eligible for protection under the PVPA. If the information was not collected applicant would not be able to obtain the protection that the PVPA is intended to provide.

Description of Respondents: Business or other for-profit; Federal Government.

Number of Respondents: 50.

Frequency of Responses: Reporting: On occasion; Other (varies).

Total Burden Hours: 571.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2020–02912 Filed 2–12–20; 8:45 am]

BILLING CODE 3410–02–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Jersey Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the New Jersey Advisory Committee to the Commission will convene by conference call, on Friday, February 21, 2020 at 3:00 p.m. (EST). The purpose of the meeting is discuss plans and assignments to carryout the Committee's civil rights project on the collateral consequences that a criminal record has on criminal forfeitures and occupational licensing.

DATES: Friday, February 21, 2020, at 3:00 p.m. (EST).

ADDRESSES: Public Call-In Information: Conference call number: 1–800–667–5617 and conference call ID number: 7386659.

FOR FURTHER INFORMATION CONTACT: Ivy L. Davis, at *ero@usccr.gov* or by phone at 202–376–7533.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call number: 1–800–667–5617 and conference call ID number: 7386659. Please be advised that before placing them into the conference call, the conference call operator may ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any

incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number herein.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call number: 1–800–667–5617 and conference call ID number: 7386659.

Members of the public are invited to make statements during the Public Comment section of the meeting or to submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing, as they become available at: *https://gsageo.force.com/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzjVAAQ* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

Agenda

Friday, February 21, 2020 at 3:00 p.m. (EST)

I. Welcome and Roll Call

II. Project Planning

III. Other Business

IV. Next Meeting

V. Public Comments

VI. Adjourn

Dated: February 10, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–02935 Filed 2–12–20; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 200113–0009]

RIN 0694–XC055

Impact of the Implementation of the Chemical Weapons Convention (CWC) on Legitimate Commercial Chemical, Biotechnology, and Pharmaceutical Activities Involving ''Schedule 1'' Chemicals (Including ''Schedule 1'' Chemicals Produced as Intermediates) During Calendar Year 2019

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice of inquiry.

SUMMARY: The Bureau of Industry and Security (BIS) is seeking public comments on the impact that implementation of the Chemical Weapons Convention (CWC), through the Chemical Weapons Convention Implementation Act and the Chemical Weapons Convention Regulations (CWCR), has had on commercial activities involving ''Schedule 1'' chemicals during calendar year 2019. The purpose of this notice of inquiry is to collect information to assist BIS in its preparation of the annual certification to the Congress on whether the legitimate commercial activities and interests of chemical, biotechnology, and pharmaceutical firms are harmed by such implementation. This certification is required under Condition 9 of Senate Resolution 75 (April 24, 1997), in which the Senate gave its advice and consent to the ratification of the CWC.

DATES: Comments must be received by March 16, 2020.

ADDRESSES: You may submit comments by any of the following methods (please refer to RIN 0694–XC055 in all comments and in the subject line of email comments):

- Federal rulemaking portal (*http://www.regulations.gov*)—you can find this notice by searching on its *regulations.gov* docket number, which is BIS–2019–0028;
- *Email: willard.fisher@bis.doc.gov*—include the phrase ''Schedule 1 Notice of Inquiry'' in the subject line;
- *Fax:* (202) 482–3355 (Attn: Willard Fisher);
- By mail or delivery to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2099B, 14th Street and Pennsylvania Avenue NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: For questions on the Chemical Weapons Convention requirements for ''Schedule 1'' chemicals, contact Douglas Brown, Treaty Compliance Division, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, U.S. Department of Commerce, Phone: (202) 482–2163. For questions on the submission of comments, contact Willard Fisher, Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce, Phone: (202) 482–2440.

SUPPLEMENTARY INFORMATION:

Background

In providing its advice and consent to the ratification of the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and Their Destruction, commonly called the Chemical Weapons Convention (CWC or ''the Convention''), the Senate included, in Senate Resolution 75 (S. Res. 75, April 24, 1997), several conditions to its ratification. Condition 9, titled ''Protection of Advanced Biotechnology,'' calls for the President to certify to Congress on an annual basis that ''the legitimate commercial activities and interests of chemical, biotechnology, and pharmaceutical firms in the United States are not being significantly harmed by the limitations of the Convention on access to, and production of, those chemicals and toxins listed in Schedule 1.'' On July 8, 2004, President Bush, by Executive Order 13346, delegated his authority to make the annual certification to the Secretary of Commerce.

The CWC is an international arms control treaty that contains certain verification provisions. In order to implement these verification provisions, the CWC established the Organization for the Prohibition of Chemical Weapons (OPCW). In order to achieve the object and purpose of the Convention and the implementation of its provisions, the CWC imposes certain obligations on countries that have ratified the Convention (*i.e.,* States Parties), among which are the enactment of legislation to prohibit the production, storage, and use of chemical weapons and the establishment of a National Authority to serve as the national focal point for effective liaison with the OPCW and other States Parties. The CWC also requires each State Party to implement a comprehensive data declaration and inspection regime to provide transparency and to verify that both the public and private sectors of the State Party are not engaged in activities prohibited under the CWC.

''Schedule 1'' chemicals consist of those toxic chemicals and precursors set

forth in the CWC ''Annex on Chemicals'' and in ''Supplement No. 1 to part 712—SCHEDULE 1 CHEMICALS'' of the Chemical Weapons Convention Regulations (CWCR) (15 CFR parts 710–722). The CWC identified these toxic chemicals and precursors as posing a high risk to the object and purpose of the Convention.

The CWC (Part VI of the ''Verification Annex'') restricts the production of ''Schedule 1'' chemicals for protective purposes to two facilities per State Party: A single small-scale facility (SSSF) and a facility for production in quantities not exceeding 10 kg per year. The CWC Article-by-Article Analysis submitted to the Senate in Treaty Doc. 103–21 defined the term ''protective purposes'' to mean ''used for determining the adequacy of defense equipment and measures.'' Consistent with this definition and as authorized by Presidential Decision Directive (PDD) 70 (December 17, 1999), which specifies agency and departmental responsibilities as part of the U.S. implementation of the CWC, the Department of Defense (DOD) was assigned the responsibility to operate these two facilities. DOD maintains strict controls on ''Schedule 1'' chemicals produced at its facilities in order to ensure accountability for such chemicals, as well as their proper use, consistent with the object and purpose of the Convention. Although this assignment of responsibility to DOD under PDD–70 effectively precluded commercial production of ''Schedule 1'' chemicals for ''protective purposes'' in the United States, it did not establish any limitations on ''Schedule 1'' chemical activities that are not prohibited by the CWC.

The provisions of the CWC that affect commercial activities involving ''Schedule 1'' chemicals are implemented in the CWCR (see 15 CFR part 712) and in the Export Administration Regulations (EAR) (see 15 CFR 742.18 and 15 CFR part 745), both of which are administered by the Bureau of Industry and Security (BIS). Pursuant to CWC requirements, the CWCR restrict commercial production of ''Schedule 1'' chemicals to research, medical, or pharmaceutical purposes. The CWCR prohibit commercial production of ''Schedule 1'' chemicals for ''protective purposes'' because such production is effectively precluded per PDD–70, as described above. See 15 CFR 712.2(a).

The CWCR also contain other requirements and prohibitions that apply to ''Schedule 1'' chemicals and/or ''Schedule 1'' facilities. Specifically, the CWCR:

(1) Prohibit the import of ''Schedule 1'' chemicals from States not Party to the Convention (15 CFR 712.2(b));

(2) Require annual declarations by certain facilities engaged in the production of ''Schedule 1'' chemicals in excess of 100 grams aggregate per calendar year (*i.e.,* declared ''Schedule 1'' facilities) for purposes not prohibited by the Convention (15 CFR 712.5(a)(1) and (a)(2));

(3) Provide for government approval of ''declared Schedule 1'' facilities (15 CFR 712.5(f));

(4) Provide that ''declared Schedule 1'' facilities are subject to initial and routine inspection by the OPCW (15 CFR 712.5(e) and 716.1(b)(1));

(5) Require 200 days advance notification of the establishment of new ''Schedule 1'' production facilities producing greater than 100 grams aggregate of ''Schedule 1'' chemicals per calendar year (15 CFR 712.4);

(6) Require advance notification and annual reporting of all imports and exports of ''Schedule 1'' chemicals to, or from, other States Parties to the Convention (15 CFR 712.6, 742.18(a)(1) and 745.1); and

(7) Prohibit the export of ''Schedule 1'' chemicals to States not Party to the Convention (15 CFR 742.18(a)(1) and (b)(1)(ii)).

For purposes of the CWCR (see 15 CFR 710.1), ''production of a Schedule 1 chemical'' means the formation of ''Schedule 1'' chemicals through chemical synthesis, as well as processing to extract and isolate ''Schedule 1'' chemicals. The phrase ''production of a schedule 1 chemical'' includes, in its meaning, the formation of a chemical through chemical reaction, including by a biochemical or biologically mediated reaction. ''Production of a Schedule 1 chemical'' is understood, for CWCR declaration purposes, to include intermediates, by-products, or waste products that are produced and consumed within a defined chemical manufacturing sequence, where such intermediates, by-products, or waste products are chemically stable and therefore exist for a sufficient time to make isolation from the manufacturing stream possible, but where, under normal or design operating conditions, isolation does not occur.

Request for Comments

In order to assist in determining whether the legitimate commercial activities and interests of chemical, biotechnology, and pharmaceutical firms in the United States are significantly harmed by the limitations of the Convention on access to, and production of, ''Schedule 1'' chemicals as described in this notice, BIS is seeking public comments on any effects that implementation of the CWC, through the Chemical Weapons Convention Implementation Act and the CWCR, has had on commercial activities involving ''Schedule 1'' chemicals during calendar year 2019. To allow BIS to properly evaluate the significance of any harm to commercial activities involving ''Schedule 1'' chemicals, public comments submitted in response to this notice of inquiry should include both a quantitative and qualitative assessment of the impact of the CWC on such activities.

Submission of Comments

All comments must be submitted to one of the addresses indicated in this notice. The Department requires that all comments be submitted in written form. BIS will consider all comments received on or before March 16, 2020. All comments, including those comments containing any personally identifying information or information for which a claim of confidentially is asserted either in the comments or their transmittal emails, will be made available for public inspection and copying. Parties who wish to comment anonymously may do so by submitting their comments via *Regulations.gov*, leaving the fields that would identify the commenter blank and including no identifying information in the comment itself.

Richard E. Ashooh,

Assistant Secretary for Export Administration.

[FR Doc. 2020–02848 Filed 2–12–20; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–791–824]

Acetone From the Republic of South Africa: Final Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that imports of acetone from the Republic of South Africa (South Africa) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2018 through December 31, 2018. For information on the estimated dumping margins of sales at LTFV, *see* the ''Final Determination'' section of this notice.

DATES: Applicable February 13, 2020.

FOR FURTHER INFORMATION CONTACT: Charlotte Baskin-Gerwitz, 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) 482–4880.

SUPPLEMENTARY INFORMATION:

Background

This final determination is made in accordance with section 735 of the Tariff Act of 1930, as amended (the Act). On September 24, 2019, Commerce published the *Preliminary Determination* of this antidumping duty (AD) investigation, in which we also postponed the final determination to February 6, 2020.[1] The petitioner in this investigation is the Coalition for Acetone Fair Trade (the petitioner).[2] The mandatory respondent in this investigation is Sasol South Africa Limited (SSA). Shortly prior to publication of the *Preliminary Determination,* on September 23, 2019, SSA informed Commerce that it would not participate in Commerce's planned verifications of SSA's questionnaire responses.[3] A complete summary of the events that occurred since publication of the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.[4] The Issues and Decision Memorandum is a public document and is available electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). Access is available to registered users at *http://access.trade.gov,* and to all parties in the Central Records Unit, Room B–8024 of Commerce's main building. In addition, a complete version of the Issues and Decision Memorandum can be accessed at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is acetone from South Africa. Commerce did not receive any scope comments and has not updated the scope of the investigation since the *Preliminary Determination.* For a complete description of the scope of this investigation, *see* Appendix I to this notice.

Analysis of Comments Received

The issues raised in the case and rebuttal briefs submitted by interested parties in this investigation are discussed in the Issues and Decision Memorandum. For a list of the issues raised by parties and responded to by Commerce in the Issues and Decision Memorandum, *see* Appendix II to this notice.

Verification

Because SSA stated prior to the *Preliminary Determination* that it would not participate in verification, we did not conduct a verification of SSA's information.

Use of Adverse Facts Available (AFA)

In making this final determination, Commerce relied on facts available. As discussed in the Issues and Decision Memorandum,[5] we determine that, because SSA withdrew its participation in verification, SSA significantly impeded the investigation, submitted information that could not be verified, and failed to cooperate by not acting to the best of its ability in responding to Commerce's requests for information. Therefore, we are drawing adverse inferences in selecting from among the facts otherwise available.[6] For further information, *see* the ''Use of Facts Otherwise Available and Adverse Inferences'' section in the Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our application of facts available with an adverse inference to SSA, we revised the margin calculation for SSA since the *Preliminary Determination.* These changes are discussed in the Issues and Decision Memorandum.

All-Others Rate

Sections 735(c)(1)(B)(i)(II) and 735(c)(5)(A) of the Act provide that Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act. However, when the estimated weighted-average dumping margins for all exporters and producers individually investigated are zero or *de minimis,* or determined under section 776 of the Act, section 735(c)(5)(B) of the Act provides that Commerce shall use any reasonable method to establish the all-others rate, including averaging the estimated weighted-average dumping margins for the exporters and producers individually investigated.

In this investigation, Commerce based SSA's rate entirely on facts otherwise available. Accordingly, we will use any reasonable method to establish the estimated all-others rate. Commerce's practice in such situations is to base the all-others rate on a simple average of the petition rates.[7] Therefore, as the all-others rate we are assigning a simple average of the margins alleged in the petition, which is 314.51 percent. For a full description of the methodology underlying Commerce's analysis, *see* the Issues and Decision Memorandum.

Final Determination

Pursuant to section 735 of the Act, Commerce determines the estimated dumping margins to be:

[1] *See Acetone from the Republic of South Africa: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 84 FR 49984 (September 24, 2019) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

[2] The members of the Coalition for Acetone Fair Trade are AdvanSix Inc., Altivia Petrochemicals, LLC, and Olin Corporation.

[3] *See* SSA's Letter, ''Acetone from South Africa: Notification Regarding Verification Participation,'' dated September 23, 2019.

[4] *See* Memorandum, ''Issues and Decision Memorandum for the Final Affirmative Determination in the Antidumping Duty Investigation of Acetone from the Republic of South Africa,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[5] *See* Issues and Decision Memorandum at 2–9.

[6] *See* sections 776(a) and (b) of the Act.

[7] *See, e.g., Notice of Preliminary Determinations of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany,* 73 FR 21909, 21912 (April 23, 2008), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany,* 73 FR 38986, 38987 (July 8, 2008), and accompanying Issues and Decision Memorandum at Comment 2; *see also Notice of Final Determination of Sales at Less Than Fair Value: Raw Flexible Magnets from Taiwan,* 73 FR 39673, 39674 (July 10, 2008); *Steel Threaded Rod from Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances,* 78 FR 79670, 79671 (December 31, 2013), unchanged in *Steel Threaded Rod from Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances,* 79 FR 14476, 14477 (March 14, 2014); and *Polyethylene Terephthalate Resin from Pakistan: Final Determination of Sales at Less Than Fair Value,* 83 FR 48281, 48282 (September 24, 2018).

Exporter or producer	Estimated dumping margin (percent)
Sasol South Africa Limited ...	414.92
All Others	314.51

Disclosure

Because Commerce applied AFA to SSA, and the AFA rate is based solely on the petition, there are no calculations to disclose for this final determination pursuant to 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of acetone from South Africa, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after September 24, 2019, the date of publication of the *Preliminary Determination* in the **Federal Register**.

Pursuant to section 735(c)(l) of the Act and 19 CFR 351.210(d), Commerce will instruct CBP to require cash deposits equal to the estimated dumping margins indicated in the table above as follows: (1) The cash deposit rate for SSA will be equal to the estimated dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be 314.51 percent, the all-others estimated weighted-average dumping margin. These suspension of liquidation and cash deposit instructions will remain in effect until further notice.

International Trade Commission Notification (ITC)

In accordance with section 735(d) of the Act, we will notify the ITC of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of acetone from South Africa no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue an AD order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the ''Continuation of Suspension of Liquidation'' section.

Notification Regarding Administrative Protective Orders

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely 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 violation subject to sanction.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: February 6, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is all grades of liquid or aqueous acetone. Acetone is also known under the International Union of Pure and Applied Chemistry (IUPAC) name propan-2-one. In addition to the IUPAC name, acetone is also referred to as β-ketopropane (or beta-ketopropane), ketone propane, methyl ketone, dimethyl ketone, DMK, dimethyl carbonyl, propanone, 2-propanone, dimethyl formaldehyde, pyroacetic acid, pyroacetic ether, and pyroacetic spirit. Acetone is an isomer of the chemical formula C_3H_6O, with a specific molecular formula of CH_3COCH_3 or $(CH_3)_2CO$.

The scope covers both pure acetone (with or without impurities) and acetone that is combined or mixed with other products, including, but not limited to, isopropyl alcohol, benzene, diethyl ether, methanol, chloroform, and ethanol. Acetone that has been combined with other products is included within the scope, regardless of whether the combining occurs in third countries.

The scope also includes acetone that is commingled with acetone from sources not subject to this investigation.

For combined and commingled products, only the acetone component is covered by the scope of this investigation. However, when acetone is combined with acetone components from sources not subject to this investigation, those third country acetone components may still be subject to other acetone investigations.

Notwithstanding the foregoing language, an acetone combination or mixture that is transformed through a chemical reaction into another product, such that, for example, the acetone can no longer be separated from the other products through a distillation process (*e.g.,* methyl methacrylate (MMA) or Bisphenol A (BPA)), is excluded from this investigation.

A combination or mixture is excluded from these investigations if the total acetone component (regardless of the source or sources) comprises less than 5 percent of the combination or mixture, on a dry weight basis.

The Chemical Abstracts Service (CAS) registry number for acetone is 67–64–1.

The merchandise covered by this investigation is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 2914.11.1000 and 2914.11.5000. Combinations or mixtures of acetone may enter under subheadings in Chapter 38 of the HTSUS, including, but not limited to, those under heading 3814.00.1000, 3814.00.2000, 3814.00.5010, and 3814.00.5090. The list of items found under these HTSUS subheadings is non-exhaustive. Although these HTSUS subheadings and CAS registry number are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. Use of Facts Otherwise Available and Adverse Inferences
V. Discussion of the Issues
Comment 1: Whether to Rely on Total AFA for SSA's Margin
VI. All-Others Rate
VII. Recommendation

[FR Doc. 2020–02910 Filed 2–12–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–814]

Acetone From Belgium: Final Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that imports of acetone from Belgium are being, or are

likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is January 1, 2018 through December 31, 2018. The final weighted-average dumping margins are listed below in the section entitled ''Final Determination Margins.''

DATES: Applicable February 13, 2020.

FOR FURTHER INFORMATION CONTACT: Alex Cipolla, 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) 482–4956.

SUPPLEMENTARY INFORMATION:

Background

On September 24, 2019, Commerce published in the **Federal Register** the preliminary affirmative determination of sales at LTFV, the postponement of the final determination, and the extension of provisional measures, in the antidumping duty (AD) investigation of acetone from Belgium.[1] Commerce invited comments from interested parties on the *Preliminary Determination.*[2] INEOS Europe AG (INEOS Europe) filed a case brief, and the petitioner[3] filed a rebuttal brief.[4] A summary of the events that occurred since Commerce published the *Preliminary Determination,* as well as a full discussion of the issues raised by interested parties for this final determination, may be found in the Issues and Decision Memorandum.[5] The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is acetone from Belgium. Commerce did not receive any scope comments subsequent to the *Preliminary Determination* and, therefore, the scope has not been updated since the *Preliminary Determination.* For a complete description of the scope of this investigation, *see* Appendix I.

Period of Investigation

The POI is January 1, 2018 through December 31, 2018.

Verification

As provided in section 782(i) of the Act, we conducted the cost and sales verifications in Antwerp, Belgium, and Mobile, Alabama, between November 4 and December 6, 2019. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by the respondents.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum. For a list of the issues raised and addressed in the Issues and Decision Memorandum, *see* Appendix II.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations. For a discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce calculated an estimated weighted-average dumping margin for INEOS Europe. Accordingly, the all-others rate in this investigation is the weighted-average dumping margin calculated for INEOS Europe.

Final Determination Margins

Commerce determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margin (percent)
INEOS Europe AG	28.10
All Others	28.10

Disclosure

We will disclose to interested parties the calculations performed in this final determination within five days of any public announcement of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of acetone from Belgium, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after September 24, 2019, the date of publication of the *Preliminary Determination.*

Furthermore, pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), Commerce will instruct CBP to require a cash deposit for such entries of merchandise equal to the estimated weighted-average dumping margin, as follows: (1) The cash deposit rate for the respondent listed above will be equal to the respondent-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above but the producer is, then the cash deposit rate will be equal to the respondent-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

[1] *See Acetone from Belgium: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 84 FR 49999 (September 24, 2019) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

[2] *See Preliminary Determination,* 84 FR at 50000; *see also* Memorandum, ''Antidumping Duty Investigation of Acetone from Belgium: Briefing Schedule,'' dated December 30, 2019.

[3] The petitioner is the Coalition for Acetone Fair Trade, the members of the Coalition for Acetone Fair Trade are AdvanSix Inc., Altivia Petrochemicals, LLC, and Olin Corporation.

[4] *See* INEOS Europe's Letter, ''Acetone from Belgium: Case Brief,'' dated January 7, 2020; *see also* Petitioner's Letter, ''Acetone from Belgium: Petitioners' Rebuttal Brief,'' dated January 13, 2020.

[5] *See* Memorandum, ''Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Acetone from Belgium,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2)(B) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of acetone from Belgium no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated, and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the ''Continuation of Suspension of Liquidation'' section.

Notification Regarding Administrative Protective Orders

This notice will serve as the only reminder to 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 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

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: February 6, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is all grades of liquid or aqueous acetone. Acetone is also known under the International Union of Pure and Applied Chemistry (IUPAC) name propan-2-one. In addition to the IUPAC name, acetone is also referred to as ß-ketopropane (or beta-ketopropane), ketone propane, methyl ketone, dimethyl ketone, DMK, dimethyl carbonyl, propanone, 2-propanone, dimethyl formaldehyde, pyroacetic acid, pyroacetic ether, and pyroacetic spirit. Acetone is an isomer of the chemical formula C3H6O, with a specific molecular formula of CH3COCH3 or (CH3)2CO.

The scope covers both pure acetone (with or without impurities) and acetone that is combined or mixed with other products, including, but not limited to, isopropyl alcohol, benzene, diethyl ether, methanol, chloroform, and ethanol. Acetone that has been combined with other products is included within the scope, regardless of whether the combining occurs in third countries.

The scope also includes acetone that is commingled with acetone from sources not subject to this investigation.

For combined and commingled products, only the acetone component is covered by the scope of this investigation. However, when acetone is combined with acetone components from sources not subject to this investigation, those third country acetone components may still be subject to other acetone investigations.

Notwithstanding the foregoing language, an acetone combination or mixture that is transformed through a chemical reaction into another product, such that, for example, the acetone can no longer be separated from the other products through a distillation process (*e.g.,* methyl methacrylate (MMA) or Bisphenol A (BPA)), is excluded from this investigation.

A combination or mixture is excluded from these investigations if the total acetone component (regardless of the source or sources) comprises less than 5 percent of the combination or mixture, on a dry weight basis.

The Chemical Abstracts Service (CAS) registry number for acetone is 67–64–1.

The merchandise covered by this investigation is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 2914.11.1000 and 2914.11.5000. Combinations or mixtures of acetone may enter under subheadings in Chapter 38 of the HTSUS, including, but not limited to, those under heading 3814.00.1000, 3814.00.2000, 3814.00.5010, and 3814.00.5090. The list of items found under these HTSUS subheadings is non-exhaustive. Although these HTSUS subheadings and CAS registry number are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. Discussion of the Issues
Comment 1: Whether Commerce Should Adjust Ineos Europe's Tolling Costs
Comment 2: Whether Commerce Should Use Ineos Europe's Actual Demurrage Expenses
V. Recommendation

[FR Doc. 2020–02908 Filed 2–12–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–813]

Polyethylene Retail Carrier Bags From Malaysia: Final Results of Antidumping Duty Administrative Review; 2017–2018

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that Euro SME Sdn Bhd (Euro SME), the sole producer/exporter subject to this administrative review did not make sales of subject merchandise at less than normal value (NV) during the August 1, 2017 through July 31, 2018 period of review (POR).

DATES: Applicable February 13, 2020.

FOR FURTHER INFORMATION CONTACT: Kyle Clahane, 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) 482–5449.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results* of this administrative review of the antidumping duty (AD) order on polyethylene retail carrier bags (PRCBs) from Malaysia on October 22, 2019.[1] We invited interested parties to comment on the *Preliminary Results;* however, no interested party submitted comments. Commerce conducted this administrative review in accordance with sections 751(a)(1) and (2) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise covered by this order is PRCBs from Malaysia, which also may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. Imports of merchandise included within the scope of this antidumping duty order are currently classifiable under statistical category 3923.21.0085 of the Harmonized Tariff Schedule of the United States (HTSUS). This subheading may also cover products that are outside the scope of

[1] *See Polyethylene Retail Carrier Bags from Malaysia: Preliminary Results of Antidumping Duty Administrative Review; 2017–2018,* 84 FR 56418 (October 22, 2019) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum.

this antidumping duty order. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this antidumping duty order is dispositive. For a full description of the scope of the order, *see* the Preliminary Decision Memorandum.

Changes Since the Preliminary Results

As noted above, we received no comments in response to the *Preliminary Results.* Accordingly, for purposes of these final results, Commerce has made no changes.

Final Results of the Review

Commerce determines that the following weighted-average dumping margin exists for the August 1, 2017 through July 31, 2018 POR:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Euro SME Sdn Bhd	0.00

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. For Euro SME, we calculated importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of those sales in accordance with 19 CFR 351.212(b)(1).[2] Where an importer-specific assessment rate is *de minimis* (*i.e.,* less than 0.5 percent), the entries by that importer will be liquidated without reference to antidumping duties. For entries of Euro SME's merchandise during the period of review for which it did not know the merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

We intend to issue instructions to CBP 15 days after publication of these final results of this review in the **Federal Register**.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review in the **Federal Register** for all shipments of PRCBs from Malaysia entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for Euro SME 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 84.94 percent, the all-others rate established in the antidumping investigation.[3] These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice 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 this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the 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 terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results of administrative review in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(5).

Dated: February 3, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–02907 Filed 2–12–20; 8:45 am]

BILLING CODE 3510–DS–P

[2] In these final 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 Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

[3] *See Antidumping Duty Order: Polyethylene Retail Carrier Bags from Malaysia,* 69 FR 48203 (August 9, 2004).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–899]

Acetone From the Republic of Korea: Final Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that imports of acetone from the Republic of Korea (Korea) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2018 through December 31, 2018. For information on the estimated weighted-average dumping margins of sales at LTFV, *see* the ''Final Determination'' section of this notice.

DATES: Applicable February 13, 2020.

FOR FURTHER INFORMATION CONTACT: Sean Carey, 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) 482–3964.

SUPPLEMENTARY INFORMATION:

Background

On September 24, 2019, Commerce published the *Preliminary Determination* of this LTFV investigation.[1] The petitioner in this investigation is the Coalition for

[1] *See Acetone from the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 84 FR 50005 (September 24, 2019) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

Acetone Fair Trade (the petitioner).[2] The mandatory respondents in this investigation are LG Chem, Ltd. (LG Chem) and Kumho P&B Chemicals, Inc. (KPB). We held a public hearing on January 23, 2020, to address issues raised in the case and rebuttal briefs.[3] A complete summary of the events that occurred since publication of the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.[4] The Issues and Decision Memorandum is a public document and is available electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). Access is available to registered users at *http://access.trade.gov,* and to all parties in the Central Records Unit, room B–8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed at *http://enforcement.trade.gov/frn/*. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Scope of the Investigation

The scope of the investigation covers acetone from Korea. Commerce received no scope comments and has not updated the scope of the investigation since the *Preliminary Determination.* For a complete description of the scope of this investigation, *see* Appendix I to this notice.

Analysis of Comments Received

The issues raised in the case briefs and rebuttal briefs submitted by interested parties in this investigation are discussed in the Issues and Decision Memorandum. For a list of the issues raised by parties and responded to by Commerce in the Issues and Decision Memorandum, *see* Appendix II to this notice.

Verification

Between October 21 and November 19, 2019, we conducted cost and sales verifications of mandatory respondents, LG Chem and its wholly-owned affiliate, LG Chem America, Inc., and KPB, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).[5]

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations since the *Preliminary Determination.* These changes are discussed in the Issues and Decision Memorandum.

All-Others Rate

Sections 735(c)(1)(B)(i)(II) and 735(c)(5)(A) of the Act provide that Commerce shall determine an estimated weighted-average dumping margin rate for all other exporters and producers not individually examined (the all-others rate). This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually examined, excluding rates that are zero, *de minimis,* or determined entirely under section 776 of the Act. However, when the estimated weighted-average dumping margins for each of the exporters and producers individually examined are zero, *de minimis,* or determined under section 776 of the Act, Commerce shall use any reasonable method to establish the all-others rate, including averaging the estimated weighted-average dumping margins for the exporters and producers individually examined.

In this investigation, Commerce calculated individual estimated weighted-average dumping margins of 47.86 percent for KPB and 25.05 percent for LG Chem, the two individually examined companies. Commerce calculated the rate for the companies not selected for individual examination using a weighted-average of the estimated weighted-average dumping margins calculated for KPB and LG Chem, and each company's publicly-ranged U.S. sale quantities for the merchandise under consideration.[6] This rate was assigned to all other producers or exporters, pursuant to section 735(c)(5)(A) of the Act.

Final Determination

Pursuant to section 735 of the Act, Commerce determines the estimated weighted-average dumping margins to be:

Producer or exporter	Estimated weighted-average dumping margins (percent)
Kumho P&B Chemicals, Inc	47.86
LG Chem, Ltd	25.05
All Others	33.10

Disclosure

In accordance with 19 CFR 351.224(b), we will disclose the calculations performed within five days of any public announcement of this determination.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of acetone from Korea, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after September 24, 2019, the date of publication of the *Preliminary Determination.*

In addition, pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), Commerce will instruct CBP

[2] The members of the Coalition for Acetone Fair Trade are AdvanSix Inc., Altivia Petrochemicals, LLC, and Olin Corporation.

[3] *See* Hearing Transcript, ''Public Hearing in the Matter of the Less-Than-Fair-Value Investigation of Acetone from the Republic of Korea'' (January 23, 2020).

[4] *See* Memorandum, ''Issues and Decision Memorandum for the Final Affirmative Determination in the Antidumping Duty Investigation of Acetone from the Republic of Korea,'' issued concurrently with, and adopted by, this notice (Issues and Decision Memorandum).

[5] *See* Memorandum, ''Verification of the Cost Response of LG Chem, Ltd. in the Antidumping Duty Investigation of Acetone from the Republic of Korea, dated December 17, 2019; Memorandum, ''Verification of the Cost Response of Kumho P&B Chemicals, Inc. in the Antidumping Duty Investigation of Acetone from the Republic of Korea, dated December 18, 2019; Memorandum, ''Verification of the Questionnaire Responses of LG Chem, Ltd. and LG Chem America, Inc. in the Antidumping Duty Less Than Fair Value Investigation of Acetone from the Republic of Korea,'' dated December 23, 2019; and Memorandum, ''Verification of the Questionnaire Responses of Kumho P&B Chemicals, Inc. in the Antidumping Duty Less Than Fair Value Investigation of Acetone from the Republic of Korea,'' dated December 23, 2019.

[6] With two respondents under examination, Commerce normally calculates (A) a weighted average of the estimated weighted-average dumping margins calculated for the examined respondents (as directed by the statute) based on the actual reported U.S. sale quantities for each respondent; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. Because the calculation in (A) includes business proprietary information (BPI) which could be revealed by publicly releasing the results of this calculation, Commerce then compares the calculation results of (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers or exporters not subject to individual examination. *See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010). For a complete analysis including the BPI data, *see* Memorandum, ''Final Determination Calculation for the 'All-Others' Rate,'' dated concurrently with this notice.

to require a cash deposit for such entries of merchandise equal to the estimated weighted-average dumping margin as follows: (1) The cash deposit rate for the companies listed in the table above will be equal to the company-specific estimated weighted-average dumping margin identified for that company in the table; (2) if the exporter is not a company listed in the table above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin listed for that producer of the subject merchandise in the above table; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification (ITC)

In accordance with section 735(d) of the Act, we will notify the ITC of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of acetone from Korea no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the ''Continuation of Suspension of Liquidation'' section.

Notification Regarding Administrative Protective Order (APO)

This notice serves as the only reminder to parties subject to an APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/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 violation subject to sanction.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: February 6, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is all grades of liquid or aqueous acetone. Acetone is also known under the International Union of Pure and Applied Chemistry (IUPAC) name propan-2-one. In addition to the IUPAC name, acetone is also referred to as β-ketopropane (or beta-ketopropane), ketone propane, methyl ketone, dimethyl ketone, DMK, dimethyl carbonyl, propanone, 2-propanone, dimethyl formaldehyde, pyroacetic acid, pyroacetic ether, and pyroacetic spirit. Acetone is an isomer of the chemical formula C_3H_6O, with a specific molecular formula of CH_3COCH_3 or $(CH_3)2CO$.

The scope covers both pure acetone (with or without impurities) and acetone that is combined or mixed with other products, including, but not limited to, isopropyl alcohol, benzene, diethyl ether, methanol, chloroform, and ethanol. Acetone that has been combined with other products is included within the scope, regardless of whether the combining occurs in third countries.

The scope also includes acetone that is commingled with acetone from sources not subject to this investigation.

For combined and commingled products, only the acetone component is covered by the scope of this investigation. However, when acetone is combined with acetone components from sources not subject to this investigation, those third country acetone components may still be subject to other acetone investigations.

Notwithstanding the foregoing language, an acetone combination or mixture that is transformed through a chemical reaction into another product, such that, for example, the acetone can no longer be separated from the other products through a distillation process (*e.g.,* methyl methacrylate (MMA) or Bisphenol A (BPA)), is excluded from this investigation.

A combination or mixture is excluded from these investigations if the total acetone component (regardless of the source or sources) comprises less than 5 percent of the combination or mixture, on a dry weight basis.

The Chemical Abstracts Service (CAS) registry number for acetone is 67–64–1.

The merchandise covered by this investigation is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 2914.11.1000 and 2914.11.5000. Combinations or mixtures of acetone may enter under subheadings in Chapter 38 of the HTSUS, including, but not limited to, those under heading 3814.00.1000, 3814.00.2000, 3814.00.5010, and 3814.00.5090. The list of items found under these HTSUS subheadings is non-exhaustive. Although these HTSUS subheadings and CAS registry number are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. Changes Since the Preliminary Determination
V. Discussion of the Issues
  Comment 1: LG Chem's Joint Cost Allocation Methodology
  Comment 2: KPB's Cost Allocation Method
  Comment 3: KPB's Purchases from Affiliates
  Comment 4: LG Chem's Non-Operating Expenses
  Comment 5: LG Chem's G&A Expense Ratio Calculation
VI. Recommendation

[FR Doc. 2020–02909 Filed 2–12–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Advisory Committee on Earthquake Hazards Reduction Meeting

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: National Institute of Standards and Technology (NIST)'s Advisory Committee on Earthquake Hazards Reduction (ACEHR or Committee) will hold an open meeting on Wednesday, March 25, 2020, from 8:30 a.m. to 5:00 p.m. Mountain Time and Thursday, March 26, 2020, from 8:30 a.m. to 2:00 p.m. Mountain Time.

DATES: The ACEHR will meet on Wednesday, March 25, 2020, from 8:30 a.m. to 5:00 p.m. Mountain Time and Thursday, March 26, 2020, from 8:30 a.m. to 2:00 p.m. Mountain Time.

ADDRESSES: The meeting will be held in the Katharine Blodgett Gebbie Laboratory Conference Room 1A106, Building 81, at NIST, 325 Broadway Street, Boulder, Colorado 80305, with an option to participate via teleconference or webinar. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Tina Faecke, Management and Program Analyst, National Earthquake Hazards Reduction Program (NEHRP),

Engineering Laboratory, NIST, 100 Bureau Drive, Mail Stop 8604, Gaithersburg, Maryland 20899–8604. Ms. Faecke's email address is *tina.faecke@nist.gov* and her phone number is (301) 975–5911.

SUPPLEMENTARY INFORMATION: *Authority:* 42 U.S.C. 7704(a)(5) and the Federal Advisory Committee Act, as amended, 5 U.S.C. App. The Committee is composed of 12 members, appointed by the Director of NIST, who were selected for their established records of distinguished service in their professional community, their knowledge of issues affecting NEHRP, and to reflect the wide diversity of technical disciplines, competencies, and communities involved in earthquake hazards reduction. In addition, the Chairperson of the U.S. Geological Survey Scientific Earthquake Studies Advisory Committee serves as an ex-officio member of the Committee.

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the ACEHR will meet on Wednesday, March 25, 2020, from 8:30 a.m. to 5:00 p.m. Mountain Time and Thursday, March 26, 2020, from 8:30 a.m. to 2:00 p.m. Mountain Time. The meeting will be open to the public. The primary purpose of this meeting is for the Committee to review the latest activities of NEHRP and receive responses to the Committee's 2019 biennial Report on the Effectiveness of NEHRP. The agenda may change to accommodate Committee business. The final agenda and any meeting materials will be posted on the NEHRP website at *http://nehrp.gov/.*

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Committee's business are invited to request a place on the agenda. On March 25, 2020, approximately fifteen minutes will be reserved near the beginning of the meeting for public comments and speaking times will be assigned on a first-come, first-serve basis. The amount of time per speaker will be determined by the number of requests received but is likely to be about three minutes each. Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to participate are invited to submit written statements to ACEHR, National Institute of Standards and Technology, Mail Stop 8604, 100 Bureau Drive, Gaithersburg, MD 20899, via fax at (301) 975–4032, or electronically by email to *tina.faecke@nist.gov.*

All visitors to the NIST site are required to pre-register to be admitted. Please submit your full name, estimated time of arrival, email address, and phone number to Tina Faecke by 5:00 p.m. Eastern Time, Wednesday, March 11, 2020. Non-U.S. citizens must submit additional information; please contact Ms. Faecke. Ms. Tina Faecke's email address is *tina.faecke@nist.gov,* and her phone number is (301) 975–5911. If you wish to participate via teleconference or webinar, please submit your full name, affiliation, and phone number to Ms. Faecke by 5:00 p.m. Eastern Time, Wednesday, March 11, 2020. After pre-registering, participants will be provided with detailed instructions on how to join the teleconference or webinar remotely. For participants attending in person, please note that federal agencies, including NIST, can only accept a state-issued driver's license or identification card for access to federal facilities if such license or identification card is issued by a state that is compliant with the REAL ID Act of 2005 (Pub. L. 109–13), or by a state that has an extension for REAL ID compliance. NIST currently accepts other forms of federal-issued identification in lieu of a state-issued driver's license. For detailed information please contact Ms. Faecke at (301) 975–5911 or visit: *http://www.nist.gov/public_affairs/visitor/.*

Kevin A. Kimball,

Chief of Staff.

[FR Doc. 2020–02888 Filed 2–12–20; 8:45 am]

BILLING CODE 3510–13–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting Notice

TIME AND DATE: Wednesday, February 12, 2020; 1:30 p.m.

PLACE: Hearing Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, MD 20814.

STATUS: Commission Meeting—Closed to the Public.

MATTERS TO BE CONSIDERED: *Compliance Matter:* Staff will brief the Commission on the status of a compliance program.*

CONTACT PERSON FOR MORE INFORMATION: Alberta E. Mills, Secretary, Division of the Secretariat, Office of the General Counsel, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7479.

* The Commission unanimously determined by recorded vote that Agency business requires calling the meeting without seven calendar days advance public notice.

Dated: February 11, 2020.

Alberta E. Mills,

Secretary.

[FR Doc. 2020–03066 Filed 2–11–20; 4:15 pm]

BILLING CODE 6355–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Personnel Development To Improve Services and Results for Children With Disabilities—Leadership Development Programs: Increasing the Capacity of Leaders To Improve Systems Serving Children With Disabilities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2020 for Personnel Development to Improve Services and Results for Children with Disabilities—Leadership Development Programs: Increasing the Capacity of Leaders to Improve Systems Serving Children with Disabilities, Catalog of Federal Domestic Assistance (CFDA) number 84.325L. These grants will fund States to implement leadership development programs that recruit, increase the capacity of, and retain State, regional, and local leaders to promote high expectations and improve early childhood and educational outcomes for children with disabilities and their families by improving the systems that serve them. This notice relates to the approved information collection under OMB control number 1820–0028.

DATES:

Applications Available: February 13, 2020.

Deadline for Transmittal of Applications: April 13, 2020.

Deadline for Intergovernmental Review: June 12, 2020.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR–2019–02–13/pdf/2019–02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Sarah Allen, U.S. Department of Education, 400 Maryland Avenue SW,

room 5160, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–7875. Email: *Sarah.Allen@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purposes of this program are to (1) help address State-identified needs for personnel preparation in special education, early intervention, related services, and regular education to work with children, including infants and toddlers, and youth with disabilities; and (2) ensure that those personnel have the necessary skills and knowledge, derived from practices that have been determined through scientifically based research, to be successful in serving those children.

Priorities: This competition includes one absolute priority and one competitive preference priority. In accordance with 34 CFR 75.105(b)(2)(v), the absolute priority and competitive preference priority are from allowable activities specified in the statute (see sections 662 and 681 of the Individuals with Disabilities Education Act (IDEA); 20 U.S.C. 1462 and 1481).

Absolute Priority: For FY 2020 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Leadership Development Programs: Increasing the Capacity of Leaders to Improve Systems Serving Children with Disabilities.

Background:

State, regional, and local administrators in early intervention and special education serve a critical role in ensuring that infants, toddlers, children, and youth with disabilities (children with disabilities) are provided services and supports to which they are entitled under IDEA. Given the demands for leading within complex early intervention and special education systems and addressing current issues across systems, administrators must have the skills to collaborate with other agencies and programs. This collaboration would help ensure that children with disabilities are held to high standards and that their individualized needs are met across natural environments and educational settings. In addition, the expansion of educational options [1] has also added to special education administrators' responsibilities to ensure that parents of children with disabilities are empowered to choose from a robust range of educational options and supports to identify those that best meet their children's needs.

With the increasing demands placed on State, regional, and local administrators, it is essential that they have the knowledge, skills, and competencies to oversee the administration of early intervention and special education systems. However, the turnover rate of administrators and leaders across all levels of the system is high and increasing. In 2018, 70 percent of State Directors of Special Education had less than five years of experience, up from only 15 percent in 2010 (NCSI, 2018a). Similarly, 73 percent of Part C Coordinators had less than 5 years of experience in 2018, up from 39 percent in 2005 (NCSI, 2018b). Approximately 10 to 15 percent of local special education administrator positions turn over each year (Goldring & Taie, 2018).

Further, half of the States do not require a special education administration credential for local special education administrators or specifically address the preparation of administrators in the personnel preparation programs offered by institutions of higher education (IHEs) in their States (Boscardin et al., 2010). Even when an administration credential is required, preparation programs are at times difficult to find, hard for working professionals to access or complete, and varied in content coverage (Bellamy & Iwaszuk, 2017). Like credentialing programs, professional development programs that help administrators develop the knowledge, skills, and competencies needed for leadership positions often are not available, thus requiring State, regional, and local administrators to learn on the job.

In order to help meet the complex and varied needs of children with disabilities and their families, this priority will fund grants to State educational agencies (SEAs) or lead agencies for Part C to implement high-quality, sustainable leadership development programs to recruit, increase the capacity of, and retain State, regional, and local leaders who have the knowledge, skills, and competencies to improve systems serving children with disabilities and their families. This priority is consistent with Supplemental Priority 2—Promoting Innovation and Efficiency, Streamlining Education with an Increased Focus on Improving Student Outcomes, and Providing Increased Value to Students and Taxpayers; Supplemental Priority 5—Meeting the Unique Needs of Students and Children With Disabilities and/or Those with Unique Gifts and Talents; and Supplemental Priority 8—Promoting Effective Instruction in Classrooms and Schools.

The projects must be awarded and operated in a manner consistent with nondiscrimination requirements contained in the U.S. Constitution and the Federal civil rights laws.

Priority:

The purpose of this priority is to fund grants to achieve, at a minimum, the following expected outcomes:

(a) Development, improvement, or expansion of a high-quality, sustainable leadership development program to recruit, increase the capacity of, and retain a network of leaders at the State, regional, or local level to improve systems serving children with disabilities and their families;

(b) Development, improvement, or expansion of infrastructure and implementation supports,[2] including but not limited to partnerships with relevant child-serving agencies and diverse stakeholders (*e.g.,* IHEs, parent centers,[3] State- and local-level

[1] For the purpose of this priority, ''educational options'' means the opportunity for a child or student (or a family member on their behalf) to create a high-quality personalized path for learning that is consistent with applicable Federal, State, and local laws; is in an educational setting that best meets the child's or student's needs; and, where possible, incorporates evidence-based activities, strategies, or interventions. Opportunities made available to a student through a grant program are those that supplement what is provided by a child's or student's geographically assigned school or the institution in which he or she is currently enrolled and may include one or more of the following options: (1) Public educational programs or courses, including those offered by traditional public schools, public charter schools, public magnet schools, public online education providers, or other public education providers; (2) Private or home-based educational programs or courses, including those offered by private schools, private online providers, private tutoring providers, community or faith-based organizations, or other private education providers; (3) Part-time coursework or career preparation, offered by a public or private provider in person or through the internet or another form of distance learning, that serves as a supplement to full-time enrollment at an educational institution, as a stand-alone program leading to a credential, or as a supplement to education received in a homeschool setting; and (4) Other educational services, including credit-recovery, accelerated learning, or tutoring.

[2] For the purpose of this priority, ''implementation supports'' means effective methods for changing practices, organizational structure, and systems at all levels.

[3] For the purpose of this priority, ''parent centers'' refers to Parent Training and Information Centers and Community Parent Resource Centers funded by OSEP, which can be found at

administrators, technical assistance providers) to deliver and sustain leadership development programs; and

(c) Increased number of early intervention and special education leaders at the State, regional, or local level with the knowledge, skills, and competencies to improve systems serving children with disabilities and their families.

To be considered for funding under this absolute priority, all applicants must meet the application requirements contained in the priority. All projects funded under this absolute priority also must meet the programmatic and administrative requirements specified in the priority.

Note: The Office of Special Education Programs (OSEP) intends to fund projects that address leadership development programs for administrators supporting both special education and early intervention programs. OSEP may fund out of rank order high-quality applications to ensure that both types of programs are funded.

Note: Applicants must demonstrate matching support for the proposed project at 10 percent of the total amount of the grant as specified in paragraph (f)(1) of the requirements of this priority for an application to be reviewed and be considered eligible to receive an award.

To meet the requirements of this priority, an applicant must—

(a) Demonstrate, in the narrative section of the application under ''Significance,'' how the proposed project will—

(1) Address the need for early intervention or special education leaders at the State, regional, or local level with the knowledge, skills, and competencies to improve systems serving children with disabilities and their families. To meet this requirement, the applicant must—

(i) Present applicable data demonstrating the need to increase the number of early intervention or special education leaders with the knowledge, skills, and competencies to improve systems serving children with disabilities and their families;

(ii) Identify the knowledge, skills, and competencies that early intervention or special education leaders need to improve systems serving children with disabilities and their families; and

(iii) Identify current educational issues and policy initiatives at the Federal, State, regional, and local levels that early intervention or special education leaders need to understand, including how innovation and the State's efforts to expand educational options can be supported, and parents can be empowered to choose an education that best meets their children's needs; and

(2) Address the need for infrastructure and implementation supports, including partnerships with relevant child-serving agencies and diverse stakeholders, to effectively develop, deliver, and sustain a leadership development program to recruit, increase the capacity of, and retain a network of leaders at the State, regional, or local level with the knowledge, skills, and competencies to improve systems serving children with disabilities and their families. To meet this requirement, the applicant must—

(i) Present data, if applicable, on the quality of existing leadership development programs or personnel preparation degree programs that prepare leaders to work in administrative or leadership positions in systems where children receive early intervention or special education services, including the effectiveness of the program(s) at (a) increasing the knowledge, skills, and competencies of program completers; and (b) retaining program completers to work in administrative or leadership positions in systems where children receive early intervention or special education services; and

(ii) Present information on the current capacity of the State, regional, or local systems to recruit, increase the capacity of, and retain leaders, including programs IHEs offer to credential or otherwise prepare early intervention and special education administrators, and the likely magnitude or importance of developing a network of leaders with the capacity to improve systems serving children with disabilities.

(b) Demonstrate, in the narrative section of the application under ''Quality of project services,'' how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability;

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) In Appendix A, the logic model [4] by which the proposed project will achieve its intended outcomes that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project;

(3) Use a conceptual framework (and provide a copy in Appendix A) to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: The following websites provide more information on logic models and conceptual frameworks: *www.osepideasthatwork.org/logicModel* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(4) Develop, improve, or expand a leadership development program or programs to recruit, increase the capacity of, and retain a network of leaders at the State, regional, or local level with the knowledge, skills, and competencies to improve systems serving children with disabilities and their families. To establish the quality of the proposed leadership development program, the applicant must include—

(i) Its proposed plan for partnering with diverse stakeholders to develop, improve, or expand a leadership development program to recruit, increase the capacity of, and retain a network of leaders at the State, regional, or local level to improve systems serving children with disabilities and their families. The stakeholders must include, at a minimum, representatives specifically identified from IHEs. Stakeholders must be involved as decision makers in how the leadership development program is developed, improved, or expanded, and serve as partners in delivering and evaluating the program;

(ii) The intended participants of the leadership development program;

(iii) Its proposed approach for developing or improving the content and delivery of the leadership development program. To meet this requirement the applicant must describe—

(A) The knowledge, skills, and competencies that participants will gain by completing the leadership development program. At a minimum, the applicant must ensure that participants demonstrate knowledge, skills, and competencies in the following areas:

(*1*) Federal laws, State laws, and State policies, procedures, and initiatives that impact children with disabilities and their families;

www.parentcenterhub.org/the-parent-center-network/.

[4] ''Logic model'' (as defined in 34 CFR 77.1) (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

(*2*) Educational options for children with disabilities and how to support State's efforts to empower parents to choose from a robust range of educational options and supports to identify those that best meet their children's needs;

(*3*) Evidence-based [5] practices to improve academic, learning, and developmental outcomes for children with disabilities, including differentiating interventions and instruction across multi-tiered systems of support;

(*4*) Partnering with parents, families, and diverse stakeholders to improve systems;

(*5*) Systems change, implementation science, and professional development methods to promote the implementation of evidence-based practices and use of data-based decision making; and

(*6*) Leadership practices (*e.g.,* organizational visioning, collaborative decision making, communication and conflict management, relationship building);

(B) The current research and evidence-based practices that will guide the development of the content and delivery of the leadership development program, including but not limited to evidence-based professional development practices for adult learners and resources developed by projects funded by the Departments of Education and Health and Human Services;

(C) How the proposed leadership development program is of sufficient quality, intensity, and duration to prepare a network of leaders with the identified knowledge, skills, and competencies needed to improve systems serving children with disabilities and their families. To meet this requirement, the applicant must describe—

(*1*) The components of the leadership development program, which must include, but are not limited to, face-to-face activities, applied projects, peer interactions and collaboration opportunities, mentoring support, and ongoing coaching, and how these components are sequenced;

(*2*) How participants in the leadership development program will be provided with mentoring, ongoing coaching and performance feedback during the program, and ongoing coaching, networking opportunities, and support following completion of the program, including opportunities to interact with peers who completed the program; and

(*3*) How the proposed leadership development program is aligned to State standards for administrators or meets appropriate national professional organization standards for administrators or leaders;

(5) Implement and sustain the leadership development program to recruit, increase the capacity of, and retain a network of leaders at the State, regional, or local level with the knowledge, skills, and competencies to improve systems serving children with disabilities and their families. To meet this requirement, the applicant must describe its proposed approach to—

(i) Ensuring the infrastructure and implementation supports necessary to effectively build, deliver, and sustain the proposed leadership development program and to retain individuals who complete the leadership development program as a network of leaders at the State, regional, or local level able to improve systems serving children with disabilities and their families. The application must include the proposed approach to partnering with relevant child-serving agencies and diverse stakeholders to deliver and sustain the leadership development program, to retain a network of leaders, and to develop agreements with relevant child-serving agencies and diverse stakeholders that outline responsibilities, sharing of resources, and decision-making and communication processes. The application must include, at a minimum, representatives specifically identified from IHEs as part of its ongoing project leadership or stakeholder group that will build, manage, deliver, evaluate, and sustain the infrastructure and implementation of the proposed program;

(ii) Its proposed approach to recruit participants for the leadership development program; ensure equal access and treatment for eligible participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability; and retain the participants once in the program. To meet this requirement, the applicant must describe—

(A) Recruitment strategies that will be used to attract participants and specific recruitment strategies that will be used to reach potential participants from traditionally underrepresented groups, including individuals with disabilities; and

(B) Criteria that will be used to select candidates for participation in the leadership development programs offered, the number of cohorts that will complete the leadership development program, and the number of participants that the applicant proposes will complete program requirements within each cohort during the project period; and

(iii) Strategies for supporting and retaining participants to complete the leadership development program and use the knowledge, skills, and competencies learned following their completion of the program to identify, implement, and evaluate evidence-based practices to improve systems serving children with disabilities;(iv) Strategies to fund, manage, and sustain the leadership development program, and retain a network of leaders at the State, regional, or local level once Federal support ends; and

(6) Use technology, as appropriate, to support participants in achieving the outcomes of the proposed project, enhance the efficiency of the project, collaborate with partners, provide the leadership development, mentoring, ongoing coaching, and performance feedback to participants, and support collaboration among the participants once they complete the program.

(c) Demonstrate, in the narrative section of the application under ''Quality of the project evaluation,'' how—

(1) The applicant will use comprehensive and appropriate methodologies to evaluate how well the goals or objectives of the proposed project have been met, including the project processes and intended outcomes. The applicant must describe performance measures for the project that include participants' acquisition of knowledge, skills, and competencies and for the retention of program completers in administrative and leadership positions;

(2) The applicant will collect, analyze, and use data related to specific and measurable goals, objectives, and intended outcomes of the project. To meet this requirement, the applicant must describe how—

(i) Participants' knowledge, skills, and competencies and other project processes and outcomes will be measured for formative evaluation purposes, including proposed instruments, data collection methods, and possible analyses; and

(ii) It will collect and analyze data on the quality of the leadership development programs offered; the infrastructure and implementation supports in place to deliver the

[5] For the purposes of this priority, ''evidence-based'' means the proposed project component is supported, at a minimum, by evidence that ''demonstrates a rationale.'' Evidence that ''demonstrates a rationale'' (as defined in 34 CFR 77.1) means a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

program; the capacity of the State to retain a network of leaders at the State, regional, or local level; and the fidelity and impact of its implementation;

(3) The methods of evaluation will produce quantitative and qualitative data for objective performance measures that are related to the intended outcomes of the proposed project; and

(4) The methods of evaluation will provide performance feedback and allow for periodic assessment of progress towards meeting the project outcomes. To meet this requirement, the applicant must describe how—

(i) Results of the evaluation will be used as a basis for improving the proposed project;

(ii) It will report the evaluation results to OSEP in its annual and final performance reports; and

(iii) Performance information (*e.g.,* annual progress toward program goals) will be made publicly available on the project or State's website.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of resources and quality of project personnel,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the management plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To meet this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the project's products and services are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families, educators, faculty, technical assistance and professional development providers, researchers, and policymakers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Demonstrate, in the budget information (ED Form 524, Section B) and budget narrative, matching support for the proposed project at 10 percent of the total amount of the grant;

Note: Matching support can be either cash or in-kind donations. Under 2 CFR 200.306, a cash expenditure or outlay of cash with respect to the matching budget by the grantee is considered a cash contribution. However, certain cash contributions that the organization normally considers an indirect cost should not be counted as a direct cost for the purposes of meeting matching support. Specifically, in accordance with 2 CFR 200.306(c), unrecovered indirect costs cannot be used to meet the non-Federal matching support. Under 2 CFR 200.434, third-party in-kind contributions are services or property (*e.g.,* land, buildings, equipment, materials, supplies) that are contributed by a non-Federal third party at no charge to the grantee.

(2) Include, in Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(3) If the project maintains a website, include relevant information about the revised program and documents in a form that meets government or industry recognized standards of accessibility;

(4) Ensure that annual progress toward meeting project goals is posted on the project website;

(5) Provide an assurance that the project director, key personnel, and representatives from partner agencies will actively participate in the cross-project collaboration and learning opportunities (*e.g.,* webinars, briefings) organized by OSEP. This cross-project collaboration will be used to increase capacity of participants, share resources, increase the impact of funding, and promote innovative leadership development models across projects; and

(6) Include, in the budget, attendance at a two- and one-half day project directors' conference in Washington, DC, during each year of the project period.

Competitive Preference Priority: Within this absolute priority, we give competitive preference to applications that address the following competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we award up to an additional 5 points to an application, depending on how well the application meets the competitive preference priority.

This priority is:

Matching Support (Up to 5 points).

An application that demonstrates matching support for the proposed project at—

(a) 20 percent of the requested Federal award (1 point);

(b) 40 percent of the total amount of the requested Federal award (2 points);

(c) 60 percent of the total amount of the requested Federal award (3 points);

(d) 80 percent of the total amount of the requested Federal award (4 points); or

(e) 100 percent of the total amount of the requested Federal award (5 points).

Applicants must address this competitive preference priority in the budget information (ED Form 524, Section B) and budget narrative.

References

Bellamy, T., & Iwaszuk, W. (2017, October). *Responding to the need for new local special education administrators: A case study*. CEEDAR Center. *http://ceedar.education.ufl.edu/wp-content/uploads/2017/12/Responding-to-the-Need-for-Local-SPED-Admin-Oct-2017.pdf.*

Boscardin, M.L., Weir, K., & Kusek, C. (2010). A national study of State credentialing requirements for administrators of special education. *Journal of Special Education Leadership, 23*(2), 61–75.

Goldring, R., & Taie, S. (2018). Principal attrition and mobility: Results from the 2016–17 principal follow-up survey first look (NCES 2018–066). U.S. Department of Education, National Center for Education Statistics. *https://nces.ed.gov/pubsearch.*

National Center for Systemic Improvement (NCSI). (2018a). *Leadership turnover: The impact on State special education systems. https://ncsi-library.wested.org/resources/250.*

National Center for Systemic Improvement (NCSI). (2018b). *Leadership turnover: The impact on State early intervention systems. https://ncsi-library.wested.org/resources/200.*

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1462 and 1481.

Applicable Regulations: (a) The Education Department General

Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 304.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $1,600,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2021 from the list of unfunded applications from this competition.

Estimated Range of Awards: $175,000 to $200,000.

Estimated Average Size of Awards: $200,000.

Maximum Award: We will not make an award exceeding $200,000 for a project period of 12 months.

Note: Applicants must describe, in their applications, the amount of funding being requested for each 12-month budget period.

Estimated Number of Awards: 8.

Project Period: Up to 60 months.

Note: The Department is not bound by any estimates in this notice.

III. Eligibility Information

1. *Eligible Applicants:* SEAs or Part C lead agencies.

2. *Cost Sharing or Matching:* Cost sharing or matching is required for this competition.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application. Under 34 CFR 75.708(e), a grantee may contract for supplies, equipment, and other services in accordance with 2 CFR part 200.

4. *Other General Requirements:* (a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA; 20 U.S.C. 1405).

(b) Applicants for, and recipients of, funding must, with respect to the aspects of their proposed project relating to the absolute priority, involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA; 20 U.S.C. 1482).

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 50 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are as follows:

(a) *Significance (10 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses; and

(ii) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement.

(b) *Quality of project services (35 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable;

(ii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice;

(iii) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services;

(iv) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services; and

(v) The extent to which the proposed activities constitute a coherent, sustained program of training in the field.

(c) *Quality of the project evaluation (20 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project;

(ii) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable;

(iii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible; and

(iv) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(d) *Adequacy of resources and quality of project personnel (15 points).*

(1) The Secretary considers the adequacy of resources and quality of project personnel for the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of key project personnel;

(ii) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization; and

(iii) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(e) *Quality of the management plan (20 points).*

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks;

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project;

(iii) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project; and

(iv) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify

administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* Under the Government Performance Results Modernization Act of 2010, the Department has established a set of performance measures, including long-term measures, that are designed to yield information on the quality of the Personnel Development to Improve Services and Results for Children with Disabilities program. These measures include: (1) The percentage of preparation programs that incorporate scientifically or evidence-based practices into their curricula; (2) the percentage of scholars completing preparation programs who are knowledgeable and skilled in evidence-based practices that improve outcomes for children with disabilities; (3) the percentage of scholars who exit preparation programs prior to completion due to poor academic performance; (4) the percentage of scholars completing preparation programs who are working in the area(s) in which they were prepared upon program completion; and (5) the Federal cost per scholar who completed the preparation program.

In addition, the Department will gather information on the following outcome measures: (1) The percentage of scholars who completed the preparation program and are employed in high-need districts; (2) the percentage of scholars who completed the preparation program and are employed in the field of special education for at least two years; and (3) the percentage of scholars who completed the preparation program and who are rated effective by their employers.

Grantees may be asked to participate in assessing and providing information on these aspects of program quality.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* Braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Mark Schultz,

Delegated the authority to perform the functions and duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2020–02857 Filed 2–12–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Opportunity Scholarship Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2020 for the District of Columbia Opportunity Scholarship Program (OSP), Catalog of Federal Domestic Assistance (CFDA) number 84.370A. This notice relates to the approved information collection under OMB control number 1855–0015.

Applications Available: February 13, 2020.

Deadline for Transmittal of Applications: March 30, 2020.

Deadline for Intergovernmental Review: May 28, 2020.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common

Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Beth Yeh, U.S. Department of Education, 400 Maryland Avenue SW, Room 3E335, Washington, DC 20202–5960. Telephone: (202) 205–5798. Email: *beth.yeh@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the OSP is to provide low-income parents residing in the District of Columbia, particularly parents of students who attend an elementary school or secondary school identified as one of the lowest-performing schools under the District of Columbia's accountability system, with expanded opportunities for enrolling their children in private schools in the District of Columbia.

Background: The OSP was established in 2004 under the DC School Choice Incentive Act of 2003 (School Choice Incentive Act) (Title III of Division C of the Consolidated Appropriations Act, 2004; Pub. L. 108–199; 118 Stat. 126–188 Stat. 134 (2004)). In 2011, Congress authorized the OSP under the Scholarships for Opportunity and Results (SOAR) Act of 2011, Pub. L. 112–10, 125 Stat. 199–125 Stat. 212 (2011). In 2017, Congress reauthorized the OSP under the SOAR Act (Division C of Pub. L. 112–10, as amended by Pub. L. 115–31; DC Code 38–1853.01–.14).

For FY 2020, the Department will award one grant to an eligible entity to administer the OSP. The grant will be awarded in the form of a cooperative agreement between the Department and the grantee. An applicant is expected to explain in its application, among other things, how it would do the following: (1) Recruit and select eligible scholarship applicants in years that scholarships are awarded; (2) serve scholarship students and families in a timely manner; (3) identify and work with participating schools; (4) monitor compliance of participating schools with program and reporting requirements; (5) maintain reliable data regarding the operation of the program; and (6) ensure appropriate coordination with the other entities that conduct activities related to this program.

The Consolidated Appropriations Act, 2020, provides that up to $1,200,000 of the grant may be used for the combination of administrative expenses, parental assistance, and student academic assistance, notwithstanding the allowances specified in the SOAR Act. Conducting outreach to parents to raise awareness of the educational options available to their children is an important priority of this program and is consistent with the Secretary's Supplemental Priority 1—Empowering Families and Individuals to Choose a High-Quality Education that Meets Their Unique Needs.

Application Requirements: The following requirements are from section 3005(b) of the SOAR Act and apply to all applications submitted by eligible entities under this competition. Each entity's application must include a detailed description of—

(1) How the entity will address the priorities described in section 3006 of the SOAR Act;

(2) How the entity will ensure that if more eligible students seek admission in the program of the entity than the program can accommodate, eligible students are selected for admission through a random selection process which gives weight to the priorities described in section 3006 of the SOAR Act;

(3) How the entity will ensure that if more participating eligible students seek admission to a participating school than the school can accommodate, participating eligible students are selected for admission through a random selection process;

(4) How the entity will notify parents of eligible students of the expanded choice opportunities in order to allow the parents to make informed decisions;

(5) The activities that the entity will carry out to provide parents of eligible students with expanded choice opportunities through the awarding of scholarships under section 3007(a) of the SOAR Act;

(6) How the entity will determine the amount that will be provided to parents under section 3007(a)(2) of the SOAR Act for the payment of tuition, fees, and transportation expenses, if any;

(7) How the entity will seek out private elementary schools and secondary schools in District of Columbia to participate in the program;

(8) How the entity will ensure that each participating school will meet the reporting and other program requirements under the SOAR Act;

(9) How the entity will ensure that participating schools submit to site visits by the entity as determined to be necessary by the entity;

(10) How the entity will ensure that participating schools are financially responsible and will use the funds received under section 3007 of the SOAR Act effectively;

(11) How the entity will ensure the financial viability of participating schools in which 85 percent or more of the total number of students enrolled at the school are participating eligible students that receive and use an opportunity scholarship;

(12) How the entity will address the renewal of scholarships to participating eligible students, including continued eligibility;

(13) How the entity will ensure that a majority of its voting board members or governing organization are residents of District of Columbia;

(14) How that the entity will ensure that it will comply with all requests regarding any evaluation carried out under section 3009(a) of the SOAR Act; and

(15) How the eligible entity will ensure that it utilizes internal fiscal and quality controls and complies with applicable financial reporting requirements.

In addition to the statutory application requirements, we encourage applicants to include a description of (1) how they will provide information to parents on the Individuals with Disabilities Education Act (20 U.S.C. 1400 *et seq.*) provisions that do or do not apply when a student with a disability is moved from a public school to a private school by their parents and (2) if applicable, how they intend to spend funds reserved for administrative expenses, parental assistance and student academic assistance.

Definitions: The definitions for ''Elementary school,'' ''Parent,'' and ''Secondary school'' are from section 3013 of the SOAR Act. The definition for ''nonprofit'' is from 34 CFR 77.1(c).

Elementary school means an institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under District of Columbia law.

Nonprofit, as applied to an agency, organization, or institution, means that it is owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity.

Parent includes a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person

who is legally responsible for the child's welfare).

Secondary school means an institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under District of Columbia law, except that the term does not include any education beyond grade 12.

Program Authority: SOAR Act (Division C of Pub. L. 112–10, as amended by Pub. L. 115–31; DC Code 38–1853.01–.14).

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: $17,000,000.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* To be eligible for an OSP grant, an entity must be either a nonprofit organization or a consortium of nonprofit organizations.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the OSP competition, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define ''business information'' and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

4. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 50 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1'' margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210. The maximum score for all the selection criteria is 100 points. The maximum score for each criterion is indicated in parentheses. Each criterion also includes the factors that reviewers will consider in determining the extent to which an applicant meets the criterion. In addressing each criterion, applicants are encouraged to make explicit connections to relevant aspects of responses to other selection criteria.

(a) *Quality of project services (20 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services.

(b) *Quality of project personnel (25 points).*

(1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator.

(ii) The qualifications, including relevant training and experience, of key project personnel.

(c) *Adequacy of resources (20 points).*

(1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

(ii) The extent to which the budget is adequate to support the proposed project.

(d) *Quality of the management plan (35 points).*

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

(iii) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive cooperative agreement award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* The long-term performance indicator for this program is whether, at the end of the program, the student achievement gains of participating eligible students are greater than those of students in control or comparison groups. Data for the performance measure will be collected through the program evaluation.

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search

feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Frank T. Brogan,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2020–02877 Filed 2–12–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–49–000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Application

Take notice that on January 31, 2020, Transcontinental Gas Pipe Line Company, LLC (Transco), P.O. Box 1396, Houston, Texas 77251–1396, filed in the above referenced docket an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157(A) of the Commission's regulations for authorization to amend its certificate granted in Docket No. CP17–101–000 for its Northeast Supply Enhancement Project. Transco seeks authorization to utilize and extend an existing road to access Compressor Station 206 in Somerset County, New Jersey in lieu of constructing the new, certificated access road. Transco asserts that the proposal will enable it to comply with requirements from the New Jersey Department of Environmental Protection and will reduce wetland impacts, all as more fully described in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Andre Pereira, Regulatory Analyst, Senior, Transcontinental Gas Pipe Line Company, LLC, P.O. Box 1396, Houston, Texas 77251–1396 by telephone at (713) 215–4362.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within Ninety (90) days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within Ninety (90) days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 3 copies of filings made in the proceeding with the Commission and must provide a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list and will be notified of any meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

As of the February 27, 2018 date of the Commission's order in Docket No. CP16–4–001, the Commission will apply its revised practice concerning out-of-time motions to intervene in any new NGA section 3 or section 7 proceeding.[1] Persons desiring to become a party to a certificate proceeding are to intervene in a timely manner. If seeking to intervene out-of-time, the movant is required to ''show good cause why the time limitation should be waived,'' and should provide justification by reference to factors set forth in Rule 214(d)(1) of the Commission's Rules and Regulations.[2]

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 3 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE, Washington, DC 20426.

Comment Date: February 26, 2020.

Dated: February 5, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–02899 Filed 2–12–20; 8:45 am]

BILLING CODE 6717–01–P

[1] *Tennessee Gas Pipeline Company, L.L.C.,* 162 FERC ¶ 61,167 at ¶ 50 (2018).

[2] 18 CFR 385.214(d)(1).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–21–000]

Port Arthur Pipeline, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed Louisiana Connector Amendment Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Session

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Louisiana Connector Amendment Project (Project) involving construction and operation of facilities by Port Arthur Pipeline, LLC (PAPL) in Beauregard Parish, Louisiana. The Commission will use this EA in its decision-making process to determine whether the Project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies about issues regarding the Project. The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires the Commission to discover concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of issues to address in the EA. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on March 6, 2020.

You can make a difference by submitting your specific comments or concerns about the Project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Commission staff will consider all filed comments during the preparation of the EA.

If you sent comments on this Project to the Commission before the opening of this docket on December 9, 2019, you will need to file those comments in Docket No. CP20–21–000 to ensure they are considered as part of this proceeding. If you have already filed comments in Docket No. CP20–21–000, you do not need to file those comments again.

This notice is being sent to the Commission's current environmental mailing list for this Project. State and local government representatives should notify their constituents of this proposed Project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the Project, that approval conveys with it the right of eminent domain. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law.

PAPL provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC website (*www.ferc.gov*) at *https://www.ferc.gov/resources/guides/gas/gas.pdf.*

Public Participation

The Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. To sign up go to *www.ferc.gov/docs-filing/esubscription.asp.*

For your convenience, there are four methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing'';

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the Project docket number (CP20–21–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426;

(4) Newly affected landowners wishing to obtain legal status by becoming a party to the proceeding for this project should, on or before the comment date (March 6, 2020), file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 3 copies of filings made with the Commission and must provide a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding; or

(5) In lieu of sending written comments, the Commission invites you to attend the public scoping session its staff will conduct in the Project area, scheduled as follows:

Date and time	Location
Wednesday, March 4, 2020, 4:00 p.m. to 7:00 p.m. Central Time	South Beauregard Recreation District Community Center, 6719 Highway 12, Ragley, LA 70657, 337–725–3717.

Please note that staff may conclude the session at 6:30 pm if all attendees planning to provide comments have done so.

The primary goal of the scoping session is to have you identify the specific environmental issues and concerns that should be considered in the EA. Individual verbal comments will be taken on a one-on-one basis with a court reporter. This format is designed to receive the maximum amount of verbal comments, in a convenient way during the timeframe allotted.

The scoping session is scheduled from 4:00 p.m. to 7:00 p.m. Central Time. You may arrive any time at or after 4:00 p.m. There will not be a formal presentation by Commission staff when the session opens. If you wish to speak, the Commission staff will hand out numbers in the order of your arrival. Comments will be taken until 7:00 p.m. However, if no additional numbers have been handed out and all individuals who wish to provide comments have had an opportunity to do so, staff may conclude the session at 6:30 p.m. Please see appendix 1 for additional information on the session format and conduct.[1]

Your scoping comments will be recorded by a court reporter (with FERC staff or representative present) and become part of the public record for this proceeding. Transcripts will be publicly available on FERC's eLibrary system (see the last page of this notice for instructions on using eLibrary). If a significant number of people are interested in providing verbal comments in the one-on-one settings, a time limit of 3 minutes may be implemented for each commentor.

It is important to note that the Commission provides equal consideration to all comments received, whether filed in written form or provided verbally at a scoping session. Although there will not be a formal presentation, Commission staff will be available throughout the scoping session to answer your questions about the environmental review process. Representatives from PAPL will also be present to answer Project-specific questions.

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE, Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

Summary of the Proposed Project

PAPL proposes to amend its April 18, 2019 Order Issuing Certificate for the Louisiana Connector Project (CP18–7–000) by constructing and operating a compressor station in Beauregard Parish, Louisiana (the Beauregard Parish Compressor Station or BPCS) in lieu of the compressor station previously certificated in Allen Parish, Louisiana. The compressor station proposed for this Project would be constructed as part of the Louisiana Connector Project.

In its December 9, 2019 Amendment Application, PAPL proposed to locate the BPCS within the previously certificated Beauregard Parish Contractor Yard (LYBEA–01) and workspace associated with pipeline construction at milepost (MP) 72.3. However, on January 31, 2020, PAPL filed to relocate the new BPCS site approximately 0.75 mile south of Gaytine Road, to a location adjacent to and west-southwest of Cameron Interstate Pipeline, LLC's existing Ragley Compressor Station.[2] The proposed site would be approximately 2,750 feet directly south of the initially proposed BPCS location described in PAPL's December 9, 2019 Amendment Application. The new location for the BPCS would be south of and adjacent to the main pipeline corridor and would use the same mainline connection and interconnect location points near MP 72.3 as previously proposed.

As part of the Project, PAPL would:

- Relocate the previously authorized compressor station consisting of four Solar Titan 130E gas turbine driven compressors in Allen Parish from MP 96.1, to MP 72.3 in Beauregard Parish, increasing horsepower from 89,900 to 93,880;
- relocate an interconnect with the Texas Eastern Transmission Company from MP 96.1 to MP 72.3;
- relocate pig launcher/receiver facilities from MP 96.1 to MP 72.3;
- construct three new pipeline interconnections with Cameron Intrastate Pipeline, Transcontinental Gas Pipeline, and Louisiana Storage at MP 72.3;
- construct one new mainline block valve at MP 72.3, resulting in a total of 10 mainline valves on the Louisiana Connector Project; and
- use the former Allen Parish compressor station site at MP 96.1 as a contractor yard.

The Project facilities would result in a slight increase in the overall capacity of feed gas to the approved Port Arthur Liquefaction facility from approximately 1.98 to 2.05 billion cubic feet per day. The Project would allow gas from additional sources to supply the liquefaction facility.

The general location of the Project facilities is shown in appendix 2.

Land Requirements for Construction

The Project facilities would disturb approximately 59.9 acres, all of which would be permanently maintained as aboveground facilities or right-of-way.

The EA Process

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed Project under these general headings:

- Geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- socioeconomics;
- cultural resources;
- land use;
- air quality and noise;
- alternatives;
- public safety; and
- cumulative impacts

Commission staff will also evaluate reasonable alternatives to the proposed Project or portions of the Project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present Commission staffs' independent analysis of the issues. The EA will be available in electronic format in the public record through eLibrary[3] and the Commission's website (*https://www.ferc.gov/industries/gas/enviro/eis.asp*). If eSubscribed, you will receive instant email notification when the EA is issued. The EA may be issued for an allotted public comment period.

[2] Newly affected landowners have an opportunity to file for timely intervention during this scoping period, which ends on March 6, 2020.

[3] For instructions on connecting to eLibrary, refer to the last page of this notice.

Commission staff will consider all comments on the EA before making recommendations to the Commission. To ensure Commission staff have the opportunity to address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this Project to formally cooperate in the preparation of the EA.[4] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the Louisiana State Historic Preservation Office, and to solicit its views and those of other government agencies, interested Indian tribes, and the public on the Project's potential effects on historic properties.[5] The EA for this Project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

Currently Identified Environmental Issues

Commission staff have already identified several issues that deserve attention based on a preliminary review of the proposed facilities; the environmental information provided by PAPL; and comments already received, as listed below. This preliminary list of issues may change based on your comments and our analysis.

- Alternative compressor station locations
- Traffic on Gaytine Road
- Impact on property values
- Proposed developments near the compressor station
- Cumulative impacts

[4] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[5] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the Project. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed Project.

If the Commission issues the EA for an allotted public comment period, a *Notice of Availability* of the EA will be sent to the environmental mailing list and will provide instructions to access the electronic document on the FERC's website (*www.ferc.gov*). If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please return the attached ''Mailing List Update Form'' (appendix 3).

Additional Information

Additional information about the Project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number in the ''Docket Number'' field, excluding the last three digits (*i.e.,* CP20–21). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: February 5, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–02898 Filed 2–12–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–1525–001.
Applicants: AEP Texas Inc.
Description: Compliance filing: Compliance: AEPTX-Taylor EC-Golden Spread EC Interconnection Agr 3rd Amended to be effective 3/13/2019.
Filed Date: 2/6/20.
Accession Number: 20200206–5149.
Comments Due: 5 p.m. ET 2/27/20.

Docket Numbers: ER19–1959–001.
Applicants: Avista Corporation.
Description: Compliance filing: Avista Corp OATT Order 845/845A Compliance Filing to be effective 2/10/2020.
Filed Date: 2/7/20.
Accession Number: 20200207–5000.
Comments Due: 5 p.m. ET 2/28/20.

Docket Numbers: ER20–370–000.
Applicants: City Power & Gas, LLC.
Description: Report Filing: Refund Report (ER20–370-) to be effective N/A.
Filed Date: 2/6/20.
Accession Number: 20200206–5148.
Comments Due: 5 p.m. ET 2/27/20.

Docket Numbers: ER20–378–001.
Applicants: Pacific Gas and Electric Company.
Description: Tariff Amendment: Response to Deficiency Letter for CCSF 11–14–19 Unexecuted Agreements to be effective 1/13/2020.
Filed Date: 2/7/20.
Accession Number: 20200207–5071.
Comments Due: 5 p.m. ET 2/28/20.

Docket Numbers: ER20–608–001.
Applicants: Bear Valley Electric Service, Inc.
Description: Tariff Amendment: Amendment to MBR Application and Request for Waivers and Blanket Authorizations to be effective 1/1/2020.
Filed Date: 2/7/20.
Accession Number: 20200207–5065.
Comments Due: 5 p.m. ET 2/28/20.

Docket Numbers: ER20–611–001.
Applicants: Algonquin SKIC 20 Solar, LLC.
Description: Tariff Amendment: Shared Facilities Agreement—Amended to be effective 12/18/2019.
Filed Date: 2/7/20.
Accession Number: 20200207–5004.
Comments Due: 5 p.m. ET 2/28/20.

Docket Numbers: ER20–625–001.
Applicants: Algonquin SKIC 10 Solar, LLC.
Description: Tariff Amendment: Certificate of Concurrence—Amended to be effective 12/18/2019.

Filed Date: 2/7/20.

Accession Number: 20200207–5003.

Comments Due: 5 p.m. ET 2/28/20.

Docket Numbers: ER20–663–001.

Applicants: New York Independent System Operator, Inc.

Description: Tariff Amendment: Supplement to the 12/20/19 Competitive Entry Exemption 205 filing to be effective 4/8/2020.

Filed Date: 2/7/20.

Accession Number: 20200207–5018.

Comments Due: 5 p.m. ET 2/28/20.

Docket Numbers: ER20–963–000.

Applicants: Black Hills Colorado Electric, LLC.

Description: § 205(d) Rate Filing: Joint Dispatch Agreement Concurrence Filing to be effective 4/5/2020.

Filed Date: 2/6/20.

Accession Number: 20200206–5145.

Comments Due: 5 p.m. ET 2/27/20.

Docket Numbers: ER20–964–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Rev to Sch. 12 of OA to reflect termination of Innovari Market Solution, LLC to be effective 3/4/2020.

Filed Date: 2/7/20.

Accession Number: 20200207–5092.

Comments Due: 5 p.m. ET 2/28/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 7, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–02901 Filed 2–12–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC20–34–000.

Applicants: MATL LLP, BHE U.S. Transmission, LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act, et al. of MATL LLP, et al.

Filed Date: 1/31/20.

Accession Number: 20200131–5347.

Comments Due: 5 p.m. ET 2/21/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1355–008.

Applicants: Southern California Edison Company.

Description: Notification of Change in Status of Southern California Edison Company.

Filed Date: 1/30/20.

Accession Number: 20200130–5251.

Comments Due: 5 p.m. ET 2/20/20.

Docket Numbers: ER10–2042–033; ER10–1942–025; ER17–696–013; ER10–1938–028; ER10–1934–027; ER10–1893–027; ER10–3051–032; ER10–2985–031; ER10–3049–032; ER11–4369–012; ER16–2218–012; ER10–1862–027.

Applicants: Calpine Energy Services, L.P., Calpine Construction Finance Company, LP, Calpine Energy Solutions, LLC, Calpine Power America—CA, LLC, CES Marketing IX, LLC, CES Marketing X, LLC, Champion Energy, LLC, Champion Energy Marketing LLC, Champion Energy Services, LLC, North American Power and Gas, LLC, North American Power Business, LLC, Power Contract Financing, L.L.C.

Description: Notification of Change in Status of the Indicated Calpine MBR Sellers.

Filed Date: 1/31/20.

Accession Number: 20200131–5396.

Comments Due: 5 p.m. ET 2/21/20.

Docket Numbers: ER10–2854–002.

Applicants: ConocoPhillips Company.

Description: Notice of Change in Status of ConocoPhillips Company.

Filed Date: 1/30/20.

Accession Number: 20200130–5252.

Comments Due: 5 p.m. ET 2/20/20.

Docket Numbers: ER10–3097–010.

Applicants: Bruce Power Inc.

Description: Notice of Non-Material Change in Status of Bruce Power Inc.

Filed Date: 1/31/20.

Accession Number: 20200131–5397.

Comments Due: 5 p.m. ET 2/21/20.

Docket Numbers: ER17–2059–006.

Applicants: Puget Sound Energy, Inc.

Description: Notice of Non-Material Change in Status of Puget Sound Energy, Inc.

Filed Date: 1/31/20.

Accession Number: 20200131–5399.

Comments Due: 5 p.m. ET 2/21/20.

Docket Numbers: ER18–849–001; ER18–850–001; ER18–851–001.

Applicants: Mill Run Windpower LLC, Somerset Windpower LLC, Waymart Wind Farm LLC.

Description: Notice of Non-Material Change in Market-Based Rate Status of Mill Run Wind Farm LLC, et al.

Filed Date: 1/30/20.

Accession Number: 20200130–5254.

Comments Due: 5 p.m. ET 2/20/20.

Docket Numbers: ER20–792–001.

Applicants: Oklahoma Wind, LLC.

Description: Tariff Amendment: Oklahoma Wind, LLC Amendment to Application for MBR Rates to be effective 3/15/2020.

Filed Date: 2/3/20.

Accession Number: 20200203–5037.

Comments Due: 5 p.m. ET 2/24/20.

Docket Numbers: ER20–931–000.

Applicants: Duke Energy Progress, LLC.

Description: Application for the Establishment and Recovery of a Regulatory Asset of Duke Energy Progress, LLC.

Filed Date: 1/31/20.

Accession Number: 20200131–5345.

Comments Due: 5 p.m. ET 2/21/20.

Docket Numbers: ER20–932–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: § 205(d) Rate Filing: Filing of Unexecuted NITSA and NOA between Tri-State and ARPA to be effective 2/1/2020.

Filed Date: 2/3/20.

Accession Number: 20200203–5020.

Comments Due: 5 p.m. ET 2/24/20.

Docket Numbers: ER20–933–000.

Applicants: Consolidated Edison Company of New York, Inc.

Description: § 205(d) Rate Filing: Con Edison RY1 1–31–2020 to be effective 2/1/2020.

Filed Date: 2/3/20.

Accession Number: 20200203–5024.

Comments Due: 5 p.m. ET 2/24/20.

Docket Numbers: ER20–934–000.

Applicants: Consolidated Edison Company of New York, Inc.

Description: § 205(d) Rate Filing: WDS Tariff to be effective 2/1/2020.

Filed Date: 2/3/20.

Accession Number: 20200203–5026.

Comments Due: 5 p.m. ET 2/24/20.

Docket Numbers: ER20–935–000.

Applicants: MATL LLP, BHE U.S. Transmission, LLC.
Description: Request for Negotiated Rate Authority of MATL LLP, et al.
Filed Date: 1/31/20.
Accession Number: 20200131–5349.
Comments Due: 5 p.m. ET 2/21/20.

Docket Numbers: ER20–936–000.
Applicants: Entergy Arkansas, LLC.
Description: Application to Reduce Nuclear Decommissioning Costs of Entergy Services, LLC, on behalf of Entergy Arkansas, LLC.
Filed Date: 1/31/20.
Accession Number: 20200131–5376.
Comments Due: 5 p.m. ET 2/21/20.

Docket Numbers: ER20–937–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original WMPA SA No. 5588; Queue No. AE2–114 to be effective 1/8/2020.
Filed Date: 2/3/20.
Accession Number: 20200203–5097.
Comments Due: 5 p.m. ET 2/24/20.

Docket Numbers: ER20–938–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2020–02–03_Revisions to the SPP JOA to Improve Clarity of Affected Systems to be effective 4/4/2020.
Filed Date: 2/3/20.
Accession Number: 20200203–5143.
Comments Due: 5 p.m. ET 2/24/20.

Docket Numbers: ER20–939–000.
Applicants: PJM Interconnection, L.L.C.
Description: Compliance filing: Compliance filing per Commission's 9/19/2019 order in EL18–26—Tariff Revisions to be effective 4/6/2020.
Filed Date: 2/3/20.
Accession Number: 20200203–5154.
Comments Due: 5 p.m. ET 2/24/20.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES20–14–000.
Applicants: Dominion Energy South Carolina, Inc., South Carolina Generating Company, Inc.
Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Dominion Energy South Carolina, Inc., et al.
Filed Date: 1/30/20.
Accession Number: 20200130–5253.
Comments Due: 5 p.m. ET 2/20/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 3, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–02894 Filed 2–12–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–30–000]

Texas Eastern Transmission, LP; Notice of Intent To Prepare an Environmental Assessment for the Proposed Middlesex Extension Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Session

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Middlesex Extension Project involving construction and operation of natural gas facilities by Texas Eastern Transmission, LP (Texas Eastern) in Middlesex County, New Jersey. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies about issues regarding the project. The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires the Commission to discover concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of issues to address in the EA. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on March 9, 2020.

You can make a difference by submitting your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Commission staff will consider all filed comments during the preparation of the EA.

If you sent comments on this project to the Commission before the opening of this docket on December 19, 2019, you will need to file those comments in Docket No. CP20–30–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law.

Texas Eastern provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC website (*www.ferc.gov*) at *https://www.ferc.gov/resources/guides/gas/gas.pdf.*

Public Participation

The Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. To sign up go to *www.ferc.gov/docs-filing/esubscription.asp.*

For your convenience, there are four methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature, which is also on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing'';

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP20–30–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426; or

(4) In lieu of sending written comments, the Commission invites you to attend the public scoping session its staff will conduct in the project area, scheduled as follows:

Date and time	Location
Thursday, February 27, 2020, 6 p.m. to 9 p.m.	Courtyard by Marriott Edison-Woodbridge, 3105 Woodbridge Avenue, Edison, NJ 08837, 732–738–1991.

The primary goal of this scoping session is to have you identify the specific environmental issues and concerns that should be considered in the EA. Individual verbal comments will be taken on a one-on-one basis with a court reporter. This format is designed to receive the maximum amount of verbal comments, in a convenient way during the timeframe allotted.

The scoping session is scheduled from 6:00 p.m. to 9:00 p.m. Eastern Time. You may arrive at any time after 6:00 p.m. There will not be a formal presentation by Commission staff when the session opens. If you wish to speak, the Commission staff will hand out numbers in the order of your arrival. Comments will be taken until 9:00 p.m. However, if no additional numbers have been handed out and all individuals who wish to provide comments have had an opportunity to do so, staff may conclude the session at 8:30 p.m. Please see appendix 2 for additional information on the session format and conduct.

Your scoping comments will be recorded by a court reporter (with FERC staff or representative present) and become part of the public record for this proceeding. Transcripts will be publicly available on FERC's eLibrary system (see pages 6–7 of this notice for instructions on using eLibrary). If a significant number of people are interested in providing verbal comments in the one-on-one settings, a time limit of 5 minutes may be implemented for each commentor.

It is important to note that the Commission provides equal consideration to all comments received, whether filed in written form or provided verbally at a scoping session. Although there will not be a formal presentation, Commission staff will be available throughout the scoping session to answer your questions about the environmental review process.

Summary of the Proposed Project

Texas Eastern's project consists of the construction and operation of 1.55 miles of 20-inch-diameter pipeline, a new metering and regulating station, 0.20 mile of 16-inch-diameter interconnecting piping, and related appurtenances and ancillary facilities to provide natural gas transportation to interconnects with Transcontinental Gas Pipe Line Company, LLC's (Transco) Mainline system and Transco's existing Woodbridge Lateral for ultimate delivery to the 725-Megawatt natural gas-fueled combined-cycle Woodbridge Energy Center owned by CPV Shore Holdings, LLC and located in Woodbridge Township, New Jersey. The Project would be co-located with an existing utility right-of-way and railroad corridor.

The general location of the project facilities filed by Texas Eastern is shown in appendix 1.[1]

[1] The appendices referenced in this notice will not appear in the **Federal Register.** Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE, Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

Land Requirements for Construction

Construction of the project would require about 19.3 acres of land during construction. Permanent (operational) impacts would total about 5.8 acres associated with permanent pipeline easements and installation of the proposed aboveground facilities. Following construction Texas Eastern would grade, restore pre-construction contours, and revegetate all areas temporarily disturbed by construction.

The EA Process

The EA will discuss impacts that could occur as a result of construction and operation of the proposed project under these general headings:

- Geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use;
- air quality and noise;
- public safety; and
- cumulative impacts

Commission staff will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present Commission staffs' independent analysis of the issues. The EA will be available in electronic format in the public record through eLibrary [2] and the Commission's website (*https://*

[2] For instructions on connecting to eLibrary, refer to the last page of this notice.

www.ferc.gov/industries/gas/enviro/eis.asp). If eSubscribed, you will receive instant email notification when the EA is issued. The EA may be issued for an allotted public comment period. Commission staff will consider all comments on the EA before making recommendations to the Commission. To ensure Commission staff have the opportunity to address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate in the preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office, and to solicit their views and those of other government agencies, interested Indian Tribes, and the public on the project's potential effects on historic properties.[4] The EA for this project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If the Commission issues the EA for an allotted public comment period, a *Notice of Availability* of the EA will be sent to the environmental mailing list and will provide instructions to access the electronic document on the FERC's website (*www.ferc.gov*). If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please return the attached ''Mailing List Update Form'' (appendix 3).

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number in the ''Docket Number'' field, excluding the last three digits (*i.e.,* CP20–30). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: February 7, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–02903 Filed 2–12–20; 8:45 am]

BILLING CODE 6717–01–P

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG20–73–000.
Applicants: Northern Colorado Wind Energy Center, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Northern Colorado Wind Energy Center, LLC.
Filed Date: 2/3/20.
Accession Number: 20200203–5252.
Comments Due: 5 p.m. ET 2/24/20.

Docket Numbers: EG20–74–000.
Applicants: Blythe Solar III, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Blythe Solar III, LLC.
Filed Date: 2/3/20.
Accession Number: 20200203–5253.
Comments Due: 5 p.m. ET 2/24/20.

Docket Numbers: EG20–75–000.
Applicants: Blythe Solar IV, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Blythe Solar IV, LLC.
Filed Date: 2/3/20.
Accession Number: 20200203–5254.
Comments Due: 5 p.m. ET 2/24/20.

Docket Numbers: EG20–76–000.
Applicants: ENGIE Long Draw Solar LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of ENGIE Long Draw Solar LLC.
Filed Date: 2/4/20.
Accession Number: 20200204–5147.
Comments Due: 5 p.m. ET 2/25/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–1858–008.
Applicants: NorthWestern Corporation.
Description: Supplement to Triennial Market Power Analysis for the Northwest Region of NorthWestern Corporation.
Filed Date: 2/3/20.
Accession Number: 20200203–5013.
Comments Due: 5 p.m. ET 2/24/20.

Docket Numbers: ER15–704–015.
Applicants: Pacific Gas and Electric Company.
Description: Compliance filing: Corrections to Compliance filing CCSF WDT SA and IA (SA 275) to be effective 7/1/2015.
Filed Date: 2/4/20.
Accession Number: 20200204–5094.
Comments Due: 5 p.m. ET 2/25/20.

Docket Numbers: ER15–704–016.
Applicants: Pacific Gas and Electric Company.
Description: Compliance filing: Corrections to Compliance filing CCSF WDT SA and IA (SA 275) to be effective 7/23/2015.
Filed Date: 2/4/20.
Accession Number: 20200204–5096.
Comments Due: 5 p.m. ET 2/25/20.

Docket Numbers: ER19–1730–002.

Applicants: Wind Park Bear Creek, L.L.C.
Description: Compliance filing: Compliance Filing for Docket ER19–1730 to be effective 6/29/2019.
Filed Date: 2/5/20.
Accession Number: 20200205–5095.
Comments Due: 5 p.m. ET 2/26/20.

Docket Numbers: ER19–1886–002.
Applicants: Stony Creek Wind Farm, LLC.
Description: Compliance filing: Compliance Filing for Docket ER19–1886 to be effective 7/17/2019.
Filed Date: 2/5/20.
Accession Number: 20200205–5084.
Comments Due: 5 p.m. ET 2/26/20.

Docket Numbers: ER20–457–001.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Response to Commission's Deficiency Letter dated January 16, 2020 to be effective 1/10/2020.
Filed Date: 2/5/20.
Accession Number: 20200205–5096.
Comments Due: 5 p.m. ET 2/26/20.

Docket Numbers: ER20–647–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Tariff Amendment: 2020–02–05_Amendment to MISO PJM JOA Constraint Relaxation Filing to be effective 2/18/2020.
Filed Date: 2/5/20.
Accession Number: 20200205–5114.
Comments Due: 5 p.m. ET 2/26/20.

Docket Numbers: ER20–648–001.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Amendment to Dec 19, 2019 Filing of Rev to MISO–PJM JOA re Constraint Relaxation to be effective 2/18/2020.
Filed Date: 2/5/20.
Accession Number: 20200205–5099.
Comments Due: 5 p.m. ET 2/26/20.

Docket Numbers: ER20–780–001.
Applicants: Sooner Wind, LLC.
Description: Tariff Amendment: Sooner Wind, LLC Amendment to the Application for Market-Based Rates to be effective 3/14/2020.
Filed Date: 2/4/20.
Accession Number: 20200204–5115.
Comments Due: 5 p.m. ET 2/25/20.

Docket Numbers: ER20–955–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Rev to Tariff and OA re Parameter Limited Schedules to be effective 4/6/2020.
Filed Date: 2/4/20.
Accession Number: 20200204–5104.
Comments Due: 5 p.m. ET 2/25/20.

Docket Numbers: ER20–956–000.
Applicants: Thunderhead Wind Energy LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 4/6/2020.
Filed Date: 2/5/20.
Accession Number: 20200205–5074.
Comments Due: 5 p.m. ET 2/26/20.

Docket Numbers: ER20–956–001.
Applicants: Thunderhead Wind Energy LLC.
Description: Tariff Amendment: Supplement to Application for Market-Based Rate Authorization to be effective 4/6/2020.
Filed Date: 2/5/20.
Accession Number: 20200205–5079.
Comments Due: 5 p.m. ET 2/26/20.

Docket Numbers: ER20–957–000.
Applicants: NorthWestern Corporation.
Description: Tariff Cancellation: Cancellation of Multiple Service Agreements for Network Integration Transmission to be effective 3/1/2020.
Filed Date: 2/5/20.
Accession Number: 20200205–5098.
Comments Due: 5 p.m. ET 2/26/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern Time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 5, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–02905 Filed 2–12–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Number: PR20–26–000.
Applicants: Columbia Gas of Maryland, Inc.
Description: Tariff filing per 284.123(b),(e)/: CMD SOC Rates effective 12–18–2019 to be effective 12/18/2019.
Filed Date: 1/28/2020.
Accession Number: 202001285022.
Comments/Protests Due: 5 p.m. ET 2/18/2020.

Docket Numbers: RP20–452–000.
Applicants: Big Sandy Pipeline, LLC.
Description: Compliance filing Big Sandy Fuel Filing effective 3/1/2020.
Filed Date: 1/27/20.
Accession Number: 20200127–5133.
Comments Due: 5 p.m. ET 2/10/20.

Docket Numbers: RP20–453–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: Compliance filing 012820 System MAP URL Update, Compliance Filing to be effective 1/29/2020.
Filed Date: 1/28/20.
Accession Number: 20200128–5020.
Comments Due: 5 p.m. ET 2/10/20.

Docket Numbers: RP11–1711–000.
Applicants: Texas Gas Transmission, LLC.
Description: Report Filing: 2019 Cash Out Filing.
Filed Date: 1/29/20.
Accession Number: 20200129–5003.
Comments Due: 5 p.m. ET 2/10/20.

Docket Numbers: RP19–1426–003.
Applicants: National Fuel Gas Supply Corporation.
Description: Compliance filing Motion to Place Revised Suspended Tariff Records into Effect to be effective 2/1/2020.
Filed Date: 1/29/20.
Accession Number: 20200129–5060.
Comments Due: 5 p.m. ET 2/10/20.

Docket Numbers: RP20–454–000.
Applicants: Southern Star Central Gas Pipeline, Inc.
Description: § 4(d) Rate Filing: Vol. 2-Negotiated Rate Agreement—Scout Energy Group III to be effective 2/1/2020.
Filed Date: 1/29/20.
Accession Number: 20200129–5014.
Comments Due: 5 p.m. ET 2/10/20.

Docket Numbers: RP20–455–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: § 4(d) Rate Filing: Priority of Service—Clarification and Clean-Up to be effective 2/29/2020.
Filed Date: 1/29/20.
Accession Number: 20200129–5057.
Comments Due: 5 p.m. ET 2/10/20.

Docket Numbers: RP20–456–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update

(Conoco Feb 20) to be effective 2/1/2020.

Filed Date: 1/29/20.

Accession Number: 20200129–5063.

Comments Due: 5 p.m. ET 2/10/20.

Docket Numbers: RP20–457–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rates—Boston Gas 510798 releases eff 2–1–2020 to be effective 2/1/2020.

Filed Date: 1/29/20.

Accession Number: 20200129–5068.

Comments Due: 5 p.m. ET 2/10/20.

Docket Numbers: RP20–458–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rates—Boston Gas 510807 releases eff 2–1–2020 to be effective 2/1/2020.

Filed Date: 1/29/20.

Accession Number: 20200129–5073.

Comments Due: 5 p.m. ET 2/10/20.

Docket Numbers: RP20–459–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rates—Boston Gas 511109 releases eff 2–1–2020 to be effective 2/1/2020.

Filed Date: 1/29/20.

Accession Number: 20200129–5106.

Comments Due: 5 p.m. ET 2/10/20.

Docket Numbers: RP20–460–000.

Applicants: Cameron Interstate Pipeline, LLC.

Description: § 4(d) Rate Filing: Rate Schedule PAL, Tariff Updates, and Housekeeping Revisions to be effective 3/1/2020.

Filed Date: 1/29/20.

Accession Number: 20200129–5119.

Comments Due: 5 p.m. ET 2/10/20.

Docket Numbers: RP20–461–000.

Applicants: Kinder Morgan Illinois Pipeline LLC.

Description: Compliance filing Penalty Revenue Annual Report for 2019.

Filed Date: 1/29/20.

Accession Number: 20200129–5136.

Comments Due: 5 p.m. ET 2/10/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 3, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–02896 Filed 2–12–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2322–069]

Brookfield White Pine Hydro LLC; Notice of Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2322–069.

c. *Date Filed:* January 31, 2020.

d. *Applicant:* Brookfield White Pine Hydro LLC (Brookfield).

e. *Name of Project:* Shawmut Hydroelectric Project.

f. *Location:* The existing project is located on the Kennebec River in Kennebec and Somerset Counties, Maine. The project does not affect federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Frank Dunlap, 150 Main Street, Lewiston, Maine 04240; (207) 755–5603.

i. *FERC Contact:* Matt Cutlip, (503) 552–2762 or *matt.cutlip@ferc.gov.*

j. This application is not ready for environmental analysis at this time.

k. *Project Description:* The project consists of the following constructed facilities: (1) A 24-foot-high, 1,480-foot-long concrete gravity dam consisting of: (i) A 380-foot-long overflow section with hinged flashboards, (ii) a 730-foot-long overflow section with an inflatable bladder, (iii) 25-foot-wide sluice section; (iv) a non-overflow section; and (v) a headworks containing 11 headgates that regulate flow into a forebay; (2) a 1,310-acre impoundment extending about 12 miles upstream; (3) two powerhouses adjacent to the forebay, separated by a 10-foot-high by 7-foot-wide Tainter gate and a 6-foot-high by 6-foot-wide deep gate; (4) eight turbine-generating units; (5) a 300-foot-long tailrace; (6) 250-foot-long generator leads connecting the powerhouses with a substation; and (7) appurtenant facilities.

Brookfield operates the project in a run-of-river mode and implements specific operating procedure to facilitate upstream and downstream fish passage at the project. Upstream passage for American eel is provided by a dedicated eel passage facility located adjacent to one of the powerhouses. There are no constructed upstream anadromous fishways at the project. Currently anadromous fish are captured and transported upstream of the Shawmut Project via a fish lift and transport system at the Lockwood Dam Hydroelectric Project No. 2574, located about 6 miles downstream. Downstream fish passage for American eel and anadromous fish at the Shawmut Project is provided via a combination of routing flows through the project's spillways, turbines, and other flow regulating equipment (*e.g.,* Tainter gate between the powerhouses).

l. *Locations of the Application:* A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

m. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. *Procedural Schedule:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Notice of Acceptance/Notice of Ready for Environmental Analysis	March 2020.

Milestone	Target date
Filing of recommendations, preliminary terms and conditions, and fishway prescriptions	May 2020.
Commission issues Draft Environmental Assessment (EA)	November 2020.
Comments on Draft EA	December 2020.
Modified terms and conditions	February 2021.
Commission issues Final EA	May 2021.

o. Final amendments to the application must be filed with the Commission no later than thirty (30) days from the issuance date of the notice of ready for environmental analysis.

Dated: February 5, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–02900 Filed 2–12–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TX20–1–000]

City of Boulder, Colorado; Notice of Filing

Take notice that on February 6, 2020, pursuant to sections 210 and 212 of the Federal Power Act,[1] and Rules 204 and 206 of the Commission's Rules of Practice and Procedure,[2] City of Boulder, Colorado (the City) filed an application for an order directing Public Service Company of Colorado to establish interconnections on just, reasonable, and non-discriminatory terms and conditions between its transmission system and the electric distribution system that the City proposes to acquire from Xcel Energy.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

[1] 16 U.S.C. 824i and 824k.

[2] 18 CFR 385.204 and 385.206.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC There is an ''eSubscription'' link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on February 27, 2020.

Dated: February 7, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–02904 Filed 2–12–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP19–491–000; CP19–494–000]

National Fuel Gas Supply Corporation; Transcontinental Gas Pipe Line Company, LLC; Notice of Availability of the Environmental Assessment for the Proposed Fm100 and Leidy South Projects

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the FM100 Project and the Leidy South Project (collectively referred to as the Projects), proposed by National Fuel Gas Supply Corporation (National Fuel) and Transcontinental Gas Pipe Line Company, LLC (Transco), respectively, in the above-referenced dockets. National Fuel requests authorization to construct, operate, and maintain new natural gas facilities in McKean and Potter Counties; install new compressor stations in McKean and Clinton Counties; abandon existing pipeline facilities in Cameron, Clearfield, Elk, and Potter Counties; and abandon an existing compressor station in Potter County (all in Pennsylvania), to modernize National Fuel's existing transmission system and provide an additional 330,000 dekatherms per day (Dth/d) of incremental natural gas transportation capacity to Transco. Transco requests authorization to construct, operate, and maintain new natural gas facilities in Clinton and Lycoming Counties; install new compressor stations in Luzerne and Schuylkill Counties; add additional compression at existing compressor stations in Wyoming and Columbia Counties; and abandon an existing pipeline in Clinton County (all in Pennsylvania), to provide 582,400 Dth/d of firm natural gas transportation service from shale producing areas in northern and western Pennsylvania to Transco's industrial, commercial, and residential customers in the eastern United States.

The EA assesses the potential environmental effects of the construction and operation of the Projects in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA). The FERC staff concludes that approval of the proposed Projects, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The U.S. Army Corps of Engineers (Baltimore and Pittsburgh Districts) and the U.S. Environmental Protection Agency participated as cooperating agencies in the preparation of the EA. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the NEPA analysis.

The Projects would include the following facilities (all located in Pennsylvania):

FM100 Project

- Approximately 29.5 miles of new 20-inch-diameter pipeline in McKean and Potter Counties (Line YM58);

• approximately 1.4 miles of new 24-inch-diameter pipeline loop [1] in Potter County (Line YM224);

• approximately 0.4 mile of 12-inch-diameter pipeline extension in McKean County (Line KL Extension);

• a new 15,165-horsepower (hp) compressor station in McKean County (Marvindale Compressor Station);

• a new 22,220-hp compressor station in Clinton County (Tamarack Compressor Station);

• a new producer interconnect station in McKean County (Marvindale Interconnect);

• a new over pressure protection (OPP) station in Potter County (Carpenter Hollow OPP Station);

• modification of the existing Leidy Interconnect LDC 2245 at the Leidy Metering and Regulation Station in Clinton County;

• appurtenant facilities including valves, pig launchers, pig receivers, and anode beds;

• abandonment of approximately 44.9 miles of 12-inch-diameter pipeline and associated appurtenant facilities in Cameron, Clearfield, Elk, and Potter Counties (Line FM100);

• abandonment of a 1,440-hp compressor station and associated facilities in Potter County (Costello Compressor Station); and

• abandonment of aboveground piping and measurement and over pressurization equipment in Potter County (Station WHP–MS–4317X).

Leidy South Project

• Approximately 6.3 miles of new 36-inch-diameter pipeline and associated abandonment by removal of approximately 5.8 miles of existing 23.375-inch-diameter pipeline Leidy Line A in Clinton County (Hensel Replacement);

• approximately 2.4 miles of new 36-inch-diameter pipeline looping in Clinton County (Hilltop Loop);

• approximately 3.5 miles of new 42-inch-diameter pipeline looping in Lycoming County (Benton Loop), including a new 90-foot-tall communication tower;

• uprate of the two existing compressor units to increase total hp from 30,000 hp to 42,000 hp at Compressor Station 605 in Wyoming County;

• uprate of the two existing compressor units to increase total hp from 40,000 hp to 42,000 hp and install a new 31,871-hp compressor unit at Compressor Station 610 in Columbia County;

• a new 46,930-hp compressor station in Luzerne County (Compressor Station 607), including a new 190-foot-tall, free-standing communication tower;

• a new 31,871-hp compressor station in Schuylkill County (Compressor Station 620); and

• appurtenant facilities including valves, pig launchers, and pig receivers.

Additionally, both National Fuel and Transco propose to use temporary access roads and staging areas to support construction activities and would establish new permanent access roads to support operation of the new facilities.

The Commission mailed a copy of the Notice of Availability for the EA to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the area of the Projects. The EA is only available in electronic format. It may be viewed and downloaded from FERC's website (*www.ferc.gov*), on the Environmental Documents page (*http://www.ferc.gov/industries/gas/enviro/eis.asp*). In addition, the EA may be accessed by using the eLibrary link on FERC's website. Click on the eLibrary link (*https://www.ferc.gov/docs-filing/elibrary.asp*), click on General Search, and enter the docket number in the ''Docket Number'' field, excluding the last three digits (*i.e.,* CP19–491 and/or CP19–494). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at: *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on the Projects, it is important that the Commission receive your comments on or before 5:00 p.m. Eastern Time on March 9, 2020.

For your convenience, there are three methods you can use to file your comments with the Commission. In all instances, please reference the Project docket numbers (CP19–491–000 and/or CP19–494–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.*

(1) You can file your comments electronically using the eComment feature located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the Projects' docket numbers (CP19–491–000 and/or CP19–494–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214). Motions to intervene are more fully described at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.* Only intervenors have the right to seek rehearing or judicial review of the Commission's decision. The Commission may grant affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the Projects is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings

[1] A loop is a segment of pipe that is usually installed adjacent to an existing pipeline and connected to it at both ends. The loop allows more gas to be moved through the system

by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *http://www.ferc.gov/docs-filing/esubscription.asp.*

Dated: February 7, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–02902 Filed 2–12–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD20–7–000]

Reliability Technical Conference; Notice of Technical Conference

Take notice that the Federal Energy Regulatory Commission (Commission) will hold a Technical Conference on Thursday, June 25, 2020, from 9:00 a.m. to 5:00 p.m. This Commissioner-led conference will be held in the Commission Meeting Room at the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. The purpose of the conference is to discuss policy issues related to the reliability of the Bulk-Power System. The Commission will issue an agenda at a later date in a supplemental notice.

The conference will be open for the public to attend. There is no fee for attendance. However, members of the public are encouraged to preregister online at: *https://www.ferc.gov/whats-new/registration/06-25-20-form.asp.*

This conference will focus on reliability-related issues for the bulk power system, including: (1) The changing resource mix; (2) inverter-based resources and inverter-connected distributed energy resources; and (3) cybersecurity. Those wishing to be considered for participation in panel discussions should submit nominations no later than close of business on March 27, 2020 online at: *https://www.ferc.gov/whats-new/registration/06-25-20-speaker-form.asp.*

Information on this event will be posted on the Calendar of Events on the Commission's website, *http://www.ferc.gov,* prior to the event. The conference will also be webcast and transcribed. Anyone with internet access who desires to listen to this event can do so by navigating to the Calendar of Events at *http://www.ferc.gov* and locating this event in the Calendar. The event will contain a link to the webcast. The Capitol Connection provides technical support for webcasts and offers the option of listening to the meeting via phone-bridge for a fee. If you have any questions, visit *http://www.CapitolConnection.org* or call (703) 993–3100. Transcripts of the technical conference will be available for a fee from Ace-Federal Reporters, Inc. at (202) 347–3700.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free 1 (866) 208–3372 (voice) or (202) 502–8659 (TTY), or send a fax to (202) 208–2106 with the required accommodations.

For more information about this technical conference, please contact Lodie White (202) 502–8453, *Lodie.White@ferc.gov.* For information related to logistics, please contact Sarah McKinley at (202) 502–8368, *Sarah.Mckinley@ferc.gov.*

Dated: February 3, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–02897 Filed 2–12–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC19–32–000]

Commission Information Collection Activities (FERC–725M); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–725M (Mandatory Reliability Standards: Generator Requirements at the Transmission Interface) and submitting the information collection to the Office of Management and Budget (OMB) for review. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below.

DATES: Comments on the collection of information are due by March 16, 2020.

ADDRESSES: Comments filed with OMB, identified by the OMB Control No. 1902–0263, should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov.* Attention: Federal Energy Regulatory Commission Desk Officer.

A copy of the comments should also be sent to the Commission, in Docket No. IC19–32–000, by either of the following methods:

- *eFiling at Commission's Website: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, and by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–725M (Mandatory Reliability Standards: Generator Requirements at the Transmission Interface).

OMB Control No.: 1902–0263.

Type of Request: Three-year extension of the FERC–725M with no updates to the current reporting requirements.

Abstract: On August 27, 2019, the Commission published a Notice in the **Federal Register** in Docket No. IC19–32–000 requesting public comments. The Commission received no comments and noting that in the related submittal to OMB.

On September 19, 2013, the Commission issued Order No. 785, Docket No. RM12–16–000, a Final Rule [1] approving modifications to four existing Reliability Standards submitted by the North American Electric Reliability Corporation (NERC), the Commission certified Electric Reliability Organization. Specifically, the Commission approved Reliability Standards FAC–001–1 (Facility Connection Requirements), FAC–003–3 (Transmission Vegetation Management), PRC–004–2.1a (Analysis and Mitigation of Transmission and Generation Protection System Misoperations), and

[1] *Generator Requirements at the Transmission Interface,* 144 FERC ¶ 61,221 (2013).

PRC–005–1.1b (Transmission and Generation Protection System Maintenance and Testing).[2] The modifications improved reliability either by extending applicability of the Reliability Standard to certain generator interconnection facilities, or by clarifying that the existing Reliability Standard is and remains applicable to generator interconnection facilities.

On April 26, 2016, a Delegated Letter Order was issued, Docket No. RD16–4–000, approving proposed Reliability Standard FAC–003–4 (Transmission Vegetation Management). Reliability Standard FAC–003–4 reflected revisions to the current Minimum Vegetation Clearance Distances (MVCDs) in Reliability Standard FAC–003–3 based on additional testing regarding the appropriate gap factor to be used to calculate clearance distances for vegetation. NERC explained that Reliability Standard FAC–003–4 includes higher and more conservative MVCD values and, therefore, maintained that these revisions would enhance reliability and provide additional confidence by applying a more conservative approach to determining the vegetation clearing distances. In FERC–725M we are:

(1) Adjusting the burden in FAC–003–4 to reflect the latest number of applicable entities based on the NERC Compliance Registry as of July 26, 2019.

(2) Making a program change to administratively remove all one-time burden[3] that is being inadvertently counted in FERC–725M and FERC–725D.

Type of Respondents: Transmission Owner (TO); Generator Owner (GO); and Regional Entity (RE).

Estimate of Annual Burden.[4] The Commission estimates the annual public reporting burden and cost[5] for the information collection as:

FERC–725M, MANDATORY RELIABILITY STANDARDS: FAC–003–4 (TRANSMISSION VEGETATION MANAGEMENT

	Number of respondents[6]	Annual number of responses per respondent	Total number of responses	Average burden hours & cost per response	Total annual burden hours & total annual cost	Cost per respondent
	(1)	(2)	(1)*(2) = (3)	(4)	(3)*(4) = (5)	($) (5) ÷ (1)
FAC–003–4 (Transmission Vegetation Management)						
Generator Owners, Regional Entities: Quarterly Reporting (Compliance 1.4).	101[7]	4	404	0.25 hrs.; $17.00.	101 hrs.; $6,868.00.	$68.00
Generator Owners: Annual Veg. inspect. Doc. (M6); Work Plan (M7); Evidence of Mgt. of Veg. (M1 & M2); Confirmed Veg. Condition (M4); & Corrective Action (M5).	95	1	95	2 hrs.; $136.00.	190 hrs.; $12,920.00.	136.00
Generator Owners, Transmission Owners: Record Retention (Compliance 1.2).	423	1	423	1 hr.; $68.00	423 hrs.; $28,764.00.	68.00
TOTAL	.....	.....	922	.....	714 hrs.: $48,552.00.	272.00

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: February 3, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–02895 Filed 2–12–20; 8:45 am]

BILLING CODE 6717–01–P

[2] The burden is included in information collection FERC–725M.

The burdens related to previous versions of Reliability Standards mentioned in the Final Rule: FAC–001–0 (Facility Connection Requirements); FAC–003–2 (Transmission Vegetation Management); PRC–004–2a (Analysis and Mitigation of Transmission and Generation Protection System Misoperations); and PRC–005–1b (Transmission and Generation Protection System Maintenance and Testing) are included in FERC–725A (Mandatory Reliability Standards for the Bulk-Power System, OMB Control No. 1902–0244).

The Final Rule states the modifications included in PRC–004–2.1a and PRC–005–1.1b are clarifications of existing requirements, do not extend those existing requirements to any new entity or to additional facilities, and do not affect the existing burden related to those standards.

[3] One-time burden is typically performed in the first year of implementation. All burden associated with FAC–001–3 in this collection was removed in 2015. The burden in FAC–001–3 was transferred in 2015 to FERC–725D (OMB Control Number 1902–0247).

See the November 6, 2014 Delegated Letter Order, Docket No. RD14–12–000, approving Reliability Standard FAC–001–2 and Order No. 836, *Balancing Authority Control, Inadvertent Interchange, and Facility Interconnection Reliability Standards,* 160 FERC ¶ 61,070 (2017), approving Reliability Standard FAC–001–3.

[4] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. *See* 5 CFR 1320 for additional information on the definition of information collection burden.

[5] The estimated hourly cost (salary plus benefits) are based on the figures for May 2018 posted by the Bureau of Labor Statistics for the Utilities sector (available at *http://www.bls.gov/oes/current/naics2_22.htm*) and updated March 2019 for benefits information (at *http://www.bls.gov/news.release/ecec.nr0.htm*). The hourly estimates for salary plus benefits are:

—Manager (code 11–0000), $95.24

—Information and Records Clerks (code 43–4199), $40.84

—Electrical Engineer (code 17–2071), $68.17

The average hourly burden cost for this collection is $68.08 [($95.24 + $40.84 + $68.17)/3 = $68.08)] and is rounded to $68.00 an hour.

[6] According to the NERC Compliance Registry as of July 26, 2019, there are 946 generator owners and 328 transmission owners registered in North America. We estimate that approximately 10 percent (or 95) of these generator owners have interconnection facilities that are applicable to the standard.

[7] The estimated number of respondents (101) includes 95 generator owners and 6 Regional Entities.

ENVIRONMENTAL PROTECTION AGENCY

[10005–42–Region 2]

Proposed CERCLA Cost Recovery Settlement for the Mariners Marsh Site on Staten Island, Richmond County, New York

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given by the U.S. Environmental Protection Agency (''EPA''), Region 2, of a proposed cost recovery settlement agreement pursuant to CERCLA, with the City of New York (''Settling Party'') for the Mariners Marsh Site (''Site''), located on Staten Island, Richmond County, New York.

DATES: Comments must be submitted on or before March 16, 2020.

ADDRESSES: The proposed settlement is available for public inspection at EPA Region 2 offices at 290 Broadway, New York, New York 10007–1866. Comments should reference the Mariners Marsh Park Site, Staten Island, Richmond County, New York, Index No. II–CERCLA–02–2019–2002. To request a copy of the proposed settlement agreement, please contact the EPA employee identified below.

FOR FURTHER INFORMATION CONTACT: Henry Guzman, Attorney, Office of Regional Counsel, New York/Caribbean Superfund Branch, U.S. Environmental Protection Agency, 290 Broadway, 17th Floor, New York, NY 10007–1866. Email: *guzman.henry@epa.gov* Telephone: 212–637–3166.

SUPPLEMENTARY INFORMATION: The Settling Party agrees to pay $2,347,000.00 to the EPA Hazardous Substance Superfund in reimbursement of EPA's past response costs paid at or in connection with the Site from EPA's initial involvement at the Site through to the effective date. The payment represents reimbursement of 70% of EPA's total costs incurred (totaling $3,330,365.26), including costs associated with the excavation, stockpiling, transport, and disposal of contaminated soils at the Site. The settlement includes a covenant by EPA not to sue or to take administrative action against the Settling Party pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a), regarding the past response costs as defined in the settlement agreement. For thirty (30) days following the date of publication of this document, EPA will accept written comments relating to the settlement. EPA will consider all timely comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at EPA Region 2, 290 Broadway, New York, New York 10007–1866.

Dated: February 4, 2020.

Eric J. Wilson,

Acting Director, Superfund & Emergency Management Division, U.S. Environmental Protection Agency, Region 2.

[FR Doc. 2020–02917 Filed 2–12–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10005–01–OMS]

Privacy Act of 1974; System of Records

AGENCY: Office of Mission Support, Environmental Protection Agency (EPA).

ACTION: Notice of a Modified System of Records.

SUMMARY: The U.S. Environmental Protection Agency's (EPA) Office of Air and Radiation, Office of Transportation and Air Quality (OTAQ), is giving notice that it proposes to modify the Engines and Vehicles—Compliance Information System (EV–CIS), EPA–65 system of records pursuant to the provisions of the Privacy Act of 1974. Engines and Vehicles—Compliance Information System (EV–CIS) is being modified to change the location of the electronic files. This system of records contains personally identifiable information (PII) collected from owners of motor vehicles who wish to temporarily import their vehicle into the United States for personal use and who are not residents of the United States.

DATES: Persons wishing to comment on this system of records notice must do so by March 16, 2020. [New/Modified] routine uses for this [new/modified] system of records will be effective March 16, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. OMS–2019–0149, by one of the following methods:

Regulations.gov: www.regulations.gov Follow the online instructions for submitting comments.

Email: oei.docket@epa.gov.

Fax: 202–566–1752.

Mail: OMS Docket, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

Hand Delivery: OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. OMS–2019–0149. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Controlled unclassified Information (CUI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CUI or otherwise protected through *www.regulations.gov.* The *www.regulations.gov* website is an ''anonymous access'' system for EPA, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. However, over 179 federal agencies use *www.regulations.gov* and some may require Personally Identifiable Information (PII) and some may not. Each agency determines submission requirements within their own internal processes and standards. EPA has no requirement of personal information. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CUI or other information

for which disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OMS Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: Holly Pugliese, Compliance Division, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 2000 Traverwood, Ann Arbor, Michigan 48105; telephone number: 734–214–4288; fax number: 734–214–4869; email address: *pugliese.holly@epa.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Environmental Protection Agency (EPA) is amending the Engine and Vehicle Exemptions System (EV–ES) of records. The system name is being changed from EV–ES to the Engines and Vehicles—Compliance Information System (EV–CIS). EV–ES is a subsystem of the EV–CIS and is the only subsystem that stores personally identifiable information (PII). The location of the files has changed and are now stored in Research Triangle Park, NC. No other elements of the systems of records has changed.

The information collected in this system supports the Imports Exemptions program under the Clean Air Act (CAA) and implementing regulations codified in 40 CFR parts 85 and 1068. The CAA requires manufacturers of motor vehicles and engines to design and build vehicles that will comply with emissions standards throughout the vehicle's life span. EPA and Customs and Border Protection (CBP) regulations (40 CFR part 85 and 19 CFR 12.73) allow for individuals who are not residents of the United States and who reside outside of the United States to import on-highway vehicles that do not comply with U.S. emissions standards (*e.g.,* cars, motorcycles or motor homes) for a period of up to one year for personal use. Applicants are required to provide their name, address, phone number or email and the vehicle identification number (VIN) as part of the application process in order for EPA to provide approval or denial letters to the requestors.

The information that will be maintained regarding program participants includes the vehicle owner's name, address, phone number, email address and vehicle identification number (VIN). The electronic information is contained in the EV–CIS system located in Research Triangle Park, North Carolina and paper files at EPA's National Vehicle and Fuel Emissions Laboratory in Ann Arbor, Michigan. Only contractor employees and EPA employees administering the program have access to the information contained in the database. Files containing personal information are kept in locked filing cabinets. Physical access to the filing cabinets is limited to authorized personnel employees with building key cards.

SYSTEM NAME AND NUMBER:

Engines and Vehicles—Compliance Information System (EV–CIS), EPA–65

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

US EPA, 109 T.W. Alexander Drive, Research Triangle Park, NC 27711 and EPA's National Vehicle and Fuel Emissions Laboratory in Ann Arbor, Michigan.

SYSTEM MANAGER(S):

Sara Zaremski, Center Director, Data Analysis and Information Center, Office of Transportation and Air Quality, 2000 Traverwood, Ann Arbor, MI 48105, 734–214–4362, *zaremski.sara@epa.gov.*

HISTORY:

79 FR 29761 (May 23, 2014)—Engine and Vehicle Exemptions System (EV–ES). Creation of a Privacy Act system of records for the Engine and Vehicle Exemptions System (EV–ES). The information collected in this system supports the Imports Exemptions program under the Clean Air Act (CAA) and implementing regulations codified in 40 CFR parts 85 and 1068.

Dated: January 21, 2020.

Vaughn Noga,

Senior Agency Official for Privacy.

[FR Doc. 2020–02891 Filed 2–12–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 85 FR 6951.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Tuesday, February 11, 2020 at 10:00 a.m.

CHANGES IN THE MEETING: The meeting was rescheduled for Thursday, February 13, 2020 at 10:00 a.m.

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer. Telephone: (202) 694–1220.

Vicktoria J. Allen,

Acting Deputy Secretary of the Commission.

[FR Doc. 2020–02970 Filed 2–11–20; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than March 16, 2020.

A. Federal Reserve Bank of Philadelphia (William Spaniel, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521. Comments can also be sent electronically to *Comments.applications@phil.frb.org:*

1. *William Penn, MHC, and William Penn Bancorp, Inc., both of Bristol, Pennsylvania;* to become bank holding companies by acquiring Washington Savings Bank, Philadelphia, Pennsylvania.

2. *William Penn, MHC, and William Penn Bancorp, Inc., both of Bristol, Pennsylvania;* to acquire Fidelity Savings & Loan Association of Bucks County, Bristol, Pennsylvania.

B. Federal Reserve Bank of San Francisco (Applications and Enforcement Section) 101 Market Street, San Francisco, California 94105–1579:

1. *GUVJEC Investment Corporation, Baltimore, Maryland;* to become a bank holding company by acquiring Farmington Bancorp, Bothell, Washington, and thereby indirectly acquire Farmington State Bank, Farmington, Washington.

Board of Governors of the Federal Reserve System, February 10, 2020.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2020–02921 Filed 2–12–20; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than March 3, 2020.

A. Federal Reserve Bank of Atlanta (Kathryn Haney, Assistant Vice President) 1000 Peachtree Street, NE, Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *The Persons Family Trust, Macon Georgia, George Ogden Persons, III, Macon, Georgia, Jim Gillis Persons, Atlanta, Georgia, and Katherine Persons Kelly, Richmond, Virginia, as co-trustees; together with George Ogden Persons, III, Jim Gillis Persons, Katherine Persons Kelly, Mary K. Persons, Macon, Georgia, James G. Persons, Jr., Atlanta, Georgia, and Robert P. Persons and Harper Lee Kelly, both of Richmond, Virginia;* as members of a group acting in concert to retain voting shares of Persons Banking Co., Inc., Macon, Georgia, and thereby indirectly retain voting shares of Persons Banking Company, Forsyth, Georgia.

Board of Governors of the Federal Reserve System, February 10, 2020.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2020–02922 Filed 2–12–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–9120–N]

Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—October Through December 2019

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice

SUMMARY: This quarterly notice lists CMS manual instructions, substantive and interpretive regulations, and other **Federal Register** notices that were published from October through December 2019, relating to the Medicare and Medicaid programs and other programs administered by CMS.

FOR FURTHER INFORMATION CONTACT: It is possible that an interested party may need specific information and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing contact persons to answer general questions concerning each of the addenda published in this notice.

Addenda	Contact	Phone No.
I CMS Manual Instructions	Ismael Torres	(410) 786–1864
II Regulation Documents Published in the **Federal Register**	Terri Plumb	(410) 786–4481
III CMS Rulings	Tiffany Lafferty	(410) 786–7548
IV Medicare National Coverage Determinations	Wanda Belle, MPA	(410) 786–7491
V FDA-Approved Category B IDEs	John Manlove	(410) 786–6877
VI Collections of Information	William Parham	(410) 786–4669
VII Medicare-Approved Carotid Stent Facilities	Sarah Fulton, MHS	(410) 786–2749
VIII American College of Cardiology-National Cardiovascular Data Registry Sites	Sarah Fulton, MHS	(410) 786–2749
IX Medicare's Active Coverage-Related Guidance Documents	JoAnna Baldwin, MS	(410) 786–7205
X One-time Notices Regarding National Coverage Provisions	JoAnna Baldwin, MS	(410) 786–7205
XI National Oncologic Positron Emission Tomography Registry Sites	David Dolan, MBA	(410) 786–3365
XII Medicare-Approved Ventricular Assist Device (Destination Therapy) Facilities	David Dolan, MBA	(410) 786–3365
XIII Medicare-Approved Lung Volume Reduction Surgery Facilities	Sarah Fulton, MHS	(410) 786–2749
XIV Medicare-Approved Bariatric Surgery Facilities	Sarah Fulton, MHS	(410) 786–2749
XV Fluorodeoxyglucose Positron Emission Tomography for Dementia Trials	David Dolan, MBA	(410) 786–3365
All Other Information	Annette Brewer	(410) 786–6580

SUPPLEMENTARY INFORMATION:

I. Background

The Centers for Medicare & Medicaid Services (CMS) is responsible for administering the Medicare and Medicaid programs and coordination and oversight of private health insurance. Administration and oversight of these programs involves the following: (1) Furnishing information to Medicare and Medicaid beneficiaries, health care providers, and the public; and (2) maintaining effective communications with CMS regional offices, state governments, state Medicaid agencies, state survey agencies, various providers of health care, all Medicare contractors that process claims and pay bills, National Association of Insurance Commissioners

(NAIC), health insurers, and other stakeholders. To implement the various statutes on which the programs are based, we issue regulations under the authority granted to the Secretary of the Department of Health and Human Services under sections 1102, 1871, 1902, and related provisions of the Social Security Act (the Act) and Public Health Service Act. We also issue various manuals, memoranda, and statements necessary to administer and oversee the programs efficiently.

Section 1871(c) of the Act requires that we publish a list of all Medicare manual instructions, interpretive rules, statements of policy, and guidelines of general applicability not issued as regulations at least every 3 months in the **Federal Register**.

II. Format for the Quarterly Issuance Notices

This quarterly notice provides only the specific updates that have occurred in the 3-month period along with a hyperlink to the full listing that is available on the CMS website or the appropriate data registries that are used as our resources. This is the most current up-to-date information and will be available earlier than we publish our quarterly notice. We believe the website list provides more timely access for beneficiaries, providers, and suppliers. We also believe the website offers a more convenient tool for the public to find the full list of qualified providers for these specific services and offers more flexibility and ''real time'' accessibility. In addition, many of the websites have listservs; that is, the public can subscribe and receive immediate notification of any updates to the website. These listservs avoid the need to check the website, as notification of updates is automatic and sent to the subscriber as they occur. If assessing a website proves to be difficult, the contact person listed can provide information.

III. How To Use the Notice

This notice is organized into 15 addenda so that a reader may access the subjects published during the quarter covered by the notice to determine whether any are of particular interest. We expect this notice to be used in concert with previously published notices. Those unfamiliar with a description of our Medicare manuals should view the manuals at *http://www.cms.gov/manuals.*

Dated: January 30, 2020.

Kathleen Cantwell

Director, Office of Strategic Operations and Regulatory Affairs.

BILLING CODE 4120–01–P

Publication Dates for the Previous Four Quarterly Notices

We publish this notice at the end of each quarter reflecting information released by CMS during the previous quarter. The publication dates of the previous four Quarterly Listing of Program Issuances notices are: February 19, 2019 (84 FR 4805), April 29, 2019 (84 FR 18040), August 9, 2019 (84 FR 39323) and November 6, 2019 (84 FR 59815). We are providing only the specific updates that have occurred in the 3-month period along with a hyperlink to the website to access this information and a contact person for questions or additional information.

Addendum I: Medicare and Medicaid Manual Instructions (October through December 2019)

The CMS Manual System is used by CMS program components, partners, providers, contractors, Medicare Advantage organizations, and State Survey Agencies to administer CMS programs. It offers day-to-day operating instructions, policies, and procedures based on statutes and regulations, guidelines, models, and directives. In 2003, we transformed the CMS Program Manuals into a web user-friendly presentation and renamed it the CMS Online Manual System.

How to Obtain Manuals

The Internet-only Manuals (IOMs) are a replica of the Agency's official record copy. Paper-based manuals are CMS manuals that were officially released in hardcopy. The majority of these manuals were transferred into the Internet-only manual (IOM) or retired. Pub 15-1, Pub 15-2 and Pub 45 are exceptions to this rule and are still active paper-based manuals. The remaining paper-based manuals are for reference purposes only. If you notice policy contained in the paper-based manuals that was not transferred to the IOM, send a message via the CMS Feedback tool.

Those wishing to subscribe to old versions of CMS manuals should contact the National Technical Information Service, Department of Commerce, 5301 Shawnee Road, Alexandria, VA 22312 Telephone (703-605-6050). You can download copies of the listed material free of charge at: http://cms.gov/manuals.

How to Review Transmittals or Program Memoranda

Those wishing to review transmittals and program memoranda can access this information at a local Federal Depository Library (FDL). Under the FDL program, government publications are sent to approximately 1,400 designated libraries throughout the United States. Some FDLs may have arrangements to transfer material to a local library not designated as an FDL. Contact any library to locate the nearest FDL. This information is available at http://www.gpo.gov/libraries/

In addition, individuals may contact regional depository libraries that receive and retain at least one copy of most federal government publications, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library. CMS publication and transmittal numbers are shown in the listing entitled Medicare and Medicaid Manual Instructions. To help FDLs locate the materials, use the CMS publication and transmittal numbers. For example, to find the manual for Updates to Publication (Pub.) 100-01, Manual Updates for CR11152 Implementation of the Skilled Nursing Facility (SNF) Patient Driven Payment Model (PDPM), use (CMS-Pub. 100-01) Transmittal No. 126.

Addendum I lists a unique CMS transmittal number for each instruction in our manuals or program memoranda and its subject number. A transmittal may consist of a single or multiple instruction(s). Often, it is necessary to use information in a transmittal in conjunction with information currently in the manual. For the purposes of this quarterly notice, we list only the specific updates to the list of manual instructions that have occurred in the 3-month period. This information is available on our website at www.cms.gov/Manuals.

Transmittal Number	Manual/Subject/Publication Number
	Medicare General Information (CMS-Pub. 100-01)
126	Manual Updates for CR11152 Implementation of the Skilled Nursing Facility (SNF) Patient Driven Payment Model (PDPM)
127	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
128	Internet Only Manual (IOM) - Update to General Information, Eligibility, and Entitlement, Chapter 7 - Contract Administrative Requirements, Section 40.2 –Shared System Maintainer Responsibilities for Systems Releases
129	Update to Medicare Deductible, Coinsurance and Premium Rates for Calendar Year (CY) 2020
	Medicare Benefit Policy (CMS-Pub. 100-02)
261	Manual Updates for CR11152 Implementation of the Skilled Nursing Facility (SNF) Patient Driven Payment Model (PDPM) Benefit Period (Spell of Illness) Inpatient Benefit Days Medicare SNF PPS Overview Three-Day Prior Hospitalization

	Three-Day Prior Hospitalization - Foreign Hospital Administrative Level of Care Presumption Services Provided on an Inpatient Basis as a "Practical Matter" The Availability of Alternative Facilities or Services Whether Available Alternatives Are More Economical in the Individual Case Who May Sign the Certification or Recertification for Extended Care Services Services Furnished Under Arrangements
262	Implementation of Changes in the End-Stage Renal Disease (ESRD) Prospective Payment System (PPS) and Payment for Dialysis Furnished for Acute Kidney Injury (AKI) in ESRD Facilities for Calendar Year (CY) 2020
263	Rural Health Clinic (RHC) and Federally Qualified Health Center (FQHC) Medicare Benefit Policy Manual Chapter 13 Update
264	Issued to a specific audience, not posted to Internet/Intranet due to a Sensitivity of Instruction
Medicare National Coverage Determination (CMS-Pub. 100-03)	
	None
Medicare Claims Processing (CMS-Pub. 100-04)	
4405	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
4406	Inpatient Psychiatric Facilities Prospective Payment System (IPF PPS) Updates for Fiscal Year (FY) 2020 Annual Update Wage Index Determining the Cost-to-Charge Ratio
4407	Ambulance Inflation Factor for Calendar Year (CY) 2020 and Productivity Adjustment Ambulance Inflation Factor (AIF)
4408	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
4409	Manual Updates for CR11152 Implementation of the Skilled Nursing Facility (SNF) Patient Driven Payment Model (PDPM) Inpatient Part A Billing and SNF Consolidated Billing/Table of Contents Types of Facilities Subject to the Consolidated Billing Requirement for SNFs Physician's Services and Other Professional Services Excluded From Part A PPS Payment and the Consolidated Billing Requirement Other Excluded Services Beyond the Scope of the SNF Part A Benefit Other Services Excluded from SNF PPS and Consolidated Billing Input/Output Record Layout Decision Logic Used by the Pricer on Claims SNF Spell of Illness Quick Reference Chart Retroactive Removal of Sanctions Swing Bed Services Not Included in the Part A PPS Rate Skilled Nursing Facility (SNF) Patient Driven Payment Model (PDPM HIPPS Updates and Structure Changes Interrupted Stay Policy Variable Per Diem (VPD) Adjustment AIDS Adjustments

	Transition Claims Default Billing
4410	October 2019 Update of the Ambulatory Surgical Center (ASC) Payment System
4411	October 2019 Update of the Hospital Outpatient Prospective Payment System (OPPS)
4412	File Conversions Related to the Spanish Translation of the Healthcare Common Procedure Coding System (HCPCS) Descriptions
4413	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
4414	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
4415	Medicare Administrative Contractor (MAC) Guidance Related to Use of Adjustment Codes on Adjustment Claims MAC Guidance Related to Use of Adjustment Codes on Adjustment Claims
4416	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
4417	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
4418	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
4419	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
4420	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
4421	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
4422	Quarterly Update to the National Correct Coding Initiative (NCCI) Procedure-to- Procedure (PTP) Edits, Version 26.0, Effective January 1, 2020
4423	Quarterly Update to the National Correct Coding Initiative (NCCI) Procedure-to- Procedure (PTP) Edits, Version 26.0, Effective January 1, 2020
4424	Changes to the Laboratory National Coverage Determination (NCD) Edit Software for January 2020
4425	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
4426	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
4427	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
4428	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
4429	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
4430	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
4431	Health Professional Shortage Area (HPSA) Bonus Payments for All Mental Health Specialties HPSA Designations Services Eligible for HPSA and Physician Scarcity Bonus Payments

	Post-payment Review
4432	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
4433	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
4434	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
4435	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
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4440	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
4441	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
4442	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
4443	Quarterly Healthcare Common Procedure Coding System (HCPCS) Drug/Biological Code Changes - October 2019 Update
4444	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
4445	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
4446	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
4447	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
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4449	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
4450	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
4451	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
4452	Home Health (HH) Patient-Driven Groupings Model (PDGM) - Revised and Additional Manual Instructions Discharge and Readmission Situation Under HH PPS - Payment Effects Request for Anticipated Payment (RAP) HH PPS Claims
4453	Home Health Prospective Payment System (HH PPS) Rate Update for Calendar Year (CY) 2020
4454	Updates to the Coordination of Benefits Agreement Insurance File (COIF) For Use in the National Coordination of Benefits Agreement (COBA) Crossover Process
4455	Calendar Year (CY) 2020 Participation Enrollment and Medicare Participating Physicians and Suppliers Directory (MEDPARD) Procedures
4456	Combined Common Edits/Enhancements Modules (CCEM) Code Set Update
4457	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
4458	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
4459	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
4460	Claim Status Category and Claim Status Codes Update
4461	Remittance Advice Remark Code (RARC), Claims Adjustment Reason Code (CARC), Medicare Remit Easy Print (MREP) and PC Print Update
4462	Instructions for Downloading the Medicare ZIP Code Files for April 2020
4463	Implement Operating Rules - Phase III Electronic Remittance Advice (ERA) Electronic Funds Transfer (EFT): Committee on Operating Rules for Information Exchange (CORE) 360 Uniform Use of Claim Adjustment Reason Codes (CARC), Remittance Advice Remark Codes (RARC) and Claim Adjustment Group Code (CAGC) Rule - Update from Council for Affordable Quality Healthcare (CAQH) CORE
4464	Instructions for Retrieving the 2020 Pricing and Healthcare Common Procedure Coding System (HCPCS) Data Files through CMS' Mainframe Telecommunications Systems
4465	Medicare Claims Processing Manual Chapter 23 - Fee Schedule Administration and Coding Requirements
4466	Home Health Prospective Payment System (HH PPS) Rate Update for Calendar Year (CY) 2020
4467	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
4468	Summary of Policies in the Calendar Year (CY) 2020 Medicare Physician Fee Schedule (MPFS) Final Rule, Telehealth Originating Site Facility Fee Payment Amount and Telehealth Services List, CT Modifier Reduction List, and Preventive Services List
4469	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
4470	CY 2020 Update for Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Fee Schedule
4471	April 2020 Healthcare Common Procedure Coding System (HCPCS) Quarterly Update Reminder
4472	New Medicare Provider Specialty Code (D5) and Billing Codes for Opioid Treatment Programs and New Place of Service Code 58
4473	Update to Medicare Claims Processing Manual, Chapters 1, 23 and 35
4474	Updates to the Coordination of Benefits Agreement Insurance File (COIF) For Use in the National Coordination of Benefits Agreement (COBA) Crossover Process
4475	Changes to the Laboratory National Coverage Determination (NCD) Edit

	Software for April 2020
4476	Calendar Year (CY) 2020 Annual Update for Clinical Laboratory Fee Schedule and Laboratory Services Subject to Reasonable Charge Payment
4477	Update Inpatient Prospective Payment System (IPPS) Pricer and Related Claims Reprocessing
4478	Manual Update to Publication (Pub.) 100-04, Chapter 20, to Revise the Subsection 10 - Where to Bill Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) and Parenteral and Enteral Nutrition (PEN) Items and Services
4479	Internet Only Manual Update to Add New and Revise Sections of Publication 100-04, Chapter 16
4480	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
4481	Internet Only Manual Update to Pub 100-04, Chapter 16, Section 40.8 – Laboratory Date of Service Policy
4482	Home Health (HH) Patient-Driven Groupings Model (PDGM) - Split Implementation
4483	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
4484	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
4485	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
4486	New Medicare Provider Specialty Code (D5) and Billing Codes for Opioid Treatment Programs and New Place of Service Code 58
4487	CY 2020 Update for Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Fee Schedule
Medicare Secondary Payer (CMS-Pub. 100-05)	
	None
Medicare Financial Management (CMS-Pub. 100-06)	
326	The Medicare Fee-for-Service Recovery Audit Program
327	Notice of New Interest Rate for Medicare Overpayments and Underpayments -1st Qtr Notification for FY 2020
328	Updates to Medicare Financial Management Manual Chapter 4, Section 50-50.6 Extended Repayment Schedules
329	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
330	The Medicare Fee-for-Service Recovery Audit Program
331	FMFIA and the CMS Medicare Contractor Contract Standards for Internal Control Contractor Internal Control Review Process and Timeline Risk Assessment Certification Package for Internal Controls (CPIC) Requirements OMB Circular A-123, Appendix A: Internal Controls Over Financial Reporting (ICOFR Certification Statement CPIC- Report of Material Weaknesses CPIC- Report of Internal Control Deficiencies Definitions of Control Deficiency, Significant Deficiency, and Material Weakness Material Weaknesses Identified During the Reporting Period Statement on Standards for Attestation Engagements (SSAE) Number 18, (SSAE 18) Reporting on Controls at Service Providers List of Complementary User Entity Controls (CUECs) Information Systems Claims Processing Medical Review (MR) Medicare Secondary Payer (MSP) Provider Audit Financial Financial (Non-HIGLAS) Financial (HIGLA Debt Referral (MSP and Non-MSP Debt Referral (MSP and Non-MSP) (Non-HIGLAS Debt Referral (MSP and Non-MSP) (HIGLAS Non-MSP Debt Collection Corrective Action Plan (CAP) Reports CMS Finding Numbers Initial CAP Report Quarterly CAP Report CMS Initial and Quarterly CAP Report Template B Controls – Claims Process Controls – Provider Audit Controls – Debt Referral (MSP and Non-MSP) List of Commonly Used Acronyms
332	New Medicare Provider Specialty Code (D5) and Billing Codes for Opioid Treatment Programs and New Place of Service Code 58
333	New Medicare Provider Specialty Code (D5) and Billing Codes for Opioid Treatment Programs and New Place of Service Code 58
Medicare State Operations Manual (CMS-Pub. 100-07)	
194	Revisions to State Operations Manual (SOM) Appendix G, Guidance for Surveyors: Rural Health Clinics
195	Revisions to State Operations Manual (SOM) Chapter 6 - Special Procedures for Laboratories and Chapter 9 Exhibits
Medicare Program Integrity (CMS-Pub. 100-08)	
907	Update to Chapter 3, Section 3.2.3.1 Additional Documentation Requests (ADR) of Publication (Pub) 100-08
908	The Medicare Fee-for-Service Recovery Audit Program The Medicare Fee-for-Service (FFS) Recovery Audit Program Medicare FFS Recovery Audit Program Communication with Recovery Audit Contractors (RACs) RAC Points of Contact Applications to Assist Communication RAC/MAC Communication Referral to the UPIC Joint Operating Agreement Provider Information Overview of the RAC Process Inputting Suppression and Exclusion Cases to the RACDW

	Adjusting the Claim Tracking Overpayments and Appeals Underpayment Error Files Closure/Retraction Files Extended Repayment Schedule Requests Received on a RAC Initiated Overpayment Appeals Resulting from RAC Initiated Denials Referrals to the Department of the Treasury Reporting Administrative Costs Directly Associated with the RAC Program Potential Fraud MAC Requirements Involving RAC Information Dissemination Voluntary Refund Working with RAC Support Contractors Receivables Initiated by the RAC as Independent Audit Accessible Information MAC Participation in the Review Approval Process
909	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
910	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
911	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
912	Medicare Administrative Contractor (MAC) Verification of Potential Errors and Corrective Actions Taken Corrective Action Reporting Requirements
913	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
914	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
915	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
916	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
917	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
918	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
919	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
920	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
921	The Medicare Fee-for-Service Recovery Audit Program The Medicare Fee-for-Service (FFS) Recovery Audit Program Medicare FFS Recovery Audit Program Communication with Recovery Audit Contractors (RACs) RAC Points of Contact Applications to Assist Communication RAC/MAC Communication
	Referral to the UPIC Joint Operating Agreement Provider Information Overview of the RAC Process Inputting Suppression and Exclusion Cases to the RACDW Adjusting the Claim Tracking Overpayments and Appeals Underpayment Error Files Closure/Retraction Files Extended Repayment Schedule Requests Received on a RAC Initiated Overpayment Appeals Resulting from RAC Initiated Denials Referrals to the Department of the Treasury Reporting Administrative Costs Directly Associated with the RAC Program Potential Fraud MAC Requirements Involving RAC Information Dissemination Voluntary Refund Working with RAC Support Contractors Receivables Initiated by the RAC as Independent Audit Accessible Information MAC Participation in the Review Approval Process
922	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
923	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
924	Updates to the Medical Review Instructions Related to Skilled Nursing Facilities (SNF)
925	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
926	Additional Guidance on Private Contracting/Opting-out of Medicare and Entering) Opt-out Affidavit Records in the Provider Enrollment, Chain and Ownership System (PECOS)
927	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
928	Medicare Administrative Contractor (MAC) Verification of Potential Errors and Corrective Actions Taken
929	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
Medicare Contractor Beneficiary and Provider Communications (CMS-Pub. 100-09)	
42	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
43	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instructions
Medicare Quality Improvement Organization (CMS- Pub. 100-10)	
	None
Medicare End Stage Renal Disease Network Organizations (CMS Pub 100-14)	
	None
Medicaid Program Integrity Disease Network Organizations (CMS Pub 100-15)	

	None
Medicare Managed Care (CMS-Pub. 100-16)	
	None
Medicare Business Partners Systems Security (CMS-Pub. 100-17)	
	None
Medicare Prescription Drug Benefit (CMS-Pub. 100-18)	
	None
Demonstrations (CMS-Pub. 100-19)	
230	Next Generation and Vermont ACO Model - AIPBP Reduction File and BE Modifications
231	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
232	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
233	Display PARHM Claim Payment Amount
234	IVIG Demonstration: Payment Update for 2020
One Time Notification (CMS-Pub. 100-20)	
2366	Implementation of the Skilled Nursing Facility (SNF) Patient Driven Payment Model (PDPM)
2367	Implementation for First Coast Service Options (FCSO) and Novitas for the CMS Enterprise Identity Management OKTA/Saviynt Migration
2368	Reconciliation Effort Between Shared Systems and Provider Enrollment Chain and Ownership System (PECOS)
2369	Implementation for First Coast Service Options (FCSO) and Novitas for the CMS Enterprise Identity Management OKTA/Saviynt Migration
2370	Integrated Data Repository (IDR) Weekly Scheduled Full Provider Master File Extracts
2371	New Overpayment Field Established within the ViPS Medicare System (VMS) for Healthcare Integrated General Ledger Accounting System (HIGLAS) Reporting
2372	Add Dates of Service (DOS) for Pneumococcal Pneumonia Vaccination (PPV) Health Care Procedure Code System (HCPCS) Codes (90670, 90732), and remove Next eligible dates for PPV HCPCS
2373	Home Health Orders for Nurse Practitioners under the Maryland Total Cost of Care (TCOC) Model
2374	Updating Calendar Year (CY) 2020 Medicare Diabetes Prevention Program (MDPP) Payment Rates
2375	Advanced Provider Screening (APS) Phase 2 Go-Live
2376	User CR: MCS - Updates to Beneficiary Deliverable Logic for Internal/Clerk Duplicate Medicare Summary Notices (MSNs) and Temporary Addresses
2377	User Change Request: Analysis for Medicare Summary Notices (MSNs) without Beneficiary Address after Finalist
2378	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
2379	Updates to CR 11152 Implementation of the Skilled Nursing Facility (SNF) Patient Driven Payment Model (PDPM)
2380	Editing Update for Vaccine Services
2381	Addition of Medical Severity Diagnosis Related Groups (MS-DRG) Subject to Inpatient Prospective Payment System (IPPS) Replaced Devices Offered Without Cost or With a Credit Policy
2382	International Classification of Diseases, 10th Revision (ICD-10) and Other Coding Revisions to National Coverage Determination (NCDs)--April 2020 Update
2383	User Change Request: Fiscal Intermediary Shared System (FISS) - Hook Option for National Provider Identifier (NPI) Does Not Select Claims
2384	User CR: ViPS Medicare System (VMS) - Increase Edit Code Maximum
2385	Medicare Shared Savings Program (SSP) Skilled Nursing Facility (SNF) Affiliates' Updated Qualifying Stay Edit
2386	ViPS Medicare System (VMS) Online and Print Reporting of Automated Claims Examination System (ACES) Statistics
2387	Positron Emission Tomography (PET) Scan - Allow Tracer Codes Q9982 and Q9983 in the Fiscal Intermediary Shared System (FISS)
2388	User Change Request (CR) - Adjustment Reason Code to Identify Office of the Inspector General (OIG) Initiated Overpayments and Healthcare Integrated General Ledger Accounting System (HIGLAS) Demand Letter Verbiage
2389	User CR: ViPS Medicare System (VMS) Increase Number of SuperOp Occurrences within a Value Set
2390	Enhance Maximum Claim Counter for Edits and Audits – Implementation
2391	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
2392	Refinement of the Transitional Drug Add-on Payment Adjustment (TDAPA)
2393	Mobile Personal Identity Verification (PIV) Station Installation
2394	Updating Fiscal Intermediary Shared System (FISS) Editing for Practice Locations to Bypass Mobile Facility and/or Portable Units and Services Rendered in the Patient's Home
2395	Implementation to Accept Document Codes and Include Appropriate Document Code(s) in the Pre-Pay Electronic Medical Documentation Requests (eMDR) to Participating Providers, via the Electronic Submission of Medical Documentation (esMD) System
2396	Create a New Standalone Health Insurance Master Record (HIMR) Application Analysis Only
2397	User CR: ViPS Medicare System (VMS) Updates to Entry Code (VEC9) Processing
2398	Updates to Bills Pending Report for the Fiscal Intermediary Shared System (FISS)
2399	User CR: ViPS Medicare System (VMS) Update to the Automated Paperless Exception System (APEX) Selection Process
2400	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
2401	Fiscal Intermediary Shared System (FISS) Reason Code Reports to Show Status for Active Reason Codes
2402	Implementation to Adopt the Document Codes into the Post-Pay Electronic Medical Documentation Requests (eMDR) to Participating Providers via the Electronic Submission of Medical Documentation (esMD) System
2403	Automation of Part B Underpayment Processing of Recovery Audit Contractor (RAC) Adjustments
2404	Appropriate Use Criteria (AUC) for Advanced Diagnostic Imaging –

	Educational and Operations Testing Period - Claims Processing Requirements
2405	Expand Other Amounts Indicator to Carry Additional Values
2406	Health Insurance Portability and Accountability Act (HIPAA) Electronic Data Interchange (EDI) Front End Updates for January 2020
2407	User Change Request: Enhancement to Update Electronic Funds Transfer (EFT) Process
2408	Add Dates of Service (DOS) for Pneumococcal Pneumonia Vaccination (PPV) Health Care Procedure Code System (HCPCS) Codes (90670, 90732), and remove Next eligible dates for PPV HCPCS.
2409	Medicare Shared Savings Program (SSP) Skilled Nursing Facility (SNF) Affiliates' Updated Qualifying Stay Edits
2410	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
2411	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instructions
2412	Expand Narrative File Message Number Range Implementation
Medicare Quality Reporting Incentive Programs (CMS- Pub. 100-22)	
	None
Information Security Acceptable Risk Safeguards (CMS-Pub. 100-25)	
	None

Addendum II: Regulation Documents Published in the Federal Register (October through December 2019)

Regulations and Notices

Regulations and notices are published in the daily **Federal Register**. To purchase individual copies or subscribe to the **Federal Register,** contact GPO at www.gpo.gov/fdsys. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

The **Federal Register** is available as an online database through GPO Access. The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) through the present date and can be accessed at http://www.gpoaccess.gov/fr/index.html. The following website http://www.archives.gov/federal-register/ provides information on how to access electronic editions, printed editions, and reference copies.

This information is available on our website at: https://www.cms.gov/Regulations-and-Guidance/Regulations-and-Policies/QuarterlyProviderUpdates/QPUOctoberDecember2019

For questions or additional information, contact Terri Plumb (410-786-4481).

Addendum III: CMS Rulings (October through December 2019)

CMS Rulings are decisions of the Administrator that serve as precedent final opinions and orders and statements of policy and interpretation. They provide clarification and interpretation of complex or ambiguous provisions of the law or regulations relating to Medicare, Medicaid, Utilization and Quality Control Peer Review, private health insurance, and related matters.

The rulings can be accessed at http://www.cms.gov/Regulations-and-Guidance/Guidance/Rulings. For questions or additional information, contact Tiffany Lafferty (410-786-7548).

Addendum IV: Medicare National Coverage Determinations (October through December 2019)

Addendum IV includes completed national coverage determinations (NCDs), or reconsiderations of completed NCDs, from the quarter covered by this notice. Completed decisions are identified by the section of the NCD Manual (NCDM) in which the decision appears, the title, the date the publication was issued, and the effective date of the decision. An NCD is a determination by the Secretary for whether or not a particular item or service is covered nationally under the Medicare Program (title XVIII of the Act), but does not include a determination of the code, if any, that is assigned to a particular covered item or service, or payment determination for a particular covered item or service. The entries below include information concerning completed decisions, as well as sections on program and decision memoranda, which also announce decisions or, in some cases, explain why it was not appropriate to issue an NCD. Information on completed decisions as well as pending decisions has also been posted on the CMS website. There were no updates to national coverage determinations (NCDs), or reconsiderations of completed NCDs published in the 3-month period. This information is available at: www.cms.gov/medicare-coverage-database/. For questions or additional information, contact Wanda Belle, MPA (410-786-7491).

Addendum V: FDA-Approved Category B Investigational Device Exemptions (IDEs) (October through December 2019)

(Inclusion of this addenda is under discussion internally.)

Addendum VI: Approval Numbers for Collections of Information (October through December 2019)

All approval numbers are available to the public at Reginfo.gov. Under the review process, approved information collection requests are assigned OMB control numbers. A single control number may apply to several related information collections. This information is available at www.reginfo.gov/public/do/PRAMain. For questions or additional information, contact William Parham (410-786-4669).

Addendum VII: Medicare-Approved Carotid Stent Facilities, (October through December 2019)

Addendum VII includes listings of Medicare-approved carotid stent facilities. All facilities listed meet CMS standards for performing carotid artery stenting for high risk patients. On March 17, 2005, we issued our decision memorandum on carotid artery stenting. We determined that carotid artery stenting with embolic protection is reasonable and necessary only if performed in facilities that have been determined to be competent in performing the evaluation, procedure, and follow-up necessary to ensure optimal patient outcomes. We have created a list of minimum standards for facilities modeled in part on professional society statements on competency. All facilities must at least meet our standards in order to receive coverage for carotid artery stenting for high risk patients. For the purposes of this quarterly notice, we are providing only the specific updates that have occurred in the 3-month period. This information is available at: http://www.cms.gov/MedicareApprovedFacilitie/CASF/list.asp#TopOfPage For questions or additional information, contact Sarah Fulton, MHS (410-786-2749).

Facility	Provider Number	Effective Date	State
The following facilities are new listings for this quarter.			
California Pacific Medical Center – Davies Campus 601 Duboce Avenue San Francisco, CA 94117 – 3389 Other information: Sutter Bay Hospitals – dba California Pacific Medical Center (CPMC) – Davies	050008	10/08/2019	CA
Providence Park Hospital 47601 Grand River Novi, MI 48374	230019	10/08/2019	MI
Avera McKennan Hospital and University Health Center 1325 S. Cliff Avenue Sioux Falls, SD 57105	1568460772	10/29/2019	SD
Hackensack Meridian Health Mountainside Medical Center 1 Bay Avenue Montclair, NJ 07042	310054	11/05/2019	NJ
The following facilities have editorial changes (in bold).			
FROM: Mount Clemens General Hospital **TO: McLaren Macomb Hospital** 1000 Harrington Boulevard Mount Clemens, MI 48043	230227	10/11/2005	MI
FROM: Providence – Providence Park Hospital **TO: Providence Hospital** 16001 West Nine Mile Road Southfield, MI 48075	230019	06/27/2005	MI
FROM: Floyd Memorial Hospital and Health Services **TO: Baptist Health Floyd** 1850 State Street New Albany, IN 47150	1497798847	10/17/2013	IN
FROM: USC University Hospital **TO: Keck Hospital of USC** 1500 San Pablo Street Los Angeles, CA 90033	050696	10/24/2005	CA
FROM: St. Elizabeth Regional Health East **TO: Franciscan Health Lafayette East** 1701 S. Creasy Lane Lafayette, IN 47905	150109	01/03/2011	IN
FROM: Appleton Medical Center **TO: ThedaCare Regional Medical Center-Appleton, Inc.** 1818 N Meade Street Appleton WI 54911-3454	520160	06/14/2005	WI
FROM: Theda Clark Medical Center **TO: ThedaCare Regional Medical Center-Neenah, Inc.** 130 2nd Street Neenah, WI 54956-2883	520045	06/14/2005	WI

Addendum VIII:
American College of Cardiology's National Cardiovascular Data Registry Sites (October through December 2019)

The initial data collection requirement through the American College of Cardiology's National Cardiovascular Data Registry (ACC-NCDR) has served to develop and improve the evidence base for the use of ICDs in certain Medicare beneficiaries. The data collection requirement ended with the posting of the final decision memo for Implantable Cardioverter Defibrillators on February 15, 2018.

For questions or additional information, contact Sarah Fulton, MHS (410-786-2749).

Addendum IX: Active CMS Coverage-Related Guidance Documents (October through December 2019)

CMS issued a guidance document on November 20, 2014 titled "Guidance for the Public, Industry, and CMS Staff: Coverage with Evidence Development Document". Although CMS has several policy vehicles relating to evidence development activities including the investigational device exemption (IDE), the clinical trial policy, national coverage determinations and local coverage determinations, this guidance document is principally intended to help the public understand CMS's implementation of coverage with evidence development (CED) through the national coverage determination process. The document is available at http://www.cms.gov/medicare-coverage-database/details/medicare-coverage-document-details.aspx?MCDId=27. There are no additional Active CMS Coverage-Related Guidance Documents for the 3-month period. For questions or additional information, contact JoAnna Baldwin, MS (410-786-7205).

Addendum X:
List of Special One-Time Notices Regarding National Coverage Provisions (October through December 2019)

There were no special one-time notices regarding national coverage provisions published in the 3-month period. This information is available at http://www.cms.gov . For questions or additional information, contact JoAnna Baldwin, MS (410-786 7205).

Addendum XI: National Oncologic PET Registry (NOPR) (October through December 2019)

Addendum XI includes a listing of National Oncologic Positron Emission Tomography Registry (NOPR) sites. We cover positron emission tomography (PET) scans for particular oncologic indications when they are performed in a facility that participates in the NOPR.

In January 2005, we issued our decision memorandum on **positron emission tomography** (PET) scans, which stated that CMS would cover PET scans for particular oncologic indications, as long as they were performed in the context of a clinical study. We have since recognized the National Oncologic PET Registry as one of these clinical studies. Therefore, in order for a beneficiary to receive a Medicare-covered PET scan, the beneficiary must receive the scan in a facility that participates in the registry. There were no additions, deletions, or editorial changes to the listing of National Oncologic Positron Emission Tomography Registry (NOPR) in the 3-month period. This information is available at http://www.cms.gov/MedicareApprovedFacilitie/NOPR/list.asp#TopOfPage. For questions or additional information, contact David Dolan, MBA (410-786-3365).

Addendum XII: Medicare-Approved Ventricular Assist Device (Destination Therapy) Facilities (October through December 2019)

Addendum XII includes a listing of Medicare-approved facilities that receive coverage for ventricular assist devices (VADs) used as destination therapy. All facilities were required to meet our standards in order to receive coverage for VADs implanted as destination therapy. On October 1, 2003, we issued our decision memorandum on VADs for the clinical indication of destination therapy. We determined that VADs used as destination therapy are reasonable and necessary only if performed in facilities that have been determined to have the experience and infrastructure to ensure optimal patient outcomes. We established facility standards and an application process. All facilities were required to meet our standards in order to receive coverage for VADs implanted as destination therapy.

For the purposes of this quarterly notice, we are providing only the specific updates to the list of Medicare-approved facilities that meet our standards that have occurred in the 3-month period. This information is available at http://www.cms.gov/MedicareApprovedFacilitie/VAD/list.asp#TopOfPage.

For questions or additional information, contact David Dolan, MBA, (410-786-3365).

Facility	Provider Number	Date of Initial Certification	Date of Re-certification	State
The following facility is new for this quarter.				
Sunrise Hospital & Medical Center 3186 S. Maryland Parkway Las Vegas, NV 89109 Other information: DNV GL Certificate # 95992-2019-VAD	290003	09/10/2019		NV
The following facilities have editorial changes (in bold).				
FROM: University of Alabama at Birmingham Health System **TO: University of Alabama at Birmingham** **619 19TH S. South** Birmingham, AL 35249-1900 Other information: **Joint Commission ID # 2814** **Previous Re-certification Dates: 2008-12-09; 2011-04-22; 2013-04-09; 2015-04-07; 2017-05-16**	010033	10/29/2003	**07/03/2019**	AL
FROM: Memorial Hermann Hospital **TO: Memorial Hermann – Texas Medical Center** 6411 Fannin Street Houston, TX 77030-1501 Other information: **Joint Commission ID # 9081** **Previous Re-certification Dates: 2013-03-19; 2015-04-14; 2017-05-24**	450068	04/10/2013	**06/26/2019**	TX
Old: Cedars-Sinai Medical Center **New: Cedars-Sinai Health System** 8700 Beverly Boulevard Los Angeles, CA 90048 Other information: **Joint Commission ID # 9792** **Previous Re-certification Dates: 2008-12-12; 2011-06-21; 2013-06-11; 2015-05-29; 2017-07-11**	050625	12/29/2003	**09/11/2019**	CA
Banner-University Medical Center Tucson Campus **1625 North Campbell** **Tucson, AZ 85719** Other information: Joint Commission ID # 9514	030064	04/19/2017	**07/12/2019**	AZ
Banner – University Medical Center Phoenix 1111 East McDowell Road Phoenix, AZ 85006 Other information: Joint Commission ID # 9489	030002	07/26/2017	**07/10/2019**	AZ
FROM: Stanford University Hospital and Clinics **TO: Stanford Health Care** 300 Pasteur Drive Stanford, CA 94305 Other information: **Joint Commission ID # 10010** **Previous Re-certification Dates: 2010-11-24; 2012-12-12; 2014-12-09; 2017-03-14**	050441	12/22/2003	**08/28/2019**	CA
Bryan Medical Center 1600 South 48th Street Lincoln, NE 68506 Other information: **Joint Commission ID # 244330** **Previous Re-certification Dates: 2013-03-05; 2015-02-12; 2017-04-18**	280003	10/23/2003	**07/17/2019**	NE

Facility	Provider Number	Date of Initial Certification	Date of Re-certification	State
FROM: Spectrum Health – Butterworth Campus **TO: Spectrum Health Hospitals** 100 Michigan Street, NE Grand Rapids, MI 49503 Other information: **Joint Commission ID # 277668** **Previous Re-certification Dates: 2013-06-18; 2015-05-19; 2017-06-20**	230038	06/17/2011	**09/25/2019**	MI
FROM: St. Vincent Hospital and Health Services **TO: St. Vincent Hospital and Health Care Services, Inc.** 2001 West 86th Street Indianapolis, IN 46260 Other information: **Joint Commission ID # 7178** **Previous Re-certification Dates: 2008-12-16; 2011-05-17; 2013-06-25; 2015-05-19; 2017-06-13**	150084	01/05/2004	**07/31/2019**	IN
FROM: OSF St Francis Medical Center **TO: OSF Saint Francis Medical Center** 530 NE Glen Oak Avenue Peoria, IL 61637 Other information: **DNV GL Certificate # 95663-2019-VAD** **Previously De-certified 2011-11-22**	140067	08/31/2009	**10/10/2019**	IL
Rush University Medical Center 1653 West Congress Parkway Chicago, IL 60612 Other information: **DNV GL Certificate # 167371-2019-VAD** **Previously De-certified 2014-12-18**	140119	07/19/2013	**09/25/2019**	IL
FROM: Texas Heart Hospital of the Southwest DBA The Heart Hospital Baylor Plano **TO: Texas Heart Hospital of the Southwest, LLP** 1100 Allied Drive Plano, TX 75093 Other information: **Joint Commission ID # 440319** **Previous Re-certification Dates: 2013-07-09; 2015-07-14; 2017-08-22**	670025	06/15/2011	**09/07/2019**	TX
FROM: Baptist Memorial Hospital **TO: Baptist Memorial Hospital – Memphis** 6019 Walnut Grove Road Memphis, TN 38120 Other information: **Joint Commission ID # 7869** **Previous Re-certification Dates: 2009-01-27; 2011-05-20; 2013-04-17; 2015-06-02; 2017-07-25**	440048	04/07/2007	**09/18/2019**	TN
Baystate Medical Center 759 Chestnut Street Springfield, MA 01199 Other information: Joint Commission ID # 2768	220077	08/07/2017	**09/11/2019**	MA
Old: Jewish Hospital **New: Jewish Hospital and St. Mary's Healthcare** 200 Abraham Flexner Way Louisville, KY 40202 Other information: **Joint Commission ID # 7765** **Previous Re-certification Dates: 2008-11-14; 2011-03-22; 2013-02-26; 2015-03-24; 2017-05-23**	180040	11/10/2003	**08/07/2019**	KY

Facility	Provider Number	Date of Initial Certification	Date of Re-certification	State
FROM: Tampa General Hospital **TO: Florida Health Sciences Center Inc.** 1 Tampa General Circle Tampa, FL 33606 Other information: **Joint Commission ID # 6934** **Previous Re-certification Dates: 2011-04-05; 2013-04-09; 2015-04-21; 2017-06-06**	100128	12/19/2008	**07/24/2019**	FL
FROM: Swedish Medical Center Cherry Hill **TO: Swedish Health Services d/b/a Swedish Medical Center Cherry Hill** 500 17th Avenue Seattle, WA 98122 Other information: **DNV GL Certificate # 528555-2019-VAD** **Previous Re-certification Dates: 2011-04-05; 2013-04-09; 2015-04-21; 2017-06-06**	500025	11/09/2016	**10/15/2019**	WA

Addendum XIII: Lung Volume Reduction Surgery (LVRS) (October through December 2019)

Addendum XIII includes a listing of Medicare-approved facilities that are eligible to receive coverage for lung volume reduction surgery. Until May 17, 2007, facilities that participated in the National Emphysema Treatment Trial were also eligible to receive coverage. The following three types of facilities are eligible for reimbursement for Lung Volume Reduction Surgery (LVRS):

- National Emphysema Treatment Trial (NETT) approved (Beginning 05/07/2007, these will no longer automatically qualify and can qualify only with the other programs);
- Credentialed by the Joint Commission (formerly, the Joint Commision on Accreditation of Healthcare Organizations (JCAHO)) under their Disease Specific Certification Program for LVRS; and
- Medicare approved for lung transplants.

Only the first two types are in the list. There were no updates to the listing of facilities for lung volume reduction surgery published in the 3-month period. This information is available at www.cms.gov/MedicareApprovedFacilitie/LVRS/list.asp#TopOfPage. For questions or additional information, contact Sarah Fulton, MHS (410-786-2749).

Addendum XIV: Medicare-Approved Bariatric Surgery Facilities (October through December 2019)

Addendum XIV includes a listing of Medicare-approved facilities that meet minimum standards for facilities modeled in part on professional society statements on competency. All facilities must meet our standards in order to receive coverage for bariatric surgery procedures. On February 21, 2006, we issued our decision memorandum on bariatric surgery procedures. We determined that bariatric surgical procedures are reasonable and necessary for Medicare beneficiaries who have a body-mass index (BMI) greater than or equal to 35, have at least one co-morbidity related to obesity and have been previously unsuccessful with medical treatment for obesity. This decision also stipulated that covered bariatric surgery procedures are reasonable and necessary only when performed at facilities that are: (1) certified by the American College of Surgeons (ACS) as a Level 1 Bariatric Surgery Center (program standards and requirements in effect on February 15, 2006); or (2) certified by the American Society for Bariatric Surgery (ASBS) as a Bariatric Surgery Center of Excellence (BSCOE) (program standards and requirements in effect on February 15, 2006).

There were no additions, deletions, or editorial changes to Medicare-approved facilities that meet CMS' minimum facility standards for bariatric surgery that have been certified by ACS and/or ASMBS in the 3-month period. This information is available at www.cms.gov/MedicareApprovedFacilitie/BSF/list.asp#TopOfPage. For questions or additional information, contact Sarah Fulton, MHS (410-786-2749).

Addendum XV: FDG-PET for Dementia and Neurodegenerative Diseases Clinical Trials (October through December 2019)

There were no FDG-PET for Dementia and Neurodegenerative Diseases Clinical Trials published in the 3-month period.

This information is available on our website at www.cms.gov/MedicareApprovedFacilitie/PETDT/list.asp#TopOfPage. For questions or additional information, contact David Dolan, MBA (410-786-3365).

[FR Doc. 2020–02845 Filed 2–12–20; 8:45 am]

BILLING CODE 4120–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–2494]

Peripheral Vascular Atherectomy Devices—Premarket Notification Submissions; 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 final guidance entitled ''Peripheral Vascular Atherectomy Devices—Premarket Notification Submissions.'' This guidance provides recommendations for premarket submissions for a new or modified peripheral vascular atherectomy device.

DATES: The announcement of the guidance is published in the **Federal Register** on February 13, 2020.

ADDRESSES: You may submit either electronic or written comments on Agency guidances 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 Docket No. FDA–2018–D–2494 for ''Peripheral Vascular Atherectomy Devices—Premarket Notification [510(k)] Submissions.'' 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)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Peripheral Vascular Atherectomy Devices—Premarket Notification [510(k)] Submissions'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Jhumur Banik, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2223, Silver Spring, MD 20993–0002, 240–402–5239.

SUPPLEMENTARY INFORMATION:

I. Background

Atherectomy is an interventional procedure performed to remove atherosclerotic plaque from diseased arteries. FDA has developed this guidance for members of industry who submit and FDA staff who review premarket submissions for atherectomy devices used in the peripheral vasculature. This guidance is intended to provide recommendations for information to include in premarket notifications (510(k)) for peripheral vascular atherectomy devices (*e.g.,* descriptive characteristics, labeling, biocompatibility, sterility, non-clinical, animal, and clinical performance testing).

FDA considered comments received on the draft guidance that appeared in the **Federal Register** of July 27, 2018 (83 FR 35658). FDA revised the guidance as appropriate in response to the comments.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Peripheral

Vascular Atherectomy Devices—Premarket Notification [510(k)] Submissions.'' 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.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* This guidance document is also available at *https://www.regulations.gov.* Persons unable to download an electronic copy of ''Peripheral Vascular Atherectomy Devices—Premarket Notification [510(k)] Submissions'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 16013 and complete title to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in the following FDA regulations and guidance have been approved by OMB as listed in the following table:

21 CFR part/section or guidance	Topic	OMB control No.
807, subpart E	Premarket Notification	0910–0120
812	Investigational Device Exemption	0910–0078
820	Current Good Manufacturing Practice (CGMP); Quality System (QS) Regulation	0910–0073
807, subparts A through D	Electronic Submission of Medical Device Registration and Listing	0910–0625
50, 56	Protection of Human Subjects: Informed Consent; Institutional Review Boards	0910–0755
56	Institutional Review Boards	0910–0130
58	Good Laboratory Practice (GLP) Regulations for Nonclinical Laboratory Studies	0910–0119
801.150(a)(2) and (e)	Agreement for Shipments of Devices for Sterilization	0910–0131
''Requests for Feedback on Medical Device Submissions: The Pre-Submission Program and Meetings with Food and Drug Administration Staff''.	Q-submissions	0910–0756

Dated: February 7, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–02871 Filed 2–12–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–D–0064]

Pre-Submission Consultation Process for Animal Food Additive Petitions or Generally Recognized as Safe Notices; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA, we, or Agency) is announcing the availability of a draft guidance for industry (GFI) #262 entitled ''Pre-Submission Consultation Process for Animal Food Additive Petitions or Generally Recognized as Safe (GRAS) Notices.'' This draft guidance document, when finalized, will help industry submit information for effective and efficient consultations with FDA regarding investigational animal food substances.

DATES: Submit either electronic or written comments on the draft guidance by April 13, 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–2020–D–0064 for ''Pre-Submission Consultation Process for Animal Food Additive Petitions or Generally Recognized as Safe (GRAS) Notices.'' 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 guidance to the Policy and Regulations Staff (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. 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: Ciro Ruiz-Feria, Center for Veterinary Medicine (HFV–229), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–6282, Ciro.Ruiz-Feria@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft GFI #262 entitled ''Pre-Submission Consultation Process for Animal Food Additive Petitions or Generally Recognized as Safe (GRAS) Notices.'' This draft guidance document, when finalized, will facilitate pre-submission consultation between FDA and industry by providing recommendations for submissions to investigational food additive (IFA) files, circumstances under which the submission of study protocols is recommended, information on FDA's review process for IFA submissions, and best practices for communication between FDA and industry regarding these submissions or related issues. Such consultations are intended to assist industry in complying with applicable requirements if they proceed to filing a food additive petition (animal use) or concluding that a substance is GRAS for its intended use in animal food.

Development of this guidance is a requirement of the Animal Drug and Animal Generic Drug User Fee Amendments of 2018 (Pub. L. 115–234). Draft guidance is required to be issued by February 14, 2020, with final guidance issuing not later than 1 year after the close of the comment period on the draft guidance.

II. Significance of Guidance

This level 1 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 the pre-submission consultation process for animal food additive petitions or GRAS notices for intended use in animal food. 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.

III. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved FDA collections of information. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in 21 CFR 570.17 and 571.1 have been approved under OMB control number 0910–0546; the collections of information under 21 CFR part 570, subpart E have been approved under OMB control number 0910–0342; and the collections of information under 21 CFR part 58 have been approved under OMB control number 0910–0119.

IV. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm* or *https://www.regulations.gov.*

Dated: February 6, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–02867 Filed 2–12–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–N–0008]

Request for Nominations of Individuals and Industry Organizations for the Patient Engagement Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting that industry organizations interested in participating in the selection of a pool of nonvoting industry representatives to serve as temporary nonvoting members on the Patient Engagement Advisory Committee (the Committee) in the Center for Devices and Radiological Health notify FDA in writing. FDA is also requesting nominations for temporary nonvoting industry representatives to be included in a pool of individuals to serve on the Committee. Nominees recommended to serve as a temporary nonvoting industry representative may either be self-nominated or nominated by an industry organization. This position may be filled by representatives from different medical device areas based on expertise relevant to the topics being considered by the Committee. Nominations will be accepted for upcoming vacancies effective with this notice.

FDA seeks to include the views of women and men, members of all racial and ethnic groups, and individuals with and without disabilities on its advisory committees and, therefore, encourages nominations of appropriately qualified candidates from these groups.

DATES: Any industry organization interested in participating in the selection of an appropriate nonvoting member to represent industry interest must send a letter stating that interest to the FDA by March 16, 2020 (see sections I and II of this document for details).

Concurrently, nomination materials for prospective candidates should be sent to FDA by March 16, 2020.

ADDRESSES: All statements of interest from industry organizations interested in participating in the selection process of a pool of nonvoting industry representatives should be sent electronically to Margaret Ames (see **FOR FURTHER INFORMATION CONTACT**). All nominations for nonvoting industry representatives should be submitted electronically by accessing the FDA Advisory Committee Membership Nomination Portal: *https://www.accessdata.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm* or by mail to Advisory Committee Oversight and Management Staff, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993–0002. Information about becoming a member on an FDA advisory committee can also be obtained by visiting FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm.*

FOR FURTHER INFORMATION CONTACT: Margaret Ames, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5213, Silver Spring, MD 20993–0002, 301–796–5960, email: *margaret.ames@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for a pool of nonvoting industry representatives for the Committee. The list of needed expertise on May 1, 2020, is identified below:

(1) Cybersecurity
(2) Communication of Benefit and Risk Information to Patients; Medical Device Labeling
(3) Digital Health Technology/Artificial Intelligence
(4) Health of Women/Pediatrics (Vulnerable Population Groups)
(5) Patient Engagement
(6) Patient Preference Elicitation
(7) Patient-reported Outcomes Development, Validation, and Use in Regulatory Studies or Clinical Practice
(8) Postmarket Studies, including Observational and Registry-based Studies

FDA is publishing separate documents regarding:

1. Request for Nominations for Voting Members for the Patient Engagement Advisory Committee
2. Request for Nominations for Consumer Representative for the Patient Engagement Advisory Committee

I. General Description of the Committee's Duties

The Committee provides advice on complex issues relating to medical devices, the regulation of devices, and their use by patients. Agency guidance and policies, clinical trial or registry design, patient preference study design, benefit-risk determinations, device labeling, unmet clinical needs, available alternatives, patient reported outcomes and device-related quality of life or health status issues are among the topics that may be considered by the Committee. Members are knowledgeable in areas such as clinical research, primary care patient experience, healthcare needs of patient groups in the United States or are experienced in the work of patient and health professional organizations, methodologies for eliciting patient preferences, and strategies for communicating benefits, risks, and clinical outcomes to patients and research subjects. The Commissioner of Food and Drugs (the Commissioner), or designee, shall have the authority to select from a group of individuals nominated by industry to serve temporarily as nonvoting members who are identified with industry interests. The number of temporary members selected for a particular meeting will depend on the meeting topic(s).

II. Qualifications

Persons nominated for the Patient Engagement Advisory Committee should be full-time employees of firms that manufacture medical device products, or consulting firms that represent manufacturers or have similar appropriate ties to industry.

III. Selection Procedure

Any industry organization interested in participating in the selection of an appropriate nonvoting member to represent industry interest must send a letter stating that interest to the FDA contact (see **FOR FURTHER INFORMATION CONTACT**) within 30 days of publication of this document (see **DATES**). Within the subsequent 30 days, FDA will send a letter to each organization that has expressed an interest, attaching a complete list of all such organizations, and a list of all nominees along with their current resumes or curriculum vitae. The letter will also state that it is the responsibility of the interested organizations to confer with one another and to select a candidate or candidates (to serve in a pool of individuals with varying areas of expertise) to represent industry interest for the Committee, within 60 days after the receipt of the FDA letter. The interested organizations are not bound by the list of nominees in selecting a candidate or candidates. However, if no individual is selected within 60 days, the Commissioner will select temporary nonvoting members (or pool of individuals) to represent industry interests.

IV. Nomination Procedure

Individuals may self-nominate and/or an organization may nominate one or more individuals to serve as a temporary nonvoting industry representative. Nominations must include a cover letter and a current, complete resume or curriculum vitae for each nominee, including current business and/or home address, telephone number, and email address if available, and a signed copy of the Acknowledgement and Consent form available at the FDA Advisory Committee Membership Nomination Portal (see **ADDRESSES**). Nominations should specify the advisory committee for which the nominee is recommended within 30 days of publication of this document (see **DATES**). In addition, nominations should acknowledge that the nominee is aware of the nomination, unless self-nominated. FDA will forward all nominations to the organizations expressing interest in participating in the selection process for the Committee. Only interested industry organizations participate in the selection process. Persons who nominate themselves as nonvoting industry representatives will not participate in the selection process.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: February 7, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–02872 Filed 2–12–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–N–0008]

Blood Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) announces a forthcoming public advisory committee meeting of the Blood Products Advisory Committee (BPAC). The general function of the committee is to provide advice and recommendations to the Agency on FDA's regulatory issues related to blood and products derived from blood.

Matters considered at the meeting will include current strategies to reduce the risk of Zika virus (ZIKV) transmission by blood and blood components, an update on the Transfusion Transmissible Infections Monitoring System (TTIMS), and testing blood donations for hepatitis B surface antigen. The meeting will be open to the public.

DATES: The meeting will be held on April 2, 2020, from 8:30 a.m. to 3:45 p.m. and April 3, 2020, from 8:30 a.m. to 12:30 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Entrance for the public meeting participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For security information, please refer to *https://www.fda.gov/about-fda/white-oak-campus-information/public-meetings-fda-white-oak-campus.* 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/bpacapril20/.*

FOR FURTHER INFORMATION CONTACT: Christina Vert or Joanne Lipkind, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 6268, Silver Spring, MD 20993–0002, 240–402–8054, *christina.vert@fda.hhs.gov,* or 240–402–8106, *joanne.lipkind@fda.hhs.gov,* respectively, 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. For those unable to attend in person, the meeting will also be available via webcast. The webcast will be available at the following link for both days: *https://collaboration.fda.gov/bpacapril20/.*

SUPPLEMENTARY INFORMATION:

Agenda: On April 2, 2020, in the morning, the BPAC will meet in open session to discuss and make recommendations on strategies to reduce the risk of ZIKV transmission by blood and blood components. The committee will discuss whether universal testing of blood donations for ZIKV is an appropriate strategy considering the decline of ZIKV cases in the United States and worldwide. In the afternoon, the committee will meet in open session to hear an update on the TTIMS. Sponsored by the FDA, the National Institutes of Health National Heart, Lung and Blood Institute, and the Department of Health and Human Services Office of the Assistant Secretary for Health, TTIMS collects incidence, prevalence and risk factor data for certain transfusion-transmitted infections, including human immunodeficiency virus, in U.S. blood donations. On April 3, 2020, the committee will meet in open session to discuss and make recommendations on testing for hepatitis B surface antigen (HBsAg) in blood donations. The committee will discuss whether testing for HBsAg can be discontinued considering the sensitivity of hepatitis B virus nucleic acid testing and hepatitis B anti-core testing of blood donations in the United States.

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 March 25, 2020. On April 2, 2020, oral presentations from the public will be scheduled between approximately 10:50 a.m. to 11:20 a.m. and 3:15 p.m. to 3:45 p.m. On April 3, 2020, oral presentations from the public will be scheduled between approximately 11 a.m. to 11:30 a.m. Those individuals interested in making oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before March 16, 2020. 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 March 17, 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 Christina Vert (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 7, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–02873 Filed 2–12–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: Membership Forms for Organ Procurement and Transplantation Network OMB No. 0915–0184–Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than April 13, 2020.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: Membership Forms for Organ Procurement and Transplantation Network OMB No. 0915–0184–Revision

Abstract: This is a request for OMB approval for revisions of the application documents used to collect information for determining if the interested party is compliant with membership requirements contained in the final rule Governing the Operation of the Organ Procurement and Transplantation Network (OPTN), (42 CFR part 121) ''the OPTN final rule.''

Need and Proposed Use of the Information: Membership in the OPTN is determined by submission of application materials to the OPTN (not to HRSA) demonstrating that the applicant meets all required criteria for membership and will agree to comply with all applicable provisions of the National Organ Transplant Act, as amended, 42 U.S.C. 273, *et seq.*, the OPTN final rule, OPTN Policies, and OPTN Bylaws. Section 1138 of the Social Security Act, as amended, 42 U.S.C. 1320b–8 (section 1138) requires that hospitals in which transplants are performed be members of, and abide by, the rules and requirements of the OPTN (that have been approved by the Secretary of HHS) as a condition of participation in Medicare and Medicaid. Section 1138 contains a similar provision for the organ procurement organizations (OPOs) and makes membership in the OPTN and compliance with its rules and requirements (that have been approved by the HHS Secretary), including those relating to data collection, mandatory for all transplant programs and OPOs.

Proposed Revisions to OPTN Membership Applications: Changes to the forms are proposed to make application requirements more clear and organized, and thus less cumbersome for applicants to complete. Proposed revisions include changes to wording to make questions more consistent with the language of the OPTN Bylaws (Bylaws). In addition, the applications have been revised so that the sequence of questions is parallel to that of the Bylaws. Using the Bylaws as a baseline, the revamped applications have been constructed in parallel order of the Bylaws so that an applicant can have the application and Bylaws side-by-side for easy reference. Additional proposed changes to the application include:

- A few major changes were made to the application order of documentation and attachments. The embedded transplant logs were revised in the form of a 'universal' surgeon and physician log that will be provided as a separate attachment to the application. This new log will provide applicants with all OPTN Bylaws requirements. We hope the added technology utilized in the log will help applicants complete the log with limited errors.
- Also within the applications, ''checkboxes''—fillable tables that were not checkboxes at all—were removed and working checkboxes were inserted. The ''narrative'' section was replaced by checkbox attestations, which will serve the same purpose—understanding relevant and recent surgeon and physician applicant experience.
- The previous membership applications had several places for the applicants to sign. The new application requests only one signature from each individual member applicant involved.
- Additional changes to the application process include streamlining previous application attachments for key personnel and living donor components into one form for the respective organ application.
- Pediatric Bylaw Requirements, where applicable, were also given their own sections within the organ applications. Conversely, the Certificate of Assessment (formerly known as Certificate of Investigation) and the Primary Coverage Plan Checklist were pulled out of the previous organ specific applications and given their own, separate attachment. These changes will allow OPTN application reviewers to give these application components to applicants in as few attachments as possible. These changes will also allow the United Network for Organ Sharing Membership Team to give these important application components to applicants in as few attachments as possible, but are inclusive of all possible changes within a program.
- Further changes have been made to the Vascularized Composite Allograft (VCA) Transplant program applications, which were previously submitted as separate applications for OMB approval based on body part transplanted. These forms have been revised into one single application with sections for each VCA organ type.
- Personnel changes for Organ Procurement Organizations (OPOs) and Histocompatibility Laboratories have also been consolidated into organization applications. OPO and Lab applicants will be able to use one respective application for new and/or personnel changes.
- Given these changes, the overall burden has decreased significantly from an estimated 7,016 total burden hours to 4,755 hours in this current proposed revision package, although some forms have been combined into one more comprehensive form resulting in increased burden hours for a particular form.

Likely Respondents: Parties seeking initial OPTN membership approval and then maintenance of existing OPTN approval. Applicants include the following: hospitals seeking to perform organ transplants, non-profit organizations seeking to become an organ procurement organization, and medical laboratories seeking to become an OPTN-approved histocompatibility laboratory. In addition, there are other OPTN membership categories for organizations and individuals who want to participate in the organ transplant system, and they are also required to fill out an appropriate application.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
OPTN Membership Application for Transplant Hospitals	2	1	2	3	6
OPTN Certificate of Assessment and Program Coverage Plan Membership Application	2	1	2	3	6
OPTN Membership Application for Kidney Transplant Programs	189	2	378	3	1,134
OPTN Membership Application for Liver Transplant Programs	110	2	220	3	660
OPTN Membership Application for Pancreas Transplant Programs	120	2	240	3	720
OPTN Membership Application for Heart Transplant Programs	142	2	284	3	852
OPTN Membership Application for Lung Transplant Programs	60	2	120	3	360
OPTN Membership Application for Islet Transplant Programs	4	2	8	2	16
OPTN Membership Application for Vascularized Composite Allograft (VCA) Transplant Programs	53	2	106	2	212
OPTN Membership Application for Intestine Transplant Programs	90	2	180	3	540
OPTN Membership Application for Organ Procurement Organizations (OPOs)	10	1	10	3	30
OPTN Membership Application for Histocompatibility Laboratories	27	2	54	3	162
OPTN Representative Form	20	2	40	1	40
OPTN Medical/Scientific Membership Application	7	1	7	1	7
OPTN Public Organization Membership Application	4	1	4	1	4
OPTN Business Membership Application	2	1	2	1	2
OPTN Individual Membership Application	4	1	4	1	4
OPTN Membership Application Surgeon or Physician Log*	.....	.....	.....	.....	.....
Total = 18 forms	846	.....	1,661	.....	4,755

*The OPTN Membership Application Surgeon or Physician Log accompanies every individual organ application. The burden to complete is built into the organ application data.

HRSA specifically requests comments on (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.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2020–02870 Filed 2–12–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of the Assistant Secretary for Preparedness and Response; Statement of Organization, Functions and Delegations of Authority

Part A, Office of the Secretary, Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (HHS) is being amended at Chapter AN, Office of the Assistant Secretary for Preparedness and Response (ASPR), as last amended at 83 FR 33941 (July 2018), 79 FR 70.535 (Nov. 26, 2014), 78 FR 25277 (April 30, 2013), 78 FR 7784 (Feb. 4, 2013), 75 FR 35.035 (June 21, 2010) to add the Strategic National Stockpile (SNS). This notice transfers the Office of the Director, Strategic National Stockpile, to the Office of the Principal Deputy Assistant Secretary (ANC), Division of Resource Management (ANC3) pursuant to 5 U.S.C. Appendix (the Reorganization Plan No. 1 of 1953 and the Reorganization Plan No. 3 of 1966) and 31 U.S.C. 1531, and effective October 1, 2018 the functions, personnel, assets, and liabilities of the SNS to the Office of the Secretary, Office of the Assistant Secretary for Preparedness and Response (ASPR).

The changes are as follows.

I. Delete AR.20 Functions in its entirety and replace with the following:

Section AN.20 Functions.

A. Immediate Office of the Assistant Secretary for Preparedness and Response: The Immediate Office of the Assistant Secretary for Preparedness and Response (IO/ASPR) is headed by

the Assistant Secretary, who provides leadership and executive and strategic direction for the ASPR organization. The Assistant Secretary is the principal advisor to the Secretary on all matters related to Federal public health and medical preparedness and response for public health emergencies. The Assistant Secretary is responsible for carrying out ASPR's mission and implementing the functions of ASPR. The IO/ASPR (1) ensures development and maintenance of liaison relationships with HHS operating and staff divisions and represents HHS at interagency meetings, as required; (2) establishes and maintains effective communications and outreach guidance and support for all external communications, including legislative and executive branch questions and inquiries, and serves as the principal advisor to the ASPR on all legislative strategies to fulfill the Office of the ASPR and the HHS mission under section 2811 and other relevant sections of the Public Health Service Act, as amended; (3) oversees advanced research, development and procurement of qualified countermeasures, security countermeasures and qualified pandemic or epidemic products; (4) coordinates with relevant federal officials to ensure integration of federal preparedness and response activities for public health emergencies; (5) manages correspondence control for the Assistant Secretary; and (6) coordinates the strategic and operational activities for public health preparedness response and recovery.

B. Office of Biomedical Advance Research and Development Authority (ANB). The Office of Biomedical Advanced Research and Development Authority (BARDA), established in April 2007 in response to the Pandemic and All-Hazards Preparedness Act of 2006, serves preparedness and response roles to provide medical countermeasures (MCM) in order to mitigate the medical consequences of chemical, biological, radiological, and nuclear (CBRN) threats and agents and emerging infectious diseases, including pandemic influenza. BARDA executes this mission by facilitating research, development, innovation, and acquisition of MCM and expanding domestic manufacturing infrastructure and surge capacity of these MCM.

BARDA is headed by a Deputy Assistant Secretary, and includes the following components:

- Office of Medical Countermeasures Program Support Services (ANB1)
- Division of Regulatory Science and Quality Affairs (ANB12)
- Division of Clinical Development (ANB13)
- Division of Non-Clinical Development (ANB14)
- Office of Medical Countermeasures Program (ANB2)
- Division of Chemical, Biological, Radiological and Nuclear Program (ANB21)
- Division of Influenza, Emerging & Infectious Diseases (ANB22)
- Division of Detection, Diagnostics, Device Infrastructure (ANB23)
- Division of Pharmaceutical Countermeasure Infrastructure (ANB24)
- Division of Research, Innovation and Ventures (ANB25)
- Division of Contracting Management & Acquisitions (ANBA1)

C. Office of the Principal Deputy Assistant Secretary (ANC). The Office of the Principal Deputy Assistant Secretary (OPDAS) is responsible for providing a well-integrated infrastructure that supports the Department's capabilities to prevent, prepare for, respond to and recover from natural public health and medical threats and emergencies. OPDAS leads the preparedness and response activities required to coordinate public health and healthcare response systems and activities with relevant federal, state, tribal, territorial, local, and international communities under the National Response Framework and Emergency Support Annexes #8, #6 and #14. OPDAS is responsible for the execution of business management operations and managing coordination. OPDAS provides for the facility, logistics, information technology and infrastructure support services necessary to maintain day-to-day operations of ASPR, including functions of Human Resources, Organization and Employee Development, Ethics, United States Public Health Service (USPHS) liaison, acquisitions management, contracts, grants, and all financial planning and analysis.

The Office of the Principal Deputy Assistant Secretary is headed by the Principal Deputy Assistant Secretary, and includes the following components:

- Office of Management Finance and Human Capital (ANC1)
- Office of Emergency Management and Medical Operations (ANC2)
- Office of Resource Management (ANC3)

Division of the Strategic National Stockpile (ANC34). The Office of the Director, Division of the Strategic National Stockpile, (1) Leads executive planning and management of the Division of Strategic National Stockpile (DSNS); (2) protects U.S. health security by collaborating with, and recruiting for, partners to enhance international medical supply chain planning, coordination, and management in coordination with operating components of HHS; and (3) supports the U.S. government's Global Health Security Agenda to improve the capabilities of emerging nations' medical countermeasure (MCM) supply chain to combat communicable diseases and other health threats in coordination with operating components of HHS.

Information and Planning Branch. (ANC341) The Information and Planning Branch (1) Coordinates and integrates information and preparedness activities for DSNS and partners to build, sustain, and improve alternative emergency supply chain capabilities and readiness during a response; (2) captures, develops, and shares information and knowledge to facilitate preparedness; (3) designs and delivers learning activities to DSNS staff and partners to enhance knowledge base for alternative emergency medical supply chain capabilities; (4) supports partner exercises and plans, coordinates, and conducts DSNS exercises to enhance and validate alternative emergency medical supply chain preparedness; (5) maintains day-to-day situational awareness, connectivity, and readiness to ensure rapid transition to SNS response operations; (6) supervises the preparation and readiness of all SNS on-site and off-site response coordination facilities to maintain each in a ready state; (7) manages the development, coordination, and maintenance of DSNS response plans; (8) manages the staffing, preparation, and readiness of DSNS staff to respond to emergencies as part of the DSNS incident management structure and on DSNS deployable teams; (9) coordinates staffing for the DSNS incident management structure during exercises or upon a federal deployment of the strategic national stockpile (SNS) to accompany SNS medical countermeasures and provide technical assistance; (10) manages the DSNS Corrective Action Program for exercises and responses to actual emergencies; and (11) manages DSNS personal and program response communications devices and systems.

Operational Logistics Branch. (ANC342) The Operational Logistics Branch (1) Develops logistical requirements for DSNS formulary MCMs established by HHS and the Public Health Emergency Medical Countermeasure Enterprise (PHEMCE); (2) maintains inventory accountability for all DSNS MCMs utilizing an inventory management system; (3) manages the procurement of medical materiel to meet formulary

requirements; (4) manages and tracks expenditure of DSNS funds for the procurement, storage, and transport of medical materiel; (5) manages the development and oversight of contracts for Stockpile Managed Inventory (SMI) and Vendor Managed Inventory (VMI); (6) establishes and manages third party logistics contracts for the storage and maintenance of DSNS MCMs; (7) manages the rotation and programmed replacement of DSNS MCMs; (8) coordinates safety of DSNS MCMs; (9) provides logistics staff for deployable teams that accompany SNS MCMs deployed in response to a public health emergency or full scale exercise; (10) provides emergency operations support to the DSNS Emergency Operations Center (EOC); (11) coordinates transportation contracts needed to deploy DSNS MCMs; (12) manages cold chain storage and deployment capabilities; (13) manages the forward deployment and sustainment of CHEMPACK chemical countermeasures in project areas; (14) manages and maintains calibration and maintenance of DSNS equipment; (15) manages the Shelf Life Extension Program in coordination with the Food and Drug Administration and the Department of Defense (DoD); (16) serves as a storage and distribution partner to the DoD for biologic products; (17) coordinates quality assurance and quality control; (18) in coordination with Centers for Disease Control and Prevention (CDC) will provide support for small scale releases; and (19) conducts physical inventories for stored DSNS materiel.

Management and Business Operations Branch. (ANC343) The Management and Business Operations Branch (1) Provides leadership of all management and operations aspects for the division; (2) manages the development of program policies and procedures; (3) procures, maintains, and supports division information technology systems; (4) monitors and manages reporting of DSNS performance measures; (5) provides leadership in issue and risk management, business transformation, and change management; (6) maintains contract management responsibility within DSNS; (7) provides guidance and other support for all division acquisitions; (8) plans, manages, and coordinates all aspects of program business services and resource management operations; (9) provides editing and writing services and coordinates and clears internal and external communications; (10) acts as the Division's liaison for internal/external audits and reviews; (11) directs and monitors a comprehensive strategy for managing and executing the critical systems in operating a successful commercial good manufacturing practice compliance program; (12) develops and leverages systems to manage, track and report the disposition of deployed SNS MCMs; (13) in coordination with CDC, manages and coordinates SNS tasks from Congress, Office of Management and Budget, and other federal agencies; (14) manages the development and oversight of DSNS-wide annual budget and spend plans and handles all aspects of DSNS budget execution; (15) executes the opening and closing of Stockpile Resource Planning (SRP) accounting periods, oversees SRP financial reconciliation (*e.g.,* inventory procurement and finance modules), and coordinates SRP accounting and reporting; and (16) manages budget formulation and produces 7-year budget requirement projections to support procurement planning and strategic decision making.

Science Branch. (ANC344) The Science Branch (1) In collaboration with CDC, guides scientific and medical integration for MCM planning and response with Federal, state, local, and non-government partners; (2) in collaboration with CDC and PHEMCE partners, steers SNS medical countermeasure acquisition, sustainment, and deployment; (3) manages administrative, medical, pharmaceutical, and scientific oversight of the SNS formulary; (4) ASPR and CDC will work together to engage federal officials and subject matter experts in reviewing and disseminating the best available guidance for use of stockpiled MCMs; (5) engages public and private sector partners to develop and deliver information and training on SNS assets to specialized healthcare delivery audiences to increase nationwide knowledge base and preparedness for MCM response; (6) ASPR and CDC will coordinate medical surveillance program for all SNS deployable teams; (7) responds to inquiries regarding the SNS formulary and program from local, state, and federal agencies; and (8) collaborates with academic institutions, governmental and nongovernmental agencies on research, regulatory, licensing and compliance issues surrounding stockpiling of MCMs.

Strategic Logistics Branch (ANC45). The Strategic Logistics Branch (1) In collaboration with CDC, provides technical assistance to State, Local, Tribal, and Territorial (SLTT) partners to improve their medical countermeasure response capabilities; (2) performs analysis and assessment of public health supply chain functions to enhance operational efficiencies; (3) educates partners on Strategic National Stockpile activities and capabilities; (4) evaluates, analyzes, and develops supply chain processes or procedures and recommends enhancements or new procedures, as necessary; (5) plans, manages, coordinates, and evaluates DSNS functions associated with commercial supply chain collaboration and distribution; (6) analyzes manufacturer and commercial supply chain data to identify trends and obstacles to achieve MCM goals and operational requirements; (7) in collaboration with CDC and non-government experts, conducts analysis to evaluate medical countermeasure supply chain characteristics to determine supply chain capacity and probable areas of vulnerability; and (8) develops partnerships with associations, for-profit business, professional organizations and private groups to improve public access to medical countermeasures during a public health emergency.

D. Deputy Assistant Secretary Incident Command and Control (ANG): The Deputy Assistant Secretary (DAS/ICC) is responsible for the policy development, planning analysis, requirements and strategic planning. DAS/ICC manages and operates the HHS Secretary's Operation Center (SOC), intelligence, security, information management and is also responsible for the HHS Continuity of Operations (COOP) and the development of the ASPR COOP Plan. The Office of the Assistant Secretary Incident Command and Control (DAS/ICC) is headed by the Deputy Assistant Secretary Incident Command and Control, and includes the following components:

- Office of Security Intelligence and Information Management
- Office of Strategy, Policy, Planning and Requirements

III. Delegations of Authority. Delegations of authority made to officials and employees of affected organizational components will be established in them or their successors to be consistent with this reorganization.

Dated: February 7, 2020.

Alex M. Azar II,

Secretary.

[FR Doc. 2020–02839 Filed 2–12–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Assistant Secretary for Administration; Delegation of Authority

Notice is hereby given that I have amended the delegation of authority to the Assistant Secretary for Preparedness and Response (ASPR); the Director, Centers for Disease Control and Prevention (CDC); the Administrator, Health Resources and Services Administration (HRSA); the Director, National Institutes for Health (NIH); the Director, Office of Global Affairs (OGA); and the Administrator, Substance Abuse and Mental Health Services Administration (SAMHSA), specifically the authority vested in the Secretary, by section 212(l) of the Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019 (FY 19 HHS Appropriations Act) Public Law 115–245, division B, title II, (September 28, 2018), or substantially similar authorities vested in me in the future by Congress, in order to carry out international health activities, including HIV/AIDS and other infectious disease, chronic and environmental disease, and other health activities abroad. Section 212(l) of the FY19 HHS Appropriations Act and section 212(1) of the Further Consolidated Appropriations Act, 2020, Public Law 116–94, division A, title II, (December 20, 2019) permit the Secretary of HHS to exercise authority equivalent to that available to the Secretary of State under 22 U.S.C. 2669(c) to award personal services contracts for work performed in foreign countries.

The authority delegated herein includes the authority to determine the necessity of negotiating, executing, and performing such contracts without regard to statutory provisions as relate to the negotiation, making, and performance of contracts and performance of work in the United States. This authority is immediately revoked in the event that any subsequent fiscal year HHS appropriations act does not contain the provision currently in section 212(1) or substantially similar authority.

The Director, CDC, may redelegate this authority to the Chief Operating Officer, CDC, through Fiscal Year 2021 from this date of signature to respond to current and any future Ebola, polio, and coronavirus outbreaks. This authority may not be further be redelegated except as noted above.

The delegatees shall consult with the Secretary of State and relevant Chief of Mission to ensure that this authority is exercised in a manner consistent with section 207 of the Foreign Service Act of 1980 and other applicable statutes administered by the Department of State.

This amended delegation became effective upon date of signature. In addition, I hereby affirm and ratify any actions taken by you or your subordinates which involved the exercise of the authorities delegated herein, or substantially similar authorities vested in me by prior annual HHS appropriations acts, prior to the effective date of the delegation.

Dated: February 7, 2020.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

[FR Doc. 2020–02944 Filed 2–12–20; 8:45 am]

BILLING CODE 4151–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–New]

Agency Information Collection Request; 60-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 April 13, 2020.

ADDRESSES: Submit your comments to *Sherrette.Funn@hhs.gov* or by calling (202) 795–7714.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 0990–New–60D and project title for reference, to *Sherrette.funn@hhs.gov,* or call the Reports Clearance Officer, Sherrette Funn (202) 795–7714.

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: Substance Use Disorder Patient Placement Criteria Used By States.

Type of Collection: New.

The Office of the Assistant Secretary for Planning and Evaluation (ASPE) at the U.S. Department of Health and Human Services (HHS) is requesting Office of Management and Budget (OMB) approval for a one-time survey of state agencies regarding their use of substance use disorder (SUD) patient placement criteria and assessment tools. The proposed survey is one component of a larger project to assess the feasibility of gathering and utilizing needs assessment data to identify and address unmet patient needs by levels of care. Results from this survey will provide ASPE with information about the types of patient placement data states collect and maintain, and the degree to which the data can be used to understand the SUD treatment gap. These results will provide ASPE with information that can be used to develop a multistate dataset of needs assessment that can be updated over time. Such a dataset is necessary for understanding and addressing treatment needs in the nation on an ongoing basis.

The 17-question survey requests information related to state requirements for using patient placement criteria and assessment tools for individuals with SUD. Additional questions ask how data from the placement criteria and/or assessment tools are maintained; if level of care data has been used to help determine service gaps and need for greater capacity; and whether the respondent could provide web links to available information on the criteria used in their state. Two individuals from each state and the District of Columbia will be invited to respond to the survey. Respondents will be representatives from each state's Single State Authority (SSA) and the Medicaid Agency. An eighty-five percent response rate is anticipated, resulting in an estimated 87 total participants.

This project falls under Section 301 of the Public Health Service Act (42U.S.C. 241) [280–1a] which authorizes the Office of the Secretary to conduct and coordinate studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases. The total annual burden hours estimated for this information collection request are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Forms	Number of respondents	Number of responses per respondent	Average burden per response (hours)	Total annual burden (hours)
Survey on SUD Placement Criteria	87	1	10/60	14.5

Dated: February 5, 2020.

Sherrette A. Funn,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2020–02846 Filed 2–12–20; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Dianca Finch, Ph.D., 240–669–5503; *dianca.finch@nih.gov.* Licensing information and copies of the U.S. patent application listed below may be obtained by communicating with the indicated licensing contact at the Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rockville, MD 20852; tel. 301–496–2644. A signed Confidential Disclosure Agreement will be required to receive copies of unpublished patent applications.

SUPPLEMENTARY INFORMATION: Technology description follows:

Ebola Virus Glycoprotein-Specific Monoclonal Antibodies and Uses Thereof Description of Technology

Ebola virus is a large, negative-strand RNA virus composed of 7 genes encoding viral proteins, including a single glycoprotein (GP). The virus is responsible for causing Ebola virus disease (EVD), formerly known as Ebola hemorrhagic fever (EHF), in humans. In particular, Bundibugyo (BDBV), Zaire (EBOV), and Sudan (SUDV) species have been associated with large outbreaks of EVD in Africa and reported case fatality rates of up to 90%. Transmission of Ebola virus to humans is not yet fully understood but is likely due to incidental exposure to infected animals. EVD spreads through human-to-human transmission, with infection resulting from direct contact with blood, secretions, organs or other bodily fluids of infected people, and indirect contact with environments contaminated by such fluids.

EVD has an incubation period of 2 to 21 days (7 days on average, depending on the strain) followed by a rapid onset of non-specific symptoms such as fever, extreme fatigue, gastrointestinal complaints, abdominal pain, anorexia, headache, myalgias and/or arthralgias.

While prior outbreaks of EVD have been localized to regions of Africa, there is a potential threat of spread to other countries given the frequency of international travel. The 2014 outbreak in West Africa was first recognized in March 2014, and as of April 13, 2016, the number of cases far exceeded the largest prior EVD outbreak with a combined total (suspected, probable, and laboratory-confirmed) 28616 cases and 11310 deaths (case fatality rate = 39.5%). The largest previous outbreak occurred in Uganda in 2000–2001 with 425 cases and 224 deaths (case-fatality rate = 53%).

Viruses in the Filoviridae family are also categorized as potential threats for use as biological weapons due to ease of dissemination and transmission, and high levels of mortality. Currently, no effective therapies or FDA-licensed vaccines exist for any member of Filoviridae family of viruses.

Researchers at the Vaccine Research Center (VRC) of the National Institute of Allergy and Infectious Diseases (NIAID) developed eight high-affinity human monoclonal antibodies, specifically EboV.YD.01, EboV.YD.02, EboV.YD.03, and EboV.YD.04, EboV.YD.05, EboV.YD.06, EboV.YD.07 and EboV.YD.08 which bind with nanomolar affinity against Ebola virus glycoprotein. The human monoclonal antibodies have been assessed by functional assays, epitope mapping, affinity measurements and in vitro neutralization assays.

This technology is available for licensing for commercial development in accordance with 35 U.S.C. 209 and 37 CFR part 404.

Potential Commercial Applications:

- Prevention of acquisition of Ebola Zaire virus.
- Antibody therapy for people exposed to Ebola Zaire virus.
- Diagnostics for Ebola Zaire virus.

Competitive Advantages:

- High-affinity neutralizing antibodies (mAbs), targeting Ebola virus (EBOV) glycoprotein from a human Ebolavirus vaccine.
- Currently, there are no Food and Drug Administration (FDA)-approved vaccines or therapeutics available for prevention, post-exposure, or treatment for EBOV.
- The EboV.YD.01–EboV.YD.08 antibodies can be combined with other biologicals and vaccines for prevention and therapy of Ebola Zaire infection/disease.

Development Stage: Preclinical Research.

Inventors: Nancy J. Sullivan, Ph.D. (NIAID); John Misasi, Ph.D. (NIAID).

Intellectual Property: HHS Reference Number E–061–2018 includes U.S. Provisional Patent Application Number 62/782,809, filed 12/20/2018, and PCT Application Number PCT/US2019/067423, filed 12/19/2019.

Licensing Contact: To license this technology, please contact Dianca Finch, Ph.D., 240–669–5503; *dianca.finch@nih.gov.*

Dated: February 4, 2020.

Wade W. Green,

Acting Deputy Director, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases.

[FR Doc. 2020–02916 Filed 2–12–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Office of Research Infrastructure Programs Special Emphasis Panel; Office of Research Infrastructure Programs (ORIP) Special Emphasis Panel: Applications for Scientific Conferences.

Date: March 20, 2020.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Kenneth Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3218, MSC 7717, Bethesda, MD 20892, (301) 435–0229, *kenneth.ryan@nih.hhs.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: February 7, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–02860 Filed 2–12–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; NCI Genomic Data Commons (GDC) Data Submission Request Form (National Cancer Institute)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Zhining Wang, Ph.D., Project Officer, Center for Cancer Genomics (CCG), National Cancer Institute, Building 31 Room 3A20, 31 Center Drive, Bethesda, MD 20814 or call non-toll-free number 301–402–1892 or email your request, including your address to: *zhining.wang@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on December 2, 2019 page 65990 (Vol. 84 No. 231 FR 65990 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: NCI Genomic Data Commons (GDC) Data Submission Request Form, 0925–0752, Expiration Date 5/31/2020, EXTENSION, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The purpose of the NCI Genomic Data Commons (GDC) Data Submission Request Form is to provide a vehicle for investigators to request submission of their cancer genomic data into the GDC in support of data sharing. The purpose is to also provide a mechanism for the GDC Data Submission Review Committee to review and assess the data submission request for applicability to the GDC mission. The scope of the form involves obtaining information from investigators that: (1) Would like to submit data about their study into the GDC, (2) are affiliated with studies that adhere to GDC data submission conditions. The benefits of the collection are that it provides the needed information for investigators to understand the types of studies and data that the GDC supports, and that it provides a standard mechanism for the GDC to assess incoming data submission requests.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 50 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type ofrespondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
Investigator	200	1	15/60	50
Total		200		50

Dated: February 6, 2020.

Diane Kreinbrink,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2020–02911 Filed 2–12–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Request for Information: Stakeholder Input on Opportunities for Increased Collaboration to Advance Prevention Research

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Institutes of Health (NIH), Office of the Director, Office of Disease Prevention (ODP) issues this Request for Information (RFI) to identify opportunities to foster and engage in partnerships and dialogue with stakeholders to advance prevention research. The ODP hopes this will help us determine areas where we can collaboratively advance prevention research priorities, training opportunities, and better meet the needs of our stakeholders. The ODP invites input from researchers in academia and industry, health care professionals, patient advocates and advocacy organizations, scientific or professional organizations, federal agencies, and other interested members of the public. Organizations are strongly encouraged to submit a single response that reflects the views of the organization and membership as a whole.

DATES: The ODP's RFI is open for public comment for a period of 45 days. Responses must be received by 5:00 p.m. ET on March 29, 2020 to ensure consideration.

ADDRESSES: Comments must be submitted electronically at *https://prevention.nih.gov/StakeholderRFI.*

FOR FURTHER INFORMATION CONTACT: Please direct all inquiries to Marie Rienzo, M.A.; ODP, NIH; Phone: 301–827–5561; email: *prevention@nih.gov.*

SUPPLEMENTARY INFORMATION: To ensure consideration, responses must be submitted electronically at *https://prevention.nih.gov/StakeholderRFI.* Respondents will receive a confirmation of their submission but will not get individualized feedback. All respondents are encouraged to sign up for the ODP listserv to receive information about the ODP's latest activities.

In accordance with 42 U.S.C. 282(f) of the Public Health Service Act, as amended, the mission of the ODP is to improve public health by increasing the scope, quality, dissemination, and impact of prevention research supported by the NIH. The ODP's Strategic Plan FY 2019–2023 includes six strategic priorities and three cross-cutting themes that guide the activities of the Office.

The cross-cutting themes represent areas of opportunity for the ODP to serve as a catalyst for developing, coordinating, and implementing new activities and to better integrate disease prevention into trans-NIH initiatives.

- Stimulate research to address the leading causes and risk factors for premature mortality and morbidity.
- Support activities that strengthen research to address health disparities.
- Promote prevention-related dissemination and implementation research.

The ODP's six priorities represent the breadth of our activities and allow for emerging areas of opportunity to be incorporated into Office activities.

- Systematically monitor NIH investments in prevention research and the progress and results of that research.
- Identify prevention research areas for investment or expanded effort by the NIH.
- Promote the use of the best available methods in prevention research and support the development of better methods.
- Promote collaborative prevention research projects and facilitate coordination of such projects across the NIH and with other public and private entities.
- Promote and facilitate tobacco regulatory science and tobacco prevention research.
- Communicate the importance and value of prevention research, disseminate prevention research resources and programs, and build and enhance relationships with key stakeholders.

The definition of prevention research used by the ODP encompasses both primary and secondary prevention. Primary prevention includes research designed to promote health; identify risk factors for developing a new health condition (*e.g.,* disease, disorder, injury); and prevent the onset of a new health condition. Secondary prevention includes research designed to identify risk factors for the progression or recurrence of a health condition and detecting and preventing progression of an asymptomatic or early-stage condition.

The ODP helps develop and coordinate prevention research activities including, but not limited to, funding opportunities, workshops, and conferences across the NIH and with other public and private organizations. The Office is looking to build and leverage its resources and partnerships to further support prevention research. Input received from this RFI will help the ODP identify opportunities for increased dialogue, partnerships, collaboration, and engagement with stakeholders. The ODP hopes this will help us pinpoint areas where collaborative efforts can help advance prevention research.

Information Requested

The ODP is seeking input on the following topics/areas:

1. Please comment on the top 2–3 strategies for increasing collaboration and engagement between the ODP and your organization. The ODP is particularly interested in opportunities to advance areas that address the top disease risk factors in the United States, as well as efforts to reduce health disparities, improve quality and access to care for major contributors to morbidity and mortality, and help address social determinants of health.

2. Please provide suggestions for how the ODP can foster high-quality collaborative prevention research and in what areas (*e.g.,* screening for disease or risk factors, economics of prevention, prevention methods and measurement research, training efforts).

3. The ODP has developed resources to educate researchers and promote prevention research. The Office is looking for opportunities to collaborate with organizations to create new materials to achieve these goals. Please identify the 2–3 resources (*e.g.,* training courses, fact sheets, infographics, videos) that would be most useful for your organization.

4. The ODP often presents and exhibits at various scientific meetings. Please identify scientific meetings that might benefit from ODP participation.

5. *Optional:* Please indicate if you are a:

- Researcher in academia
- Researcher in industry
- Health care professional
- Patient advocate
- Staff member at a scientific or professional organization
- Federal government employee

Responses to this RFI are voluntary and may be submitted anonymously. Proprietary, classified, confidential, or sensitive information should not be included in responses. We will post a summary report of the comments on the ODP website. Any personal identifiers (personal names, email addresses, etc.)

will be removed when responses are compiled.

This RFI is for planning purposes only and should not be construed as a solicitation for applications or proposals, or as an obligation in any way on the part of the United States Federal government. The Federal government will not pay for the preparation of any information submitted or for the government's use. Additionally, the government cannot guarantee the confidentiality of the information provided.

Dated: February 7, 2020.

Lawrence A. Tabak,

Principle Deputy Director, National Institutes of Health.

[FR Doc. 2020–02918 Filed 2–12–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Initial Review Group; Genome Research Review Committee.

Date: March 5, 2020.

Time: 11:30 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, 6700B Rockledge Drive, Jordan Conf. Rm. (#2201), Bethesda, MD 20917 (Telephone Conference Call).

Contact Person: Rudy Pozzatti, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, 6700B Rockledge Drive, Room 3184, Bethesda, MD 20817, (301) 402–0838, *pozzattr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: February 7, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–02859 Filed 2–12–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel; Genomic Resource.

Date: March 25, 2020.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, 6700B Rockledge Drive, Room 3188, Bethesda, MD 20817. (Telephone Conference Call)

Contact Person: Keith McKenney, Ph.D., Scientific Review Officer, National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Room 3188, Bethesda, MD 20817, (301) 594–4280, *mckenneyk@mail.nih.gov.*

Name of Committee: National Human Genome Research Institute Special Emphasis Panel; Genome Innovator.

Date: March 26, 2020.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, 6700B Rockledge Drive, Room 3180, Bethesda, MD 20817. (Telephone Conference Call)

Contact Person: Ken D. Nakamura, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Room 3180, Bethesda, MD 20817, (301) 402–0838, *nakamurk@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: February 7, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–02861 Filed 2–12–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery, (National Cancer Institute)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

FOR FURTHER INFORMATION CONTACT: Diane Kreinbrink, Office of Management Policy and Compliance, National Cancer Institute, 9609 Medical Center Drive, Bethesda, MD 20892–9760 or call non-toll-free number (240) 276–5582 or Email your request, including your address to: *diane.kreinbrink@nih.gov.*

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on December 3, 2019, page 66209 (Vol. 84, No. 232 FR 66209) and allowed 60 days for public comment. One public comment was received. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or

after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (NCI), 0925–0642, EXTENSION, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: This information collection activity is collecting qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. This generic provides information about the National Cancer Institute's customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. It also allows feedback to contribute directly to the improvement of program management. Feedback collected under this generic clearance provides useful information but it will not yield data that can be generalized to the overall population.

OMB approval is requested for 3 year. There are no costs to respondents other than their time. The total estimated annualized burden hours are 9,337.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Surveys	Individuals	27,100	1	12/60	5,420
In-Depth Interviews (IDIs) or Small Discussion Groups.	Individuals	500	1	90/60	750
Focus Groups	Individuals	1000	1	90/60	1,500
Website or Software Usability Tests	Individuals	5000	1	20/60	1,667
Total			33,600		9,337

Dated: February 5, 2020.

Diane Kreinbrink,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2020–02913 Filed 2–12–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Request for Information (RFI): Inviting Comments and Suggestions on a Framework for the NIH-Wide Strategic Plan for FYs 2021–2025

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This Request for Information (RFI) is intended to gather broad public input to assist the National Institutes of Health (NIH) in developing the NIH-Wide Strategic Plan for Fiscal Years (FYs) 2021–2025. NIH invites input from stakeholders throughout the scientific research, advocacy, and clinical practice communities, as well as the general public, regarding the proposed framework for the FY 2021–2025 NIH-Wide Strategic Plan. Organizations are strongly encouraged to submit a single response that reflects the views of their organization and their membership as a whole.

DATES: This RFI is open for public comment for a period of 6 weeks. Comments must be received by 11:59:59 p.m. (ET) on March 25, 2020 to ensure consideration.

ADDRESSES: All comments must be submitted electronically on the submission website, available at *https://grants.nih.gov/grants/rfi/rfi.cfm?ID=101*.

FOR FURTHER INFORMATION CONTACT: Please direct all inquiries to: Marina Volkov, *nihstrategicplan@od.nih.gov,* 301.496.4147.

SUPPLEMENTARY INFORMATION: The purpose of the NIH-Wide Strategic Plan is to communicate how NIH will advance its mission to support research in pursuit of fundamental knowledge about the nature and behavior of living systems, and the application of that knowledge to enhance health, lengthen life, and reduce illness and disability.

The current NIH-Wide Strategic Plan (available at: *https://www.nih.gov/about-nih/nih-wide-strategic-plan*), covering FYs 2016–2020, was submitted to Congress on December 15, 2015. As part of implementing the 21st Century Cures Act (Pub. L. 114–255), NIH will update its Strategic Plan every five years. The agency is currently developing an updated NIH-Wide Strategic Plan, for FYs 2021–2025, and anticipates releasing it in December 2020.

The FY 2021–2025 NIH-Wide Strategic Plan will highlight NIH's approach towards the achievement of its mission while ensuring good stewardship of taxpayer funds. It is not intended to outline the myriad of important research opportunities for specific diseases or conditions. Nor will it focus on the specific research missions of each component Institute, Center and Office. Those opportunities are found within strategic plans that are specific to an Institute, Center, or Office, or specific to a particular disease or disorder. (A list of Institute, Center, or Office-specific, topical, and other NIH-wide or interagency strategic plans is available at *https://report.nih.gov/strategicplans/*.)

The Framework for the FY 2021–2025 NIH-Wide Strategic Plan, below, articulates NIH's priorities in three key areas (Objectives): Biomedical and behavioral science research; scientific research capacity; and scientific integrity, public accountability, and social responsibility in the conduct of science. These Objectives apply across NIH. In addition, several Cross-Cutting Themes, which span the scope of these Objectives, are identified.

NIH-Wide Strategic Plan Framework

Cross Cutting Themes

- Increasing, Enhancing, and Supporting Diversity
- Improving Women's Health and Minority Health, and Reducing Health Disparities

- Optimizing Data Science and the Development of Technologies and Tools
- Promoting Collaborative Science
- Addressing Public Health Challenges Across the Lifespan

Objective 1: Advancing Biomedical and Behavioral Sciences

- Driving Foundational Science
- Preventing Disease and Promoting Health
- Developing Treatments, Interventions, and Cures

Objective 2: Developing, Maintaining, and Renewing Scientific Research Capacity

- Cultivating the Biomedical Research Workforce
- Supporting Research Resources and Infrastructure

Objective 3: Exemplifying and Promoting the Highest Level of Scientific Integrity, Public Accountability, and Social Responsibility in the Conduct of Science

- Fostering a Culture of Good Scientific Stewardship
- Leveraging Partnerships
- Ensuring Accountability and Confidence in Biomedical and Behavioral Sciences
- Optimizing Operations

The NIH seeks comments on any or all of, but not limited to, the following topics:

- Cross-Cutting Themes articulated in the framework, and/or additional cross-cutting themes that may be considered
- NIH's priorities across the three key areas (Objectives) articulated in the framework, including potential benefits, drawbacks or challenges, and other priority areas for consideration
- Future opportunities or emerging trans-NIH needs

NIH encourages organizations (*e.g.,* patient advocacy groups, professional organizations) to submit a single response reflective of the views of the organization or membership as a whole.

Responses to this RFI are voluntary and may be submitted anonymously. Please do not include any personally identifiable information or any information that you do not wish to make public. Proprietary, classified, confidential, or sensitive information should not be included in your response. The Government will use the information submitted in response to this RFI at its discretion. The Government reserves the right to use any submitted information on public websites, in reports, in summaries of the state of the science, in any possible resultant solicitation(s), grant(s), or cooperative agreement(s), or in the development of future funding opportunity announcements. This RFI is for informational and planning purposes only and is not a solicitation for applications or an obligation on the part of the Government to provide support for any ideas identified in response to it. Please note that the Government will not pay for the preparation of any information submitted or for use of that information.

We look forward to your input and hope that you will share this RFI opportunity with your colleagues.

Dated: February 7, 2020.

Lawrence A. Tabak,

Principal Deputy Director, National Institutes of Health.

[FR Doc. 2020–02919 Filed 2–12–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Inherited Disease Research Access Committee.

Date: March 6, 2020.

Time: 11:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, National Institutes of Health, 6700 B Rockledge Drive, Room 3185, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Barbara J. Thomas, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, 6700 B Rockledge Drive, Room 3185, Bethesda, MD 20892, 301–402–0838, *barbara.thomas@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: February 10, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–02915 Filed 2–12–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel; NEI Conference Grants Applications.

Date: March 11, 2020.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Eye Institute, 6700B Rockledge Drive, Suite 3400, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Brian Hoshaw, Ph.D., Designated Federal Official, Division of Extramural Research, National Eye Institute, National Institutes of Health, 6700 B Rockledge Dr., Ste 3400, Rockville, MD 20892, 301–451–2020, *hoshawb@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: February 10, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–02914 Filed 2–12–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Meeting; Advisory Committee for Women's Services (ACWS)

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Substance Abuse and Mental Health Services Administration's (SAMHSA) Advisory Committee for Women's Services (ACWS) on March 17, 2020.

The meeting will include discussions on assessing SAMHSA's current strategies, including the mental health and substance use needs of the women and girls population. Additionally, the ACWS will be addressing priorities regarding the needs of women veterans, foster care systems of care, and directions around behavioral health services and access for women and children.

The meeting is open to the public and will be held at SAMHSA, 5600 Fishers Lane, Rockville, MD, 20857. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions should be forwarded to the contact person by March 12, 2020. Oral presentations from the public will be scheduled at the conclusion of the meeting. Individuals interested in making oral presentations are encouraged to notify the contact person on or before March 12, 2020. Five minutes will be allotted for each presentation.

The meeting may be accessed via telephone or web meeting. To obtain the call-in number and access code, submit written or brief oral comments, or request special accommodations for persons with disabilities, please register on-line at *http://snacregister.samhsa.gov/MeetingList.aspx,* or communicate with SAMHSA's Designated Federal Officer, Ms. Valerie Kolick.

Substantive meeting information and a roster of ACWS members may be obtained either by accessing the SAMHSA Committees' *Web https://www.samhsa.gov/about-us/advisory-councils/meetings,* or by contacting Ms. Kolick.

Committee Name: Substance Abuse and Mental Health Services Administration, Advisory Committee for Women's Services (ACWS).

Date/Time/Type: Tuesday, March 17, 2020, from: 9:00 a.m. to 4:00 p.m. EDT (OPEN).

Place: SAMHSA, 5600 Fishers Lane, Rockville, MD 20857.

Contact: Valerie Kolick, Designated Federal Officer, SAMHSA's Advisory Committee for Women's Services, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (240) 276–1738, Email: *Valerie.kolick@samhsa.hhs.gov.*

Dated: February 7, 2020.

Carlos Castillo,

CAPT, USPHS, Committee Management Officer, Substance Abuse and Mental Health, Services Administration.

[FR Doc. 2020–02850 Filed 2–12–20; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Inspectorate America Corporation (Ferndale, WA) as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Inspectorate America Corporation (Ferndale, WA), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Inspectorate America Corporation (Ferndale, WA), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of August 28, 2019.

DATES: Inspectorate America Corporation (Ferndale, WA) was approved and accredited as a commercial gauger and laboratory as of August 28, 2019. The next triennial inspection date will be scheduled for August 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Justin Shey, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Inspectorate America Corporation, 1350 Slater Rd., Suite 7, Ferndale, WA 98248, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

Inspectorate America Corporation (Ferndale, WA) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
17	Marine Measurement.

Inspectorate America Corporation (Ferndale, WA) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–01	D 287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27–02	D 1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27–03	D 4006	Standard Test Method for Water in Crude Oil by Distillation.
27–05	D 4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27–06	D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–08	D 86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27–13	D 4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27–58	D 5191	Standard Test Method For Vapor Pressure of Petroleum Products (Mini Method).
N/A	D 4007	Standard Test Method for Water and Sediment in Crude Oil by the Centrifuge Method (Laboratory Procedure).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.* Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.

Dated: February 4, 2020.

Dave Fluty,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2020–02937 Filed 2–12–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Inspectorate America Corporation (Texas City, TX) as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Inspectorate America Corporation (Texas City, TX), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Inspectorate America Corporation (Texas City, TX), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of March 14, 2019.

DATES: Inspectorate America Corporation (Texas City, TX) was approved and accredited as a commercial gauger and laboratory as of March 14, 2019. The next triennial inspection date will be scheduled for March 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Justin Shey, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Inspectorate America Corporation, 3306 25th Ave North, Texas City, TX 77590, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

Inspectorate America Corporation (Texas City, TX) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
14	Natural Gas Fluids Measurement.
17	Marine Measurement.

Inspectorate America Corporation (Texas City, TX) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–03	D 4006	Standard Test Method for Water in Crude Oil by Distillation.
27–04	D 95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27–05	D 4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27–06	D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–07	D 4807	Standard Test Method for Sediment in Crude Oil by Membrane Filtration.
27–08	D 86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27–11	D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity).
27–13	D 4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27–46	D5002	Standard Test Method for Density, Relative Density, and API Gravity of Crude Oils by Digital Density Analyzer.
27–48	D 4052	Standard Test Method for Density, Relative Density, and API Gravity of Liquids by Digital Density Meter.
27–50	D 93	Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester.
27–53	D 2709	Standard Test Method for Water and Sediment in Middle Distillate Fuels by Centrifuge.
27–54	D 1796	Standard Test Method for Water and Sediment in Fuel Oils by the Centrifuge Method (Laboratory Procedure).
N/A	D 1160	Standard Test Method for Distillation of Petroleum Products at Reduced Pressure.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.* Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.

Dated: February 4, 2020.

Dave Fluty,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2020–02930 Filed 2–12–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Inspectorate America Corporation (Tampa, FL) as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Inspectorate America Corporation (Tampa, FL), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Inspectorate America Corporation (Tampa, FL), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of June 19, 2019.

DATES: Inspectorate America Corporation (Tampa, FL) was approved and accredited as a commercial gauger and laboratory as of June 19, 2019. The next triennial inspection date will be scheduled for June 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Justin Shey, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Inspectorate America Corporation, 3904 Corporex Park Drive, Suite 145, Tampa, FL 33619, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

Inspectorate America Corporation (Tampa, FL) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
11	Physical Properties Data.
12	Calculations.
17	Marine Measurement.

Inspectorate America Corporation (Tampa, FL) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–06	D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–08	D 86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27–11	D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity).
27–13	D 4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27–48	D 4052	Standard Test Method for Density, Relative Density, and API Gravity of Liquids by Digital Density Meter.
27–57	D 7039	Standard Test Method for Sulfur in Gasoline and Diesel Fuel by Monochromatic Wavelength Dispersive X-Ray Fluorescence Spectrometry.
27–58	D 5191	Standard Test Method For Vapor Pressure of Petroleum Products (Mini Method).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov*. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.

Dated: February 4, 2020.

Dave Fluty,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2020–02931 Filed 2–12–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Approval of Barrios Measurement Services LLC (Cut Off, LA), as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of approval of Barrios Measurement Services LLC (Cut Off, LA), as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Barrios Measurement Services LLC (Cut Off, LA), has been approved to gauge petroleum and certain petroleum products for customs purposes for the next three years as of September 24, 2019.

DATES: Barrios Measurement Services LLC (Cut Off, LA) was approved, as a commercial gauger as of September 24, 2019. The next triennial inspection date will be scheduled for September 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Justin Shey, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, that Barrios Measurement Services LLC, 228 West 133rd St., Cut Off, LA 70345 has been approved to gauge petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.13. Barrios Measurement Services LLC (Cut Off,

LA) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
8.2	Standard Practice for Automatic Sampling of Petroleum and Petroleum Products.
8.3	Standard Practice for Mixing and Handling of Liquid Samples of Petroleum and Petroleum Products.

Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.* Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.

Dated: February 4, 2020.

Dave Fluty,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2020–02925 Filed 2–12–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Inspectorate America Corporation (Vancouver, WA) as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Inspectorate America Corporation (Vancouver, WA), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Inspectorate America Corporation (Vancouver, WA), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of August 6, 2019.

DATES: Inspectorate America Corporation (Vancouver, WA) was approved and accredited as a commercial gauger and laboratory as of August 6, 2019. The next triennial inspection date will be scheduled for August 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Justin Shey, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Inspectorate America Corporation, 2119 SE Columbia Way, Suite 280, Vancouver, WA 98661, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

Inspectorate America Corporation (Vancouver, WA) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
17	Marine Measurement.

Inspectorate America Corporation (Vancouver, WA) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–01	D 287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27–02	D 1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27–03	D 4006	Standard Test Method for Water in Crude Oil by Distillation.
27–04	D 95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27–05	D 4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27–06	D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–07	D 4807	Standard Test Method for Sediment in Crude Oil by Membrane Filtration.
27–08	D 86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27–11	D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity).
27–13	D 4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27–20	D 4057	Standard Practice for Manual Sampling of Petroleum and Petroleum Products.
27–48	D 4052	Standard Test Method for Density, Relative Density, and API Gravity of Liquids by Digital Density Meter.
27–50	D 93	Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester.
27–53	D 2709	Standard Test Method for Water and Sediment in Middle Distillate Fuels by Centrifuge.
27–57	D 7039	Standard Test Method for Sulfur in Gasoline and Diesel Fuel by Monochromatic Wavelength Dispersive X-Ray Fluorescence Spectrometry.
27–58	D 5191	Standard Test Method For Vapor Pressure of Petroleum Products (Mini Method).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border

Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov*. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.

Dated: February 4, 2020.

Dave Fluty,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2020–02934 Filed 2–12–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Inspectorate America Corporation (Romeoville, IL) as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Inspectorate America Corporation (Romeoville, IL), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Inspectorate America Corporation (Romeoville, IL), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of June 28, 2019.

DATES: Inspectorate America Corporation (Romeoville, IL) was approved and accredited as a commercial gauger and laboratory as of June 28, 2019. The next triennial inspection date will be scheduled for June 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Justin Shey, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Inspectorate America Corporation, 1404 Joliet Road, Suite G, Romeoville, IL 60446, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

Inspectorate America Corporation (Romeoville, IL) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
17	Marine Measurement.

Inspectorate America Corporation (Romeoville, IL) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–01	D 287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27–03	D 4006	Standard Test Method for Water in Crude Oil by Distillation.
27–05	D 4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27–06	D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–13	D 4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov*. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.

Dated: February 4, 2020.

Dave Fluty,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2020–02933 Filed 2–12–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Intertek USA, Inc. (Nederland, TX) as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Intertek USA, Inc. (Nederland, TX), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc. (Nederland, TX), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of April 26, 2017.

DATES: Intertek USA, Inc (Nederland, TX) was approved and accredited as a commercial gauger and laboratory as of April 26, 2017. The next triennial inspection date will be scheduled for April 2020.

FOR FURTHER INFORMATION CONTACT: Dr. Eugene Bondoc, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–3974.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Intertek USA, Inc., 2780 Hwy. 69N, Nederland, TX 77627, has been approved to gauge petroleum and certain petroleum products and accredited to test

petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

Intertek USA, Inc. (Nederland, TX) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank Gauging.
5	Metering.
7	Temperature Determination.
8	Sampling.
11	Physical Properties Data.
12	Calculations.
14	Natural Gas Fluids Measurements.
17	Marine Measurement.

Intertek USA, Inc. (Nederland, TX) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–04	D 95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27–06	D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–07	D 4807	Standard Test Method for Sediment in Crude Oil by Membrane Filtration.
27–08	D 86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27–11	D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity).
27–13	D 4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27–46	D5002	Standard Test Method for Density, Relative Density, and API Gravity of Crude Oils by Digital Density Analyzer.
27–48	D 4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27–53	D 2709	Standard Test Method for Water and Sediment in Middle Distillate Fuels by Centrifuge.
27–54	D 1796	Standard Test Method for Water and Sediment in Fuel Oils by the Centrifuge Method.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.* Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.

Dated: February 4, 2020.

Dave Fluty,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2020–02927 Filed 2–12–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Intertek USA, Inc. (Chelsea, MA) as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Intertek USA, Inc. (Chelsea, MA), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc. (Chelsea, MA), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of August 2, 2018.

DATES: Intertek USA, Inc. (Chelsea, MA) was approved and accredited as a commercial gauger and laboratory as of August 2, 2018. The next triennial inspection date will be scheduled for August 2021.

FOR FURTHER INFORMATION CONTACT: Dr. Eugene Bondoc, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–3974.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Intertek USA, Inc., 230 Crescent Ave., Chelsea, MA 02150, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

Intertek USA, Inc. (Chelsea, MA) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
17	Marine Measurement.

Intertek USA, Inc. (Chelsea, MA) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–04	D 95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27–08	D 86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.

CBPL No.	ASTM	Title
27–11	D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity).
27–13	D 4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27–48	D 4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27–50	D 93	Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester.
27–54	D 1796	Standard Test Method for Water and Sediment in Fuel Oils by the Centrifuge Method.
27–57	D 7039	Standard Test Method for Sulfur in Gasoline and Diesel Fuel by Monochromatic Wavelength Dispersive X-Ray Fluorescence Spectrometry.
27–58	D 5191	Standard Test Method for Vapor Pressure of Petroleum Products (Mini Method).
N/A	D 1319	Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Fluorescent Indicator Adsorption.
N/A	D 3606	Standard Test Method for Determination of Benzene and Toluene in Finished Motor and Aviation Gasoline by Gas Chromatography.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.* Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.

Dated: February 4, 2020.

Dave Fluty,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2020–02932 Filed 2–12–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Inspectorate America Corporation (Davie, FL) as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Inspectorate America Corporation (Davie, FL), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Inspectorate America Corporation (Davie, FL), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of August 7, 2019.

DATES: Inspectorate America Corporation (Davie, FL) was approved and accredited as a commercial gauger and laboratory as of August 7, 2019. The next triennial inspection date will be scheduled for August 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Justin Shey, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Inspectorate America Corporation, 4350 Oakes Rd., Suite 521A, Davie, FL 33314, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

Inspectorate America Corporation (Davie, FL) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
17	Marine Measurement.

Inspectorate America Corporation (Davie, FL) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–02	D 1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27–04	D 95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27–06	D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–08	D 86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27–11	D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity).
27–13	D 4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27–48	D 4052	Standard Test Method for Density, Relative Density, and API Gravity of Liquids by Digital Density Meter.
27–57	D 7039	Standard Test Method for Sulfur in Gasoline and Diesel Fuel by Monochromatic Wavelength Dispersive X-Ray Fluorescence Spectrometry.

CBPL No.	ASTM	Title
27–58	D 5191	Standard Test Method For Vapor Pressure of Petroleum Products (Mini Method).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.*

Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.

Dated: February 4, 2020.

Dave Fluty,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2020–02938 Filed 2–12–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Intertek USA, Inc. (Romeoville, IL) as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Intertek USA, Inc. (Romeoville, IL), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc. (Romeoville, IL), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of May 29, 2019.

DATES: Intertek USA, Inc. (Romeoville, IL) was approved and accredited as a commercial gauger and laboratory as of May 29, 2019. The next triennial inspection date will be scheduled for May 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Eugene Bondoc, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–3974.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Intertek USA, Inc, 725 Oakridge Drive, Romeoville, IL 60446, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

Intertek USA, Inc. (Romeoville, IL) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title.
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
17	Marine Measurement.

Intertek USA, Inc. (Romeoville, IL) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–01	D 287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27–02	D 1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27–03	D 4006	Standard Test Method for Water in Crude Oil by Distillation.
27–04	D 95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27–05	D 4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27–06	D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–08	D 86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27–11	D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity).
27–13	D 4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27–46	D5002	Standard Test Method for Density, Relative Density, and API Gravity of Crude Oils by Digital Density Analyzer.
27–48	D 4052	Standard Test Method for Density, Relative Density, and API Gravity of Liquids by Digital Density Meter.
27–54	D 1796	Standard Test Method for Water and Sediment in Fuel Oils by the Centrifuge Method (Laboratory Procedure).
27–58	D 5191	Standard Test Method For Vapor Pressure of Petroleum Products (Mini Method).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.* Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.

Dated: February 4, 2020.

Dave Fluty,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2020–02928 Filed 2–12–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Inspectorate America Corporation (Mobile, AL) as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Inspectorate America Corporation (Mobile, AL), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Inspectorate America Corporation (Mobile, AL), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of May 14, 2019.

DATES: Inspectorate America Corporation (Mobile, AL) was approved and accredited as a commercial gauger and laboratory as of May 14, 2019. The next triennial inspection date will be scheduled for May 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Justin Shey, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Inspectorate America Corporation, 5237 Halls Mill Road, Building F, Mobile, AL 36619, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

Inspectorate America Corporation (Mobile, AL) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters.	Title.
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
14	Natural Gas Fluids Measurement.
17	Marine Measurement.

Inspectorate America Corporation (Mobile, AL) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–01	D 287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27–03	D 4006	Standard Test Method for Water in Crude Oil by Distillation.
27–04	D 95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27–06	D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–07	D 4807	Standard Test Method for Sediment in Crude Oil by Membrane Filtration.
27–08	D 86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27–11	D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity).
27–13	D 4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27–14	D 2622	Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-Ray Fluorescence Spectrometry.
27–46	D5002	Standard Test Method for Density, Relative Density, and API Gravity of Crude Oils by Digital Density Analyzer.
27–48	D 4052	Standard Test Method for Density, Relative Density, and API Gravity of Liquids by Digital Density Meter.
27–50	D 93	Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester.
27–53	D 2709	Standard Test Method for Water and Sediment in Middle Distillate Fuels by Centrifuge.
27–54	D 1796	Standard Test Method for Water and Sediment in Fuel Oils by the Centrifuge Method (Laboratory Procedure).
27–57	D 7039	Standard Test Method for Sulfur in Gasoline and Diesel Fuel by Monochromatic Wavelength Dispersive X-Ray Fluorescence Spectrometry.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.* Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.

Dated: February 4, 2020.

Dave Fluty,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2020–02929 Filed 2–12–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAD01000 L12100000.XK0000 20XL1109AF (MO#4500141992)]

Meeting of the California Desert District Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management

Act of 1976, and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) California Desert District Advisory Council (Council) will meet as indicated below.

DATES: The Council's next meeting will be held April 3–4, 2020. The Council will participate in a field tour of BLM-administered public lands on Friday, April 3, 2020, from 8:00 a.m. to 4:30 p.m. and then will hold a meeting on Saturday, April 4, 2020, from 9:00 a.m. to 4:30 p.m.

ADDRESSES: The Friday field tour will leave from the El Centro Field Office, 1661 South 4th Street, El Centro, CA 92243. Saturday's public meeting will be held at the Fairfield Inn & Suites, located at 503 E. Danenberg Drive, El Centro, CA 92243. Final locations and agendas for the field trip and public meeting will be posted on the BLM web page at: *https://www.blm.gov/get-involved/rac/california/california-desert-district,* when finalized.

Written comments for the Council may be sent in advance of the Saturday meeting c/o BLM, Public Affairs, 22835 Calle San Juan de Los Lagos, Moreno Valley, CA 92553.

FOR FURTHER INFORMATION CONTACT: Michelle Van Der Linden, BLM California Desert District Office, telephone: 951–697–5217, email: *mvanderlinden@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 Ms. Van Der Linden 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 Council provides recommendations to the Secretary of the Interior concerning the planning and management of the public land resources located within the BLM's California Desert District and offers advice on the implementation of the comprehensive, long-range plan for management, use, development, and protection of the public lands within the California Desert Conservation Area.

All Council meetings and field tours are open to the public, but the public must provide their own transportation, meals, and beverages.

The field tour will include visits to Hunter's Camp, Milpitas Wilderness, and the Palo Verde Cultural site. The Saturday public meeting will include an update on Dingell Act implementation activities, the role and function of Council subgroups, desert tortoise management, Devil's Canyon access, fire and fuels operations, a discussion on Secretarial Orders, and a briefing on the Desert Spring study. Members of the public will have the opportunity to make public comments during the meeting.

While the Saturday meeting is scheduled from 9:00 a.m. to 4:30 p.m., the meeting could end prior to 4:30 p.m. should the Council conclude its business. Therefore, members of the public interested in a specific agenda item or discussion should schedule their arrival accordingly.

Written comments will also be accepted at the time of the Saturday public meeting and, if copies are provided to the recorder, will be incorporated into the minutes.

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 1784.4–2)

Andrew S. Archuleta,

California Desert District Manager.

[FR Doc. 2020–02882 Filed 2–12–20; 8:45 am]

BILLING CODE 4310–40–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–615 (Final)]

Fabricated Structural Steel From Canada; Termination of Investigation

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: On January 30, 2020, the U.S. Department of Commerce published notice in the **Federal Register** of a negative final countervailing duty determination in connection with the subject investigation concerning Canada (85 FR 5387). Accordingly, the U.S. International Trade Commission's countervailing duty investigation concerning fabricated structural steel from Canada (Investigation No. 701–TA–615 (Final)) is terminated.

DATES: January 30, 2020.

FOR FURTHER INFORMATION CONTACT: Jordan Harriman (202–205–2610), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*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.*

Authority: This investigation is being terminated under authority of title VII of the Tariff Act of 1930 and pursuant to section 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)). This notice is published pursuant to section 201.10 of the Commission's rules (19 CFR 201.10).

By order of the Commission.

Issued: February 7, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–02855 Filed 2–12–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–20–005]

Sunshine Act Meetings

Agency Holding the Meeting: United States International Trade Commission.

TIME AND DATE: February 25, 2020 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Agendas for future meetings:* None.
2. Minutes.
3. Ratification List.
4. Vote on Inv. Nos. 701–TA–616–617 and 731–TA–1432–1434 (Final) (Fabricated Structural Steel from Canada, China, and Mexico). The Commission is currently scheduled to complete and file its determinations and views of the Commission by March 16, 2020.
5. *Outstanding action jackets:* None.

CONTACT PERSON FOR MORE INFORMATION: William Bishop, Supervisory Hearings and Information Officer, 202–205–2595.

The Commission is holding the meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b). In accordance with Commission policy, subject matter listed above, not disposed

of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: February 10, 2020.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2020–02989 Filed 2–11–20; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–936 (Remand)]

Certain Footwear Products; Commission Determination To Review in Part a Remand Initial Determination and To Extend the Target Date; Request for Written Submissions on the Issues Under Review and on Remedy, Bonding, and the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review a remand initial determination (''RID'') of the presiding administrative law judge (''ALJ'') in part. The Commission requests briefing from the parties on certain issues under review, as indicated in this notice. The Commission also requests briefing from the parties, government agencies, and interested persons on the issues of remedy, the public interest, and bonding. The Commission has also determined to extend the target date for the completion of the above-captioned investigation to May 28, 2020.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.*

The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on November 17, 2014, based on a complaint filed on behalf of Converse Inc. of North Andover, Massachusetts. 79 FR 68482 (Nov. 17, 2014). The complaint alleges, *inter alia,* violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain footwear products by reason of infringement of U.S. Trademark Registration No. 4,398,753 (''the '753 Registration''), registered on September 10, 2013, and the common law trademark rights for the same mark (the ''Converse Midsole Trademark'' or ''CMT''). *See id.* The Commission's notice of investigation names numerous respondents including Skechers U.S.A., Inc. (''Skechers'') of Manhattan Beach, California, and Highline United LLC d/b/a Ash Footwear USA (''Highline''), now of Hyde Park, Massachusetts. *Id.* at 68482–483. New Balance Athletic Shoe, Inc. (''New Balance'') of Boston, Massachusetts, was subsequently added to the investigation as a respondent-intervenor. 80 FR 9748 (Feb. 24, 2015). These three respondents remain active in the investigation. The following five respondents were found in default: Dioniso SRL of Perugia, Italy; Shenzhen Foreversun Industrial Co., Ltd. (a/k/a Shenzhen Foreversun Shoes Co., Ltd.) of Shenzhen, China; Fujian Xinya I&E Trading Co. Ltd. of Jinjiang, China; and Zhejiang Ouhai International Trade Co. Ltd. and Wenzhou Cereals Oils & Foodstuffs Foreign Trade Co. Ltd., both of Wenzhou, China. Every other respondent was terminated from the investigation or settled with Complainant after the Commission's final determination. The Office of Unfair Import Investigations (''OUII'') is also a party to the investigation. 79 FR 68483. The investigation was remanded to the Commission by the Federal Circuit in *Converse, Inc.* v. *International Trade Commission,* 909 F.3d 1110 (Fed. Cir. 2018). On April 9, 2019, the Commission, in turn, remanded the matter to the ALJ who adjudicated the original investigation.

On October 9, 2019, The ALJ issued his RID finding no violation of section 337 as to all accused products of each active respondent. Specifically, the RID found that Converse had not established secondary meaning of the CMT prior to the time of first infringement for any active respondent and, therefore, there were no valid common law trademark rights in the CMT. The RID also found that the active respondents' accused products do not infringe even if the CMT were found to have acquired secondary meaning, except for one Skechers product found to infringe. The RID further found a violation as to the accused products of the defaulting respondents because they infringe the CMT after the registration date of the '753 Registration.

On October 22, 2019, Converse, the active respondents, and OUII each filed a petition for review of the RID. On October 30, 2019, each of these parties filed responses to the other petitions for review.

Having reviewed the record of the investigation, including the parties' briefing, the Commission has determined to review the RID in part. Specifically, the Commission has determined to review the RID's infringement, validity, and injury analyses with respect to the asserted common law and federal registration rights in the CMT. *See* RID at 8–86, 87. The Commission now requests briefing from the parties on the following questions:

(1) For each of the six (6) secondary-meaning factors in *Converse,* 909 F.3d at 1120, please identify and discuss the evidence in the record you assert is relevant to whether the CMT has acquired secondary meaning prior to the first infringing use by each active respondent. Pay special attention to evidence that falls within five years before the relevant first use dates and to the questions below. Provide a summary of your evidence in a table including the specific factor (or subpart thereof) to which each piece of evidence is relevant, the date of the evidence, and the impact of the evidence on consumer perceptions. Any evidence not included in your submission will be deemed waived and will not be considered.

a. Factor 2—For each relevant time frame, identify which third-party's shoes, having designs substantially similar to the CMT design, were in use in the United States. Explain (1) why each shoe's design is substantially similar to the CMT; (2) the extent of that third-party use; and (3) the impact of that use on the consuming public (through the extent or volume of sales, etc.). Explain whether third-party uses can be considered if there is no evidence of the impact of that use on the consuming public. Include a table summarizing the third-party use upon which you rely, why the use is substantially similar, and the extent and impact of the third-party use. For the

same time periods, identify the extent, degree, and impact of Converse's use of the CMT design. Please explain how the Commission should analyze the amount of Converse's sales in relation to the amount of third-party sales and note where this information is in the record.

b. Factor 5—Identify all evidence of intentional copying of the CMT. Indicate if there is evidence supporting any explanation for this copying other than to pass off the copied product as the CMT design owner's. Is evidence of intentional copying by Skechers relevant to this factor at least with respect to Highline and New Balance?

c. Factor 6—Please explain whether factor (6) is the same as the factor previously relied upon by the Commission (*i.e.,* effectiveness of the effort to create secondary meaning). Assuming it is not the same, please identify what evidence pertains to factor (6), unsolicited media coverage of the product embodying the mark.

(2) Explain how the evidence pertaining to the six factors should be weighed in determining whether the CMT has acquired secondary meaning. Is it appropriate to accord some factors more weight than others in this investigation, and if so why? Is a simple tally of factors the proper method of weighing them?

(3) Explain whether New Balance's PF Flyers shoes that are accused of infringement are identical to the PF Flyers shoes in use during 1995–2007 at least with regard to the midsole, toe cap, and bumper. Are the designs of the accused New Balance shoes and the 1995–2007 PF Flyers substantially similar to the CMT? If they are not substantially similar, do the differences justify the different outcomes between the finding of third-party use by PF Flyers and the finding of no infringement by New Balance?

(4) Explain who is the purchaser of shoes bearing the CMT (or any relevant shoe, if the answer differs). Is it the general public or a sophisticated buyer? What are the circumstances of their sales, prices, stores, display conditions, etc.? Cite to evidence in the record.

(5) For this investigation in which the complainant has alleged infringement of its trade dress:

a. Explain whether the Commission should employ the *Dupont* factors, a modified version of the *DuPont* factors, or another framework to assess infringement. Discuss relevant case law (*e.g., Versa Prods. Co.* v. *Bifold Co. (Mfg.),* 50 F.3d 189, 202 (3d Cir. 1995) *Eng'g Dynamics, Inc.* v. *Structural Software, Inc.,* 26 F.3d 1335, 1350 (5th Cir. 1994) (modified on other grounds, 46 F.3d 408 (5th Cir. 1995)); *Egyptian Goddess, Inc.* v. *Swisa, Inc.,* 543 F.3d 665, 670 (Fed. Cir. 2008); *Converse,* 909 F.3d at 1124).

b. Analyze the evidence in the record that is relevant to whether there is a likelihood of confusion under the *Dupont* factors or the framework you identify in part (a) above for each accused shoe. Factors that are the same for each shoe can be discussed once and do not need to be repeated for each shoe. Include a table summarizing which shoes remain accused of infringement.

c. Explain the effect, if any, that a heel label, or other relevant branding, has with respect to infringement. Explain whether and how the location of the label or other branding relative to the mark is relevant. Explain whether and how the survey evidence related to the Skechers' shoe, Daddy'$ Money, should inform the Commission's determination about the relevance of heel label branding for other accused shoes.

d. *For Respondents:* if you rely on a heel label or other relevant branding for non-infringement, cite the best available image(s) of the evidence.

(6) For the '753 Registration:

a. Briefly identify where Converse has asserted its rights arising from the '753 Registration against the active respondents. Did Converse's complaint or pre- and post-hearing briefs, *circa* 2015, allege that the active respondents infringed Converse's rights arising from the federal registration?

b. If Converse asserted its rights arising from the federal registration against the active respondents, has Converse withdrawn these allegations? If so, how has Converse withdrawn them?

c. Is there any practical distinction between finding that Converse's CMT lacks secondary meaning and finding the '753 Registration invalid for lack of secondary meaning?

(7) For Converse and OUII:

a. For each defaulting respondent, please identify the date of the first infringing use. *See, e.g., Converse,* 909 F.3d at 1116–17. Cite to evidence in the record.

b. Explain whether the Commission should address validity of the '753 Registration when no defaulting respondent has raised validity as a defense.

The Commission has determined not to review the remainder of the RID, including the RID's analysis of the equitable defenses. *See* RID at 86–87.

In connection with the final disposition of this investigation, the statute authorizes issuance of (1) an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) one or more cease and desist orders that could result in the respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843, Comm'n Op. at 7–10 (December 1994). In addition, if a party seeks issuance of any cease and desist orders, the written submissions should address that request in the context of recent Commission opinions, including those in *Certain Arrowheads with Deploying Blades and Components Thereof and Packaging Therefor,* Inv. No. 337–TA–977, Comm'n Op. (Apr. 28, 2017) and *Certain Electric Skin Care Devices, Brushes and Chargers Therefor, and Kits Containing the Same,* Inv. No. 337–TA–959, Comm'n Op. (Feb. 13, 2017). Specifically, if Complainant seeks a cease and desist order against a respondent, the written submissions should respond to the following requests:

1. Please identify with citations to the record any information regarding commercially significant inventory in the United States as to each respondent against whom a cease and desist order is sought. If Complainant also relies on other significant domestic operations that could undercut the remedy provided by an exclusion order, please identify with citations to the record such information as to each respondent against whom a cease and desist order is sought.

2. In relation to the infringing products, please identify any information in the record, including allegations in the pleadings, that addresses the existence of any domestic inventory, any domestic operations, or any sales-related activity directed at the United States for each respondent against whom a cease and desist order is sought.

3. Please discuss any other basis upon which the Commission could enter a cease and desist order.

The statute requires the Commission to consider the effects of any remedy upon the public interest. The public interest factors the Commission will

consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission's determination. *See* Presidential Memorandum of July 21, 2005. 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties to the investigation are requested to file written submissions on the issues identified in this notice. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such initial written submissions should include views on the recommended determination by the ALJ on remedy and bonding. Complainant and OUII are also requested to identify the form of the remedy sought and to submit proposed remedial orders for the Commission's consideration in their initial written submissions. Complainant is also requested to state the HTSUS numbers under which the accused products are imported. Complainant is further requested to supply the names of known importers of infringing products at issue in this investigation.

The initial written submissions and proposed remedial orders must be filed no later than close of business on Friday, February 28, 2020. Reply submissions must be filed no later than the close of business on Monday, March 9, 2020. Initial submissions are limited to 100 pages. Reply submissions are limited to 75 pages. These page limits do not apply to submissions on the issues of remedy, the public interest, and bonding. No further submissions on any of these issues will be permitted unless otherwise ordered by the Commission.

In view of the briefing requested, the Commission has also determined to extend the target date of this investigation to May 28, 2020.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit eight 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 2.10.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–936'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/secretary/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted-non-confidential version of the document must also be filed simultaneously with any confidential filing. All 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 nonconfidential 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: February 7, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–02853 Filed 2–12–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–20–004]

Sunshine Act Meetings

Agency Holding the Meeting: United States International Trade Commission.

TIME AND DATE: February 21, 2020 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Agendas for future meetings:* None.
2. Minutes.
3. Ratification List.
4. Vote on Inv. Nos. 701–TA–636 and 731–TA–1469–1470 (Preliminary) (Wood Mouldings and Millwork Products from Brazil and China). The Commission is currently scheduled to complete and file its determinations on February 24, 2020; views of the Commission are currently scheduled to be completed and filed on March 2, 2020.
5. *Outstanding action jackets:* None.

CONTACT PERSON FOR MORE INFORMATION: William Bishop, Supervisory Hearings and Information Officer, 202–205–2595.

The Commission is holding the meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b). In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: February 11, 2020.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2020–02988 Filed 2–11–20; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–506 and 508 and 731–TA–1238–1243 (Review)]

Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden, and Taiwan; Notice of Commission Determinations To Conduct Full Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to the Tariff Act of 1930 to determine whether revocation of countervailing duty orders on non-oriented electrical steel (''NOES'') from China and Taiwan and the antidumping duty orders on NOES from China, Germany, Japan, Korea, Sweden, and Taiwan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date.

DATES: February 4, 2020.

FOR FURTHER INFORMATION CONTACT: Abu B. Kanu (202–205–2597), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

SUPPLEMENTARY INFORMATION: On February 4, 2020, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)). The Commission found that the domestic interested party group response to its notice of institution (84 FR 58743, November 1, 2019) was adequate. The Commission also found that the respondent interested party group response to its notice of institution concerning the antidumping duty order on imports from Germany was adequate and, therefore, determined to proceed with a full review of that order. The Commission determined that the respondent interested party group responses to its notice of institution concerning the countervailing duty orders on imports from China and Taiwan, and the antidumping duty orders on imports from China, Japan, Korea, Sweden, and Taiwan were inadequate. However, the Commission determined to conduct full reviews of those orders in order to promote administrative efficiency considering its determination to conduct a full review of the antidumping duty order on imports from Germany. A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's website.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: February 7, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–02854 Filed 2–12–20; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–NEW]

Agency Information Collection Activities; Proposed eCollection; eComments Requested; New Collection: Criminal Cases in State Courts (CCSC), Previously Posted as Analysis of Publicly Available Court Data (APACD)

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published, allowing for a 60 day comment period. Seven comments from the public were received during this period and are thoroughly addressed in the supporting statement for this collection. Three comments requested that information on interpreters be added. The requesters sought data elements reflecting for whom the interpreter was ordered (defendant, witness, victim), whether the interpreter was present for all hearings, and the qualifications of the interpreter. BJS added data elements asking courts to provide whether an interpreter was ordered for the case and for which party(ies) to the case the interpreter was ordered. BJS does not expect these changes to impact the estimated respondent burden.

DATES: Comments are encouraged and will be accepted for an additional 30 day until March 16, 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 Suzanne M. Strong, Statistician, Bureau of Justice Statistics, 810 Seventh Street NW, Washington, DC 20531 (email: *Suzanne.M.Strong@usdoj.gov;* telephone: 202–616–3666). Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms

of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New collection.

(2) *Title of the Form/Collection:* Criminal Cases in State Courts (CCSC), formerly titled Analysis of Publicly Available Court Data.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* The Data Extraction guide is CCSC–001. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* BJS will request complete records from the statewide and mostly-statewide systems, with separate requests to the counties not included in the mostly statewide systems. BJS will also sample counties from the states unable to provide statewide extracts. The requests will sample with certainty any county with a total resident population exceeding one million persons. A total of 150 jurisdictions (states or counties) will be included in this effort.

BJS is requesting that the data extracts provided by courts include all felony and misdemeanor criminal cases disposed of between January 1 and December 31, 2019. BJS is also requesting that the extracts include defendant demographics; information about charges, disposition, and sentences. State and local courts can provide the data extract or extracts in any format.

BJS plans to publish this information in reports and reference it when responding to queries from the U.S. Congress, Executive Office of the President, the U.S. Supreme Court, state officials, international organizations, researchers, students, the media, and others interested in criminal justice statistics.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* BJS will send a data extraction guide to 150 jurisdictions. The 150 jurisdictions include 36 states (including 10 counties that are not included in the statewide case management systems) and the District of Columbia, 23 counties with total populations exceeding 1,000,000 residents, and 79 sampled counties representing the 14 states and Puerto Rico that cannot provide statewide data. The expected burden placed on these jurisdictions is about 30 hours per jurisdiction, with an additional 10 hours to explain any data inconsistencies or questions of the data collection team.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 6,000 total burden hours associated with this collection.

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, Suite 3E.405B, Washington, DC 20530.

Dated: February 7, 2020.

Melody Braswell,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2020–02842 Filed 2–12–20; 8:45 am]

BILLING CODE 4410–18–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0041]

Instrument Sensing Lines

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide, issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 2 to Regulatory Guide (RG) 1.151, ''Instrument Sensing Lines.'' RG 1.151 describes an approach that is acceptable to the staff of the NRC to meet regulatory requirements for instrument sensing lines in nuclear power plants. The RG would endorse, with certain exceptions, standards that were updated and corrected subsequent to the last time the NRC endorsed them in RG 1.151. More information on updates can be found in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Revision 2 to RG 1.151 is available on February 13, 2020.

ADDRESSES: Please refer to Docket ID NRC–2019–0041 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using one of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0041. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* Revision 2 to RG 1.151 and the regulatory analysis may be found in ADAMS under Accession Nos. ML19156A129 and ML18158A301, respectively.
- *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.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT: David Dawood, telephone: 301–415–2389, email: *David.Dawood@nrc.gov;* Yaguang Yang, telephone: 301–415–0655, email: *Yaguang.Yang@nrc.gov;* and Michael Eudy, telephone: 301–415–3104, email: *Michael.Eudy@nrc.gov.* All are staff members of the Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing a revision to an existing guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the NRC staff uses in evaluating specific issues or postulated events, and data that the NRC staff needs in its review of applications for permits and licenses.

Revision 2 of RG 1.151 was issued with a temporary identification of Draft Regulatory Guide, DG–1352. Revision 2 of RG 1.151 describes an approach that is acceptable to the staff of the NRC to meet regulatory requirements for instrument sensing lines in nuclear power plants. It endorses, with certain exceptions, American National Standards Institute/International Society of Automation (ANSI/ISA)-67.02.01–2014, ''Nuclear Safety-Related Instrument Sensing Line Piping and Tubing Standard for Use in Nuclear

Power Plants'' and it determines that the Institute of Electrical and Electronic Engineers (IEEE) Standard (Std.) 622–1987, ''IEEE Recommended Practice for the Design and Installation of Electric Heat Tracing Systems for Nuclear Power Generating Systems,'' reaffirmed in 1994, is acceptable for use. The revision of ANSI/ISA–67.02.01 previously endorsed by the NRC in RG 1.151 was revised and corrected by ANSI/ISA in 2014. In addition, this RG revision discusses recent operating experience, as described in NRC Information Notice (IN) 2013–12, ''Improperly Sloped Instrument Sensing Lines,'' dated July 3, 2013.

II. Additional Information

The NRC published a notice of the availability of DG–1352 in the **Federal Register** on February 8, 2019 (84 FR 2934) for a 60-day public comment period. The public comment period closed on April 9, 2019 and the NRC received three comment documents. Public comments on DG–1352 and the staff responses to the public comments are available under ADAMS under Accession No. ML19156A128.

III. Congressional Review Act

This RG is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting and Issue Finality

Revision 2 of RG 1.151 describes an approach that is acceptable to the NRC staff for applicants and licensees under 10 CFR parts 50 and 52 to meet regulatory requirements for instrument sensing lines in nuclear power plants. The issuance of this regulatory guide does not constitute backfitting as defined in 10 CFR 50.109, ''Backfitting,'' and as described in NRC Management Directive 8.4, ''Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests,'' or affect issue finality of any approval issued under 10 CFR part 52, ''Licenses, Certificates, and Approvals for Nuclear Power Plants,'' because, as explained in this regulatory guide, applicants and licensees are not required to comply with the positions set forth in this regulatory guide.

Dated at Rockville, Maryland, this 7th day of February, 2020.

For the Nuclear Regulatory Commission.

Robert Roche-Rivera,

Acting Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2020–02874 Filed 2–12–20; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION.

[Docket No. ACR2019; Order No. 5420]

FY 2019 Annual Compliance Report

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent procedural schedule change extending the comment due date for reply comments in this docket. This notice informs the public of the new filing date for reply comments.

DATES: *Comments are due:* February 18, 2020.

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: On February 6, 2020, United Parcel Service, Inc. (UPS) filed a motion requesting an extension of time to file its reply comments in the instant docket.[1] The reply comment deadline is February 10, 2020. Motion at 1. UPS requests an extension until February 18, 2020. *Id.* UPS states that pursuant to the Commission's Order No. 5416[2] granting UPS access to certain non-public information, its counsel and consultants have collected the non-public information requested, but will require additional time to analyze that information. *Id.* UPS states that this request will neither significantly delay the proceeding nor adversely affect any participant.

In consideration of UPS's request, and to avoid any potential adverse impact on other participants, the Commission shall extend the deadline for all reply comments until February 18, 2020.

It is ordered:

1. United Parcel Service, Inc.'s Motion for an Extension to File Reply Comments, filed February 6, 2020, is granted.

2. Reply comments are now due no on or before February 18, 2020.

3. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2020–02840 Filed 2–12–20; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88154; File No. SR–CboeEDGX–2020–006]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt the Dark Routing Technique Routing Option; To Eliminate References to the ROUD, ROUE, and ROUQ Routing Options; and To Reflect Additional Routing Strategies for Which the Exchange May Route Orders With a Short Sale Instruction

February 7, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 3, 2020, Cboe EDGX Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') proposes: To amend Rule 11.11(g)(2) to adopt the proposed Dark Routing Technique (''DRT'') routing option on the Exchange; to amend Rule 11.11, as well

[1] Motion of United Parcel Service, Inc. for Extension to File Reply Comments, February 6, 2020 (Motion).

[2] Order Granting Motion for Access, January 29, 2020 (Order No. 5416).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

as its Fee Schedule, to eliminate references to the ROUD, ROUE, and ROUQ routing options; and to amend Rule 11.11 to reflect additional routing strategies for which the Exchange may route orders with a short sale instruction when a short sale circuit breaker pursuant to Rule 201 of Regulation SHO is in effect. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to: (i) Adopt the DRT routing option under proposed Rule 11.11(g)(2); (ii) amend Rule 11.11(g) to eliminate the ROUD, ROUE, and ROUQ routing options and to eliminate any such references in its Fee Schedule; and (iii) amend Rule 11.11(a) to make clear that if a User [5] selects the RDOT, RDOX, or INET routing options, orders with a short sale [6] instruction when a short sale circuit breaker pursuant to Rule 201 of Regulation SHO [7] is in effect are eligible for routing by the Exchange. The Exchange intends to implement the proposed rule changes on February 3, 2020.

Adopting DRT

The Exchange proposes to adopt the DRT under subparagraph (g)(2) as a new routing option available on the Exchange. As noted in proposed Rule 11.11(g)(2), the DRT routing option would instruct the System [8] to route to alternative trading systems (''ATSs'') included in the System routing table.[9] The proposed description of DRT is identical to existing Cboe BZX Exchange, Inc. (''BZX'') and Cboe BYX Exchange, Inc. (''BYX'') Rules 11.13(b)(3)(D). Thus, the proposed amendment is intended to add certain system functionality currently offered by BZX and BYX in order to provide a consistent technology offering for Users across the Cboe affiliated exchanges.

Currently, for routing mechanisms that route orders to ATSs, the Exchange routes such orders using a preselected sequence of venues pursuant to the applicable System routing table and every order is routed to such venues in that sequence.[10] Stated another way, all orders entered with a routing strategy that is eligible for routing to ATSs will first seek liquidity on the Exchange and any unexecuted portion of the order will then be routed in accordance with the pre-established sequence in the System routing table.

As proposed, the DRT routing mechanism would instead use a randomly generated, weighted permutation to prioritize off-exchange venues based on a ''score'' [11] for each off-exchange venue, where a higher score will result in a greater likelihood that the off-exchange venue will be selected earlier in the permutation. The DRT routing mechanism will be established in the System routing table and replace the existing routing mechanism that routes orders to ATSs. The Exchange believes that converting from this mechanical, sequential routing strategy to the more dynamic strategy applied with DRT will allow an off-exchange venue with a lower score to occasionally be selected before an off-exchange venue with a higher score, and thus provides the Exchange with the most accurate view of the quality at each market. As a result, the Exchange believes that DRT will result in improved execution quality. Additionally, converting to DRT will result in uniformity that will simplify the Exchange's routing logic and management across the Cboe equities platforms.

Eliminating ROUE, ROUQ, and ROUD

In connection with the adoption of the DRT mechanism, the Exchange proposes to amend Rule 11.11(g) and the Fee Schedule to eliminate any references to routing options that are redundant due to such adoption.

Currently, Rule 11.11(g) provides for a variety of routing options under which the System will consider the quotations only of accessible Trading Centers.[12] Rules 11.11(g)(2) and 11.11(g)(3)(D) currently provides for the ROUD and ROUQ routing options, respectively, which are detailed in the System routing table.[13] For orders entered with a ROUD or ROUQ routing options, the System is first checked for available shares and then is sent to destinations on the System routing table. If shares remain unexecuted after routing, they are posted on the EDGX Book, unless otherwise instructed by the User. The ROUD and ROUQ routing options first seek liquidity on the Exchange's book, and will subsequently route any unfilled portion of the order pursuant to the System routing table. Given the proposed implementation of DRT, the ROUD and ROUQ routing option will first seek liquidity on the Exchange's book, and will subsequently route any unfilled portion via DRT. Such a

[5] *See* Exchange Rule 1.5(ee).

[6] *See* Exchange Rule 11.6(o). The term ''short sale'' is defined as ''any sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of, the seller.'' 17 CFR 242.200(a).

[7] *See* 17 CFR 242.201; Securities Exchange Act Release No. 61595 (February 26, 2010), 75 FR 11232 (March 10, 2010).

[8] The ''System'' is the Exchange's electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away. *See* Exchange Rule 1.5(cc).

[9] The term ''System routing table'' refers to the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them. *See* Exchange Rule 11.11(g).

[10] The Exchange notes that the current routing mechanism is set forth in the System routing table, and is not referenced in Exchange Rules. Nonetheless, the Exchange proposes to adopt the DRT under subparagraph (g)(2) of Rule 11.11 to harmonize the Exchange's rules with BZX/BYX Rule 11.13(b)(3)(D).

[11] ''Scores'' are assigned to each off-exchange venue by the Exchange and are determined based on various factors, such as order fill percentage, latency, and price improvement.

[12] Rule 600(b)(82) of Regulation NMS defines a ''Trading Center'' as ''a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent.'' *See* 17 CFR 242.201(a)(9); 17 CFR 242.600(b)(82).

[13] While the System routing table is not publicly available, the Cboe affiliated equity markets have provided a summary document of its available routing options, which is subject to change at any time. Such document details the strategies of the ROUD, ROUQ, ROUE, ROUZ, and ROUT routing options referenced herein. *See https://cdn.cboe.com/resources/features/cboe_exchange_routing-strategies.pdf. See also* Exchange Rule 11.11(g), which provides that the Exchange reserves the right to route orders simultaneously or sequentially, maintain a 124 different System routing table for different routing options and to modify the System routing table at any time without notice.

strategy is duplicative of the Exchange's ROUZ routing option.[14] Therefore, the Exchange proposes to eliminate subparagraph (g)(2) and (g)(3)(D) of Rule 11.11, as well as Fee Code T from the Exchange's Fee Schedule.[15]

Similarly, the ROUE routing option provided in Rule 11.11(g)(3)(A) first seeks liquidity on the Exchange's book, second will route any unfilled portion of the order to ATSs pursuant to the System routing table, and third will route any unfilled portion of the order to other Trading Centers.[16] Given the proposed implementation of DRT, the ROUE routing option will first seek liquidity on the Exchange's book, second route any unfilled portion via DRT, and third will route any unfilled portion of the order to other Trading centers. Such a strategy is duplicative of the Exchange's ROUT routing option.[17] Therefore, the Exchange proposes to eliminate subparagraph (g)(3)(A) of Rule 11.11 and references to the ROUE routing option in subparagraphs (g)(11) and (12). The Exchange also proposes to remove Fee Codes PR and RQ as they both reference the ROUQ routing option which is also proposed to be eliminated.[18] The Exchange also proposes to remove references to the ROUE trading strategy in Fee Codes BY, I, and K.

RDOT, RDOX, and INET Routing Clarification

Under Rule 201 of Regulation SHO, a short sale order in a covered security[19] generally cannot be executed or displayed by a Trading Center (such as the Exchange), at a price that is at or below the current national best bid (''NBB'')[20] when a short sale circuit breaker is in effect for the covered security (the ''SSCB''). Based on this rule, there is no reason for a Trading Center to route an order marked short when a SSCB is in effect using a routing option that does not provide for a routed order to post to another Trading Center's book. Post to Away[21] and ROOC[22] routing options are able to post an order to another Trading Center's book and, thus, Exchange Rule 11.11(a) explicitly provides that the Exchange will route orders marked short using Post to Away and ROOC routing options when a SSCB is in effect.[23]

Similarly, RDOT,[24] RDOX,[25] and INET[26] routing options are able to post an order to another Trading Center's book. Based on this functionality, the Exchange currently allows orders marked short while a SSCB is in effect to be routed using these routing options. As such, the Exchange is proposing to amend Rule 11.11(a) in order to codify that, in addition to Post to Away and ROOC routing options, short orders using the RDOT, RDOX, and INET routing strategies are also able to be routed when a SSCB is in effect. Given that orders routed via the RDOT, RDOX, and INET routing options are subjected to the receiving Trading Center's processes for handling short sale orders in compliance with Rule 201 of Regulation SHO in substantially the same manner as the ROOC and Post to Away routing options, the Exchange believes such functionality is appropriate and that Exchange Rules should be amended to codify such functionality.

Based on the above proposed changes the Exchange also proposes to re-alphabetize paragraph (g)(3) of Rule 11.11, and make conforming changes to various subparagraphs under paragraph (g) of Rule 11.11. Additionally, the Exchange proposes non-substantive changes to Rule 11.11(g)(7) and (g)(13) to properly reflect the name of Cboe BZX Exchange, Inc. and remove the Investors Exchange as a primary listing market.

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.[27] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[28] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[29] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed rule change also is designed to support the principles of Section 11A(a)(1)[30] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets.

[14] *See* Exchange Rule 11.11(g)(3)(E). *See also id.*

[15] Fee Code T references both the ROUD and ROUE routing options, both of which are proposed to be eliminated from the Fee Schedule. As such, the Exchange proposes to eliminate Fee Code T in its entirety.

[16] *See supra* note 14.

[17] *See* Exchange Rule 11.11(g)(3)(B). *See also supra* note 14.

[18] As noted above, Fee Code T references both ROUD and ROUE routing strategies, both of which the Exchange is proposing to eliminate and, as such, the Exchange proposed above to eliminate Fee Code T.

[19] Rule 201(a)(1) of Regulation SHO defines the term ''covered security'' to mean any ''NMS stock'' as defined under Rule 600(b)(48) of Regulation NMS. Rule 600(b)(48) of Regulation NMS defines an ''NMS stock'' as ''any NMS security other than an option.'' Rule 600(b)(47) of Regulation NMS defines an ''NMS security'' as ''any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in listed options.'' *See* 17 CFR 242.201(a)(1); 17 CFR 242.600(b)(47); and 17 CFR 242.600(b)(48).

[20] *See* 17 CFR 242.201(a)(4); 17 CFR 242.600(b)(43).

[21] *See* Exchange Rule 11.11(g)(11). Under the Post to Away routing option, the remainder of a routed order is routed to and posted to the order book of a destination on the ''System routing table'', as specified by the User.

[22] ROOC is a routing option for orders that the User wishes to designate for participation in the opening, re-opening (following a halt, suspension, or pause), or closing process of a primary listing market other than the Exchange (*e.g.,* the New York Stock Exchange, Inc. (''NYSE''), Nasdaq Stock Market LLC (''Nasdaq''), NYSE MKT LLC, NYSE Arca, Inc. (''NYSE Arca''), or BZX) if received before the opening/re-opening/closing time of such market. If shares remain unexecuted after attempting to execute in the opening, re-opening, or closing process, they are either posted to the EDGX Book, executed, or routed to destinations on the System routing table. *See* Exchange Rule 11.11(g)(8).

[23] The Exchange notes that orders routed pursuant to the Post to Away, ROOC, RDOT, RDOX, and INET routing options that include a short sale instruction are identified as ''short'' and are subject to the receiving Trading Center's processes for handling short sale orders in compliance with Rule 201 of Regulation SHO.

[24] RDOT is a routing option under which an order checks the System for available shares and then is sent to destinations on the System routing table. If shares remain unexecuted after routing, they are sent to the NYSE and can be re-routed by the NYSE. Any remainder will be posted to the NYSE, unless otherwise instructed by the User.

[25] *See* Exchange Rule 11.11(g)(6). RDOX is a routing option under which an order checks the System for available shares, is then sent to the NYSE and can be re-routed by the NYSE. If shares remain unexecuted after routing, they are posted on the NYSE book, unless otherwise instructed by the User.

[26] *See* Exchange Rule 11.11(g)(4). INET is a routing option under which an order checks the System for available shares and then is sent to Nasdaq. If shares remain unexecuted after routing, they are posted on the Nasdaq book, unless otherwise instructed by the User.

[27] 15 U.S.C. 78f(b).

[28] 15 U.S.C. 78f(b)(5).

[29] *Id.*

[30] 15 U.S.C. 78k–1(a)(1).

In particular, the proposed rule change to add the DRT routing option is generally intended to provide a consistent technology offering for the Cboe affiliated exchanges, which the Exchange believes is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system. Further to this point, a consistent technology offering, in turn, will simplify the technology implementation, changes and maintenance by Users of the Exchange that are also participants on BYX and/or BZX. The proposed rule changes would also provide Users with access to functionality that is intended to result in the efficient execution of such orders and will provide additional flexibility as well as increased functionality to the Exchange's System and its Users. As a result, the Exchange's proposal will further remove impediments to and perfect the mechanism of a free and open market and a national market system, and will also introduce the DRT routing strategy on the Exchange which will provide market participants with greater flexibility in routing orders without developing order routing strategies on their own.

The Exchange believes the proposed rule change to remove references to ROUD, ROUQ, and ROUE from Exchange Rules and the Fee Schedule will remove impediments to the mechanism of a free and open market, thereby protecting investors and the public interest. As stated above, the Exchange is proposing that its routing functionality to ATSs will use the DRT routing mechanism in the System routing table effective February 3, 2020. As a result, the ROUD, ROUQ, and ROUE routing options will function in the same manner as other existing routing options. By removing routing options that are duplicative of other existing routing options and amending Exchange Rules to reflect a new routing option, the Exchange believes the proposed rule change will remove impediments to the mechanism of a free and open market and protect investors by providing investors with increased transparency regarding rules that reflect routing options currently available on the Exchange. Also, as it pertains to the proposed changes to Exchange Rule 11.11(g) and the Fee Schedule, the Exchange does not believe the proposed amendments will permit unfair discrimination among customers, brokers, or dealers because the ROUD, ROUQ, and ROUE routing options will no longer be available to all Users.

Finally, the proposed changes to Rule 11.11(a) are designed to ensure clarity in the Exchange's rulebook with respect to the routing of orders in compliance with Rule 201 of Regulation SHO. In addition, providing Users the ability to send short sale orders that are routable pursuant to RDOT, RDOX, and INET routing options provides them additional flexibility with regard to the handling of their orders. The Exchange notes that orders that include a short sale instruction routed pursuant to the RDOT, RDOX, or INET routing options are identified ''short'' and, therefore, subject to the receiving Trading Center's processes for handling short sale orders in compliance with Regulation SHO. The Exchange also notes that the Post to Away and ROOC routing options are similar to the RDOT, RDOX, and INET routing options in that they route orders to other Trading Centers for posting and/or later execution. Rule 11.11(a) currently provides that orders including a short sale instruction routed pursuant to the Post to Away or ROOC routing options are eligible for routing when a short sale circuit breaker is in effect. Thus, the proposed amendments to Rule 11.11(a) is directly targeted at removing impediments to and perfecting the mechanism of a free and open market and national market system, as well as to assure fair competition among brokers and dealers and among exchange markets.

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 Exchange notes that the proposed amendment to allow orders with a short sale instruction and a RDOX, RDOT, or INET routing option to be eligible to route when a short sale circuit breaker is in effect will promote consistency between other routing strategies (*i.e.,* Post to Away and ROOC) that are similarly eligible to route when a short sale circuit breaker is in effect and are designed to route orders to other Trading Centers for posting and/or later execution. The Exchange does not believe the proposed change will have any impact on intermarket competition as the RDOX, RDOT, and INET routing strategies are and will continue to be available to all Users.

The Exchange notes that the proposed amendments to add a reference to the DRT routing option and eliminate references to the ROUD, ROUE, and ROUQ routing options in Exchange Rules and the Fee Schedule will eliminate any potential confusion to investors, as those routing options will be duplicative of existing routing options after the implementation of the DRT routing mechanism.

The Exchange does not believe that the proposed amendments will impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange provides routing services in a highly competitive market in which participants may avail themselves of a wide variety of routing options offered by self-regulatory organizations, other broker-dealers, market participants' own proprietary routing systems, and service bureaus. In such an environment, system enhancements such as the changes proposed in this rule filing do not burden competition, because they can succeed in attracting order flow to the Exchange only if they offer investors higher quality and better value than services offered by others. The Exchange reiterates that the proposed rule change to adopt DRT and eliminate the ROUE, ROUQ, and ROUD strategies is being proposed in an effort to add a consistent technology offering across the Cboe affiliated Exchanges.

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 Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act [31] and Rule 19b–4(f)(6) thereunder.[32] 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 and Rule 19b–4(f)(6) thereunder.

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [33] normally does not become

[31] 15 U.S.C. 78s(b)(3)(A).

[32] 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.

[33] 17 CFR 240.19b–4(f)(6).

operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [34] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange has represented that adopting the DRT routing functionality and eliminating references to certain duplicative routing options will conform its routing strategies to its affiliated exchanges and will eliminate any potential confusion for its Members. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest and hereby waives the operative delay and designates the proposal as operative upon filing.[35]

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) of the Act [36] 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.shtm*l); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGX–2020–006 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGX–2020–006. 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–CboeEDGX–2020–006 and should be submitted on or before March 5, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–02838 Filed 2–12–20; 8:45 am]

BILLING CODE 8011–01–P

[34] 17 CFR 240.19b–4(f)(6)(iii).

[35] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[36] 15 U.S.C. 78s(b)(2)(B).

[37] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-day notice and request for comments.

SUMMARY: The Small Business Administration (''SBA'') intends to request approval from the Office of Management and Budget (''OMB'') for the collection of information authorized under OMB Control Number 3245–0071. The Paperwork Reduction Act (''PRA'') requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice.

DATES: Submit comments on or before April 13, 2020.

ADDRESSES: Send all comments to Mary Frias, Loan Specialist, Office of Financial Assistance, Small Business Administration, 409 3rd Street, 8th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Mary Frias, Loan Specialist, Office of Financial Assistance, (202) 401–8234, *mary.frias@sba.gov,* or Curtis B. Rich, Management Analyst, (202) 205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: The 504 Loan Program is an SBA financing program authorized under Title V of the Small Business Investment Act of 1958, 15 U.S.C. 695 *et seq.* The core mission of the 504 Loan Program is to provide long-term financing to eligible small businesses for the purchase or improvement of land, buildings, and major equipment in an effort to facilitate the creation or retention of jobs and local economic development. Under the 504 Loan Program, 504 loans are made to small businesses by Certified Development Companies (''CDCs''), and the 504 loans are funded with proceeds from the sale of debentures issued by CDCs and guaranteed by SBA. The information collection that is approved under OMB Control Number 3245–0071 facilitates the ongoing administration of the 504 Loan Program. This information collection currently consists of SBA Form 1244, Application for Section 504 Loans; and SBA Form 2450, Eligibility Information Required for 504 Submission (Non PCLP). SBA recognizes that this information collection needs to be modernized to meet the needs of small business applicants and CDCs. As a result, SBA intends to make revisions to this information collection that would streamline the process and reduce duplication for CDCs and the small business applicants. These revisions will result in SBA Form 2450 being cancelled and its contents substantially incorporated into SBA Form 1244. Additionally, three of the forms currently approved under OMB Control Number 3245–0346 (Form 2234 (Part A), Premier Certified Lenders Program (PCLP) Guarantee Request; Form 2234 (Part B), Supplemental Information for Premier Certified Lender Program (PCLP) Processing; and Form 2234 (Part C), Eligibility Information Required for 504 Submission (PCLP) will also be incorporated into SBA Form 1244. SBA is publishing a separate **Federal**

Register notice regarding the revisions to the information collection under OMB Control Number 3245–0346.

Summary of changes to: OMB Control Number 3245–0071:

1. SBA Form 1244, Application for Section 504 Loans. This form is used by all small businesses applying for 504 loans and all CDCs applying for SBA guarantees of the debentures that are sold by CDCs to fund 504 loans. The SBA Form 1244 is currently used for all types of 504 loan processing—the Abridged Submission Method (''ASM''), non-PCLP/ASM, and Premier Certified Lenders Program (''PCLP'') processing. As discussed below, SBA Form 2450 as well as SBA Form 2234 (Parts A, B, C), will be consolidated into this form. Additional changes to SBA Form 1244 are intended to provide greater clarity for small business applicants using the Eligible Passive Company/Operating Company (EPC/OC) structure, as described in 13 CFR 120.111, that are owned by Employee Stock Ownership Plans; or are funded by 401(k) plans.

2. SBA Form 2450, Eligibility Information Required for 504 Submission (Non PCLP). Currently, this form is used by non-PCLP CDCs, including those CDCs using ASM processing, and is submitted in conjunction with the SBA Form 1244. The SBA Form 2450 is an eligibility checklist submitted by the CDC that allows SBA to determine the eligibility of the small business applicant and the 504 loan. SBA will be incorporating the content of the SBA Form 2450 into SBA Form 1244 and discontinuing the SBA Form 2450. The information that SBA will be collecting will remain substantially unchanged; however, the way in which the information is submitted will be revised. In some cases, the information will be submitted as part of the CDC's credit memorandum, which is currently an exhibit to the SBA Form 1244. In other cases, the information will be submitted as a new exhibit to the SBA Form 1244.

3. SBA Form 2234 (Part A), Premier Certified Lenders Program (PCLP) Guarantee Request. This form is used for PCLP processing only, and serves as a cover sheet for the SBA Form 2234 (Part B) and SBA Form 2234 (Part C). To the extent that the information collected on this form is not already collected on the current SBA Form 1244, it will be incorporated into the SBA Form 1244, and the SBA Form 2234 (Part A) will be discontinued.

4. Form 2234 (Part B), Supplemental Information for Premier Certified Lender Program (PCLP) Processing. This form is used for PCLP processing only, and it collects quantifiable metrics for the 504 loan application. To the extent that the information collected on this form is not already collected on the current SBA Form 1244, it will be incorporated into the SBA Form 1244, and the SBA Form 2234 (Part B) will be discontinued.

5. SBA Form 2234 (Part C), Eligibility Information Required for 504 Submission (PCLP). Currently, this form is used for PCLP processing only. The SBA Form 2234 (Part C) is an eligibility checklist that allows a PCLP CDC to determine and certify to SBA the eligibility of the small business applicant and the 504 loan. SBA will be discontinuing this form and incorporating its content into the SBA Form 1244. The requested information will remain substantially unchanged. In some cases, the information will be submitted as part of the CDC's credit memorandum, which is currently an exhibit to the SBA Form 1244. In other cases, the information will be submitted as a new exhibit to the SBA Form 1244.

Solicitation of Public Comments

SBA is requesting comments on (i) whether the collection of information is necessary for the agency to properly perform its functions; (ii) whether the burden estimates are accurate; (iii) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (iv) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Proposed Information Collection:

Title: Application for Section 504 Loans.

Form Number: SBA Form 1244, Application for Section 504 Loans.

OMB Control Number: 3245–0071.

Description of Respondents: Small business concerns applying for 504 loans and CDCs applying for guarantees of debentures to fund 504 loans.

Total Estimated Number of Respondents Annually: 7210.

208 CDCs and approximately 5,800 small businesses based on the average number of applications received by SBA in FY19 5,829 using the PCLP, ASM and non-PCLP/ASM methods. Of the 5,800 applications submitted, 23 or 0.39% are PCLP processed, 4,621 or 80% are ASM, and 1,156 or 20% are non-PCLP/ASM.

Frequency of Response Annually: 1 per each small business applicant.

Total Estimated Annual Responses: 5,800.

Total Estimated Annual Hour Burden: 13,159.

Submission through the PCLP—23 × 3.25 hours = 74.75 burden hours. Submission through the ASM—4,621 × 2.25 hours = 10,397 burden hours. Submission through non-PCLP/ASM—1,097 × 2.45 hours = 2,687 burden hours.

Curtis Rich,

Management Analyst.

[FR Doc. 2020–02869 Filed 2–12–20; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-Day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice.

DATES: Submit comments on or before April 13, 2020.

ADDRESSES: Send all comments to Mary Frias, Loan Specialist, Office of Financial Assistance, Small Business Administration, 409 3rd Street SW, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Mary Frias, Loan Specialist, Office of Financial Assistance, *mary.frias@sba.gov,* (202) 401–8234, or Curtis B. Rich, Management Analyst, (202) 205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: This information collection consists of SBA Form 2233, PCLP Quarterly Loan Loss Reserve Report; Form 2234 (Part A), Premier Certified Lenders Program (PCLP) Guarantee Request; Form 2234 (Part B), Supplemental Information for Premier Certified Lender Program (PCLP) Processing; and Form 2234 (Part C), Eligibility Information Required for 504 Submission (PCLP). SBA is proposing to revise this collection by cancelling Form 2234 and making minor edits to Form 2233.

Form 2233 will continue to be used by PCLP Certified Development Companies (PCLP CDCs) to report their quarterly loan loss reserves. SBA has made a few changes to the form relating to whether PCLP CDCs are using the Declining Balance Methodology in calculating its LLRF balances. This change ensures consistency with recent regulatory amendments in SBA's

December 4, 2019, final rule: *Streamlining and Modernizing Certified Development Company Program (504 Loan Program) Corporate Governance Requirements* (84 FR 66287). SBA also made minor edits to this form to clarify reporting instructions. The burden hours to complete Form 2233 are unchanged.

With the cancellation of Form 2234 (Parts A, B, and C), SBA is proposing to incorporate the non-duplicative questions into SBA Form 1244, which is approved under OMB Control Number 3245–0071. SBA is publishing a separate **Federal Register** notice to address the revisions to that information collection. The specific rationale for cancelling Form 2234 (Parts A, B, and C) is as follows:

—Form 2234 (Part A): This form serves as a cover sheet for the Form 2234 (Part B). Most of the information collected on this form is collected on the current SBA Form 1244; any information that is not duplicative will be incorporated into that form.

—Form 2234 (Part B): This form collects quantifiable metrics for the application in addition to the impacts expected to be gained as a result of the project. Most of the information is already collected on Form 1244, including the credit memorandum; any non-duplicative information will be incorporated into the revised Form 1244.

—Form 2234 (Part C): This form is a checklist comprised of yes/no questions. The information collected is used to determine the eligibility of the applicant and the 504 project. The content of this form will be incorporated into the SBA Form 1244. The information collected will remain substantially unchanged. Following the cancellation of Part C, some of the information will be submitted as part of the credit memorandum, which is currently an exhibit to the SBA Form 1244, and other information will be submitted as a new exhibit to the SBA Form 1244.

Solicitation of Public Comments: SBA is requesting comments on (i) Whether the collection of information is necessary for the agency to properly perform its functions; (ii) whether the burden estimates are accurate; (iii) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (iv) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Proposed Information Collection

Title: PCLP Quarterly Loan Loss Reserve Report.

Form Numbers: SBA Form 2233, PCLP Quarterly Loan Loss Reserve Report.

OMB Control Number: 3245–0346.

Description of Respondents: Certified Development Companies with PCLP Status.

Estimated Number of Respondents: 15 PCLP CDCs.

Frequency of Responses Annually: 1 per quarter.

Total Estimated Annual Responses: 40 (1 report each quarter).

Total Estimated Annual Hour Burden: 20 hours.

Curtis Rich,

Management Analyst.

[FR Doc. 2020–02868 Filed 2–12–20; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA), which requires agencies to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public of that submission.

DATES: Submit comments on or before March 16, 2020.

ADDRESSES: Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW, 5th Floor, Washington, DC 20416; and *SBA Desk Officer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov.*

Copies: A copy of the Form OMB 83–1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

SUPPLEMENTARY INFORMATION: Small Business Administration Form 700 provides a record of interviews conducted by SBA personnel with small business owners, homeowners and renters (disaster victims) who seek financial assistance to help in the recovery from physical or economic disasters. The basic information collected helps the Agency to make preliminary eligibility assessment.

Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collections

(1) Title: Disaster Home/Business Loan Inquiry Record.

Description of Respondents: Disaster Recovery Victims.

Form Number: SBA Form 700.

Estimated Annual Respondents: 46,638.

Estimated Annual Responses: 46,638.

Estimated Annual Hour Burden: 11,660.

Curtis Rich,

Management Analyst.

[FR Doc. 2020–02942 Filed 2–12–20; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF STATE

[Public Notice: 11036]

Determination Under Section 620G(b) of the Foreign Assistance Act of 1961

Pursuant to section 620G(b) of the Foreign Assistance Act of 1961 (FAA), Executive Order 12163, as amended by the Executive Order 13346, and Delegation of Authority No. 245–2, I hereby determine that furnishing assistance to the Governments of Canada, Egypt, France, Germany, Italy, Kuwait, the Netherlands, Norway, Qatar, Saudi Arabia, Sweden the United Arab Emirates, and the United Kingdom is important to the national interests of the United States and thereby waive, with respect to these governments, the application of section 620G(a) of the FAA.

This Determination shall be published in the **Federal Register** and, along with the accompanying Memorandum of Justification, shall be reported to Congress.

Dated: January 28, 2020.

Stephen E. Biegun,

Deputy Secretary of State.

[FR Doc. 2020–02879 Filed 2–12–20; 8:45 am]

BILLING CODE 4710–26–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Christian, Shelby, Fayette, Marion, Clinton, Jefferson and Washington Counties, Illinois

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice to rescind a Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will not be prepared for the US 51 Project, a proposed transportation improvement project in Christian, Shelby, Fayette, Marion, Clinton, Jefferson and Washington Counties in Illinois.

FOR FURTHER INFORMATION CONTACT: Arlene K. Kocher, Division Administrator, Federal Highway Administration, 3250 Executive Park Drive, Springfield, Illinois 62703. Phone: (217) 492–4600.

Jeffrey P. Meyers, P.E., Region 4 Engineer, Illinois Department of Transportation, 400 West Wabash, Effingham, Illinois 62401, Phone: 217–342–8201.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Illinois Department of Transportation (IDOT), issued a notice of intent to prepare an environmental impact statement (EIS) on November 26, 2007 (72 FR 67779). The project proposal was to address potential increases in traffic volumes, operational issues, and State economic initiatives of the existing 70-mile roadway facility south of Pana to east of Irvington, Illinois.

The FHWA is rescinding the notice of intent because IDOT has no plans to advance the project and no further activities will occur in its development.

Comments or questions concerning this notice should be directed to FHWA or the Illinois Department of Transportation at the addresses provided above.

Authority: 23 U.S.C. 315; 23 CFR 771.123; 49 CFR 1.48.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program).

Dated: February 7, 2020.

Arlene K. Kocher,

Division Administrator, Federal Highway Administration, Springfield, Illinois.

[FR Doc. 2020–02920 Filed 2–12–20; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2019–0018]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 11 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. They are unable to meet the vision requirement in one eye for various reasons. The exemptions enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

DATES: The exemptions were applicable on January 22, 2020. The exemptions expire on January 22, 2022.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Documents and Comments

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov/docket?D=FMCSA-2019-0018* and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

B. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

II. Background

On December 19, 2019, FMCSA published a notice announcing receipt of applications from 11 individuals requesting an exemption from vision requirement in 49 CFR 391.41(b)(10) and requested comments from the public (84 FR 69814). The public comment period ended on January 21, 2020, and one comment was received.

FMCSA has evaluated the eligibility of these applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(10).

The physical qualification standard for drivers regarding vision found in § 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

III. Discussion of Comments

FMCSA received one comment in this proceeding. Matthew W submitted a comment that asks for clarification on the current process is by which individuals who are not U.S. Citizens may be able to acquire a license, and suggests that such individuals be required to hold an Operator's License for some period of time prior to being eligible to operate a CMV. This comment is not related to Vision Exemptions and is outside the scope of the current notice.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds

such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The Agency's decision regarding these exemption applications is based on medical reports about the applicants' vision, as well as their driving records and experience driving with the vision deficiency. The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the December 19, 2019, **Federal Register** notice (84 FR 69814) and will not be repeated here.

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their limitation and demonstrated their ability to drive safely. The 11 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, complete loss of vision, degenerative myopia, glaucoma, optic neuropathy, prosthesis, retinal detachment, and retinal scars. In most cases, their eye conditions did not develop recently. Seven of the applicants were either born with their vision impairments or have had them since childhood. The four individuals that developed their vision conditions as adults have had them for a range of 9 to 31 years. Although each applicant has one eye that does not meet the vision requirement in § 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and, in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV.

Doctors' opinions are supported by the applicants' possession of a valid license to operate a CMV. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV with their limited vision in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions.

The applicants in this notice have driven CMVs with their limited vision in careers ranging for 3 to 61 years. In the past 3 years, one driver was involved in a crash, and no drivers were convicted of moving violations in CMVs. All the applicants achieved a record of safety while driving with their vision impairment that demonstrates the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

Consequently, FMCSA finds that in each case exempting these applicants from the vision requirement in § 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in § 391.41(b)(10) and (b) by a certified medical examiner (ME) who attests that the individual is otherwise physically qualified under § 391.41; (2) each driver must provide a copy of the ophthalmologist's or optometrist's report to the ME at the time of the annual medical examination; and (3) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 11 exemption applications, FMCSA exempts the following drivers from the vision requirement, § 391.41(b)(10), subject to the requirements cited above:

Wayne Brannon (NC)
Raymond K. Brubaker (WA)
Fred L. Eads, Jr. (MO)
Joseph L. Gomez III (MD)
Mack D. Jenkins (NC)
Timothy B. Jones (PA)
James J. Kyler (OK)
Robert C. Mock (KS)
David J. Reed (TX)
Derrick A. Robinson (AL)
David A. Simpson (OH)

In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Issued on: January 31, 2020.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2020–02966 Filed 2–12–20; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Fiscal Years (FY) 2018 Competitive Research Funding Opportunity: FTA's Public Transportation Innovation Program, (49 U.S.C. 5312)

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Funding Opportunity (NOFO) for the Safety Research and Demonstration (SRD) Program.

SUMMARY: The Federal Transit Administration (FTA) announces the availability of up to $7,300,000 in Fiscal Year (FY) 2018 and FY 2019 Public Transportation Innovation funds to demonstrate and evaluate innovative technologies, safer designs and/or practices to improve rail transit safety. FTA is seeking to fund cooperative agreements to engage in demonstrations that will improve the operational safety of rail transit services in the U.S. FTA is particularly interested in proposals to prevent and mitigate suicide and trespassing hazards on rail transit

systems, and for systems that improve the operational safety of shared corridor fixed guideway systems, including highway-rail grade crossing safety.

DATES: Complete proposals are due by 11:59 p.m. EDT on March 24, 2020. All proposals must be submitted electronically through the *GRANTS.GOV* ''APPLY'' function. Prospective applicants should initiate the process by registering on *GRANTS.GOV* promptly to ensure completion of the application process before the submission deadline. Instructions for applying can be found at *https://www.transit.dot.gov/grants* and in the ''FIND'' module of *GRANTS.GOV*. Mail, electronic mail and fax submissions will not be accepted.

FOR FURTHER INFORMATION CONTACT: Please send any questions on this notice to *royweishu.chen@dot.gov* or contact Roy Chen, Safety Research Program Manager, Office of Research, Demonstration, and Innovation (TRI), (202) 366–0462. A Telecommunication Device for the Deaf (TDD) is available for individuals who are deaf or hard of hearing at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: An eligible lead applicant under this notice must be an existing FTA grant recipient and eligible project partners and sub-recipients under this program may include, but are not limited to, providers of public transportation; State and local governmental entities; departments, agencies, and instrumentalities of the Federal Government, including Federal laboratories; private or non-profit organizations; institutions of higher education; and technical and community colleges.

For the purpose of this solicitation, rail transit systems are defined as transit modes whose vehicles travel along fixed rails forming a track. Rail transit systems that will be considered for this funding opportunity as a lead applicant or part of the team, should be public rail transit agencies that fall under the jurisdiction of FTA's State Safety Oversight (SSO) Program. This announcement is also available on the FTA website at: *https://www.transit.dot.gov/grants.* A synopsis of this funding opportunity will be posted in the FIND module of *GRANTS.GOV* at *http://www.grants.gov.* The funding Opportunity ID is FTA–2020–004–TRI–SRD and the Catalog of Federal Domestic Assistance (CFDA) number for FTA's Public Transportation Innovation Program, (49 U.S.C. 5312) is 20.530.

Each section of this notice contains information and instructions relevant to the application process for the SRD Program, and all applicants should read this notice in its entirety for the information required to submit eligible and competitive applications.

Table of Contents

A. Program Description
B. Federal Award Information
C. Eligibility Information
D. Application and Submission Information
E. Application Review
F. Federal Award Administration
G. Federal Awarding Agency Contacts

A. Program Description

FTA's Public Transportation Innovation program is authorized by Federal public transportation law (49 U.S.C. 5312). Under this authority, FTA may make grants, or enter into contracts, cooperative agreements, and other agreements for research, development, demonstration, deployment, and evaluation projects of national significance to public transportation that the Secretary determines will improve public transportation. The Safety Research and Demonstration (SRD) Program which was developed under this authority is a competitive demonstration opportunity under FTA's research emphasis area of safety and in support of the U.S. Department of Transportation's safety goals. The SRD Program provides technical and financial support for transit agencies to pursue innovative approaches to eliminate or mitigate known safety hazards in public transportation via demonstration of technologies and safer designs.

The goals of FTA's safety research, in general, are to:

- Improve public safety by reducing transit-related injuries, fatalities, safety events, and enhance system reliability by testing promising new technologies, designs and practices.
- Assess ways to promote better public transit safety cultures through the adoption of voluntary safety standards and best-practices.

The primary objectives of the FY 2018 SRD Program are to assist rail transit agencies to:

- Explore advanced technologies, designs and/or practices to mitigate and prevent safety hazards on rail transit systems; and
- Evaluate cost-effectiveness and practicability of potential solutions.

The FTA has a critical obligation to provide public transportation systems with the tools and resources needed to ensure the safe operation of those systems. The SRD Program will focus on improving the operational safety of rail transit systems.

To ensure any proposed demonstration project addresses known safety hazards of rail transit operations, FTA is requiring that project submittal teams partner with at least one rail transit agency. FTA will assess the strength of these partnerships in its evaluation of applications. As envisioned, the SRD Program will provide financial and technical assistance for transit agencies to pursue cutting edge technologies and innovative approaches, and more importantly, the opportunity to assess the effectiveness of these solutions in improving safety of rail transit systems.

FTA is seeking innovative projects to demonstrate market-ready or near market-ready advanced technologies, designs or practices to improve transit rail safety. These demonstrations are expected to provide benefits in the form of:

- Reduced fatalities and injuries.
- Improved travel time reliability.
- Cost savings to agencies, businesses and traveling public.
- Increased confidence and use of public transit service.

B. Federal Award Information

1. Amount Available

This notice makes available up to $7,300,000 under the Public Transportation Innovation program (49 U.S.C. 5312(b)), which FTA intends to award in the form of cooperative agreements, to support the research, development, demonstration, deployment, and evaluation of research and technology of national significance to public transportation that the Secretary determines will improve public transportation. FTA may, at its discretion, provide additional funds for selections made under this announcement or for additional meritorious proposals, if additional funding becomes available. FTA will announce final selections on the FTA website and may also announce selections in the **Federal Register**.

2. Award Size

There is no minimum or maximum award amount. Rather, project scale will be bounded by each project's ability to complete all proposed planning phase, development phase and a demonstration phase. The SRD Program is intended as a research demonstration program and not meant as a capital procurement program. FTA intends to fund as many meritorious projects as possible under this announcement. FTA recognizes that the funding available under this

announcement may be insufficient to fund all meritorious projects. FTA may, at its discretion, select an application for award for less than the proposed amount. In those cases, applicants must be able to demonstrate that the proposed projects are still viable and can be completed with the amount awarded.

3. Type of Assistance Instrument

Projects funded through this NOFO will be structured as cooperative agreements in which the Federal government will have substantial involvement. The Federal role will include active participation in the project activities by attending review meetings, commenting on technical reports, and maintaining frequent contact with the local project manager. FTA reserves the right to re-direct project activities and funding for projects supported under this NOFO and their related activities.

4. Project Timelines

Projects funded under the SRD Program will be allowed a maximum of 6 months for project planning. The project must start within six months of project award or FTA reserve the right to redirect the funding to other meritorious projects under the program. A minimum of six months of demonstration, data collection and evaluation activities are required. The maximum period of performance allowed for the work covered by the award should not exceed forty-eight (48) months from the date of award.

5. Restrictions on Funding

The SRD Program is a research and development effort and, as such, FTA Research circular 6100.1E (available at *https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/research-technical-assistance-and-training-program*) rules will apply in administering the program. Only proposals from eligible recipients (see C) for eligible activities will be considered for funding. Funds made available under this program may be used to fund operating expenses and preventive maintenance directly associated with the demonstration of the proposed project, but may not be used to fund such expenses for equipment not explicitly essential to the project. The SRD Program is a research demonstration program and not a capital procurement program. FTA seek proposals that demonstrate innovative safety technologies or solutions to improve rail transit safety. FTA does not seek to demonstrate existing solutions that are readily available or proven technologies accessible in the marketplace. Please review the six evaluation criteria outlined in Section E of this NOFO carefully.

C. Eligibility Information

To be selected for the SRD Program, an applicant must be an eligible applicant and the project must be an eligible project as defined below.

1. Eligible Applicants

To be eligible for funding under this NOFO, applicants must demonstrate that the proposed project is supported by a lead applicant in partnership with one or more strategic partner(s) with a substantial interest and involvement in the project. Eligible lead applicants under this notice must be existing FTA grant recipients. An application must clearly identify the eligible lead applicant and all project partners on the team.

Eligible project partners and sub-recipients under this program may include, but are not limited to:

- Public Transportation Systems;
- Private for profit and not for profit organizations, including technology system suppliers;
- Operators of transportation, such as employee shuttle services or airport connector services or university transportation systems;
- State or local government entities; and,
- Other organizations that may contribute to the success of the project team including consultants, research consortia or not-for-profit industry organizations, and institutions of higher education.

The lead applicant must have the ability to carry out the proposed agreement and procurements with team members in compliance with its respective State and local laws. FTA may determine that any named team member in the proposal is a key party and make any award conditional to the participation of that key party. A key party is essential to the project as approved by FTA and is therefore eligible for a noncompetitive award by the lead entity to provide the goods or services described in the application. A key party's participation on a selected project cannot be substituted without FTA's approval. For-profit companies may participate on teams; however, recipients and subrecipients of funding under this program may not charge a fee or profit from the FTA research program funding.

In instances where a provider(s) of public transportation is a partner and not the lead applicant, a detailed statement regarding the role of the rail transit service provider(s) in the project is required. The General Manager, for the public transportation service provider, must sign a letter committing the agency to the project as well as outline its specific roles and responsibilities in the project. FTA requires that project submittal teams partner with at least one rail transit agency.

2. Eligible Projects

Applicants may submit one proposal for each project but not one proposal containing multiple projects. Applicants are allowed to submit multiple proposals, but the proposals must be focused on the topic of rail transit safety.

The project proposals must include a research/synthesis phase, development phase and a demonstration phase. All phases are critical to project selection. Revenue-service, full-scale demonstrations are preferred where practicable. However, in cases where a full-scale demonstration would be impractical, detailed plans for non-revenue service or limited demonstration will be considered. Basic research or studies that do not result in any demonstration of the potential for commercialization or broad deployment within the scope of the project will not be considered for funding.

For the purpose of this solicitation, rail transit system is defined as transit modes whose vehicles travel along fixed rails forming a track. Rail transit systems that will be considered for this funding opportunity, lead applicant or part of the team, should be public rail transit agencies that falls under the jurisdiction of FTA's State Safety Oversight (SSO) Program. FTA hereby requests applications, to eligible entities, to develop projects for demonstration to improve operational safety of rail transit system. Applicants need to provide background information, including baseline data, regarding the safety hazards they have identified and the type of countermeasures proposed to mitigate and/or prevent accidents that could results in injuries and fatalities.

FTA is particularly interested in proposals to prevent and mitigate suicides and trespassing in rail transit systems. Data pulled from National Transit Database (NTD), between 2011 to August 2018, indicate 492 rail fatalities due to suicide, which accounts for 53% of all rail collisions related fatalities during that period. During the same time, there were 194 fatalities due to trespassing (or pedestrians not in a crossing, walking along the tracks, crossing the tracks). Fatalities due to trespassing and suicide accounted for

73% of all rail collision fatalities between 2011 and August 2018. In the same period, there were 505 non-fatal injuries recorded due to attempted suicide and 254 injuries sustained by trespassing. Attempted suicides and trespassing events accounted for a total of 759 non-fatal injuries, which resulted in 18% of all rail collision related injuries. US DOT's Volpe Center and Federal Railroad Administration (FRA) has compiled a list of research studies related to the topic of rail suicide prevention and trespassing that could be applicable to rail transit systems as well (*https://www.volpe.dot.gov/rail-suicide-prevention*).

FTA is also interested in reviewing applications related to the operational safety of shared corridor fixed guideway systems, including highway-rail grade crossing safety. NTD data from 2008–2014 indicated that fixed guideway operation on shared corridors has the highest rate of injuries to people waiting for or leaving the vehicles when normalized as a rate per 100 million vehicle miles traveled (VMT). For streetcar rail, the injury rates of occupants of other vehicles—both in terms of vehicle revenue miles and passenger miles—far exceeded all other transit modes. Light rail systems had the greatest increase in the number of fatalities, from 2008–2014, at 116.7%. Light rail systems had the largest increase in pedestrian crosswalk fatalities from 2008–2014. Light rail accounted for 82.3% of total injuries occurring at pedestrian or grade crossings from 2008–2014, the highest among all transit modes. The analysis of NTD data indicated a number of safety concerns associated with shared corridor fixed guideway operations for pedestrians, transit workers, rail transit users and occupants of personal vehicles.

FTA would like to receive research proposals addressing different types of safety hazards caused by intrusion incidents into the shared corridor fixed guideway operations, including highway-rail grade crossings safety, and evaluate the effectiveness of potential mitigation strategies. It should be noted that other sections of this NOFO contains additional eligibility information with respect to the SRD Program. All applicants should closely review all the sections of this NOFO.

3. Cost Sharing or Matching

The federal share of project costs under this program is limited to eighty percent (80%). Applicants are encouraged to seek a lower Federal contribution. The applicant must provide the local share of the net project cost in cash, or in-kind, and must document in its application the source of the local match. Eligible sources of local match are detailed in FTA Research Circular 6100.1E. (available at *https://www.transit.dot.gov/regulations-and-guidance/fta-circular-61001e-research-technical-assistance-and-training-programs*).

4. Other Requirements

a. Independent Evaluation

To achieve a comprehensive understanding of the impacts and implications of each proposed SRD demonstration, projects funded under this announcement will be subject to evaluation by an independent evaluator selected and funded separately by FTA. Recipients will be required to coordinate with the independent evaluator to assist in developing an evaluation plan; and collecting; storing and managing data required to fulfill the evaluation plan.

b. SRD Program Evaluation

Projects funded under this announcement will be required to support the efforts of FTA or its designee to evaluate the project and establish a set of performance metrics, which will be shared with selected project teams upon award.

c. Data Access and Data Sharing

Project funded under this announcement will be required to gather and share all relevant and required data with the FTA within appropriate and agreed-upon timelines, to support project evaluation. A detailed data collection and management plan will be a required deliverable within 120 days after effective date of award. Applicants should budget for the costs of data storage and sharing as appropriate.

In response to the White House Office of Science and Technology Policy memorandum dated February 22, 2013, entitled Increasing Access to the Results of Federally Funded Scientific Research, the department is incorporating Public Access Requirements into all funding awards for scientific research. All work conducted under the SRD Program must follow the Department data policies outlined in the DOT Public Access Plan at: *https://ntl.bts.gov/public-access/how-comply.* Recipients are required to include these obligations in any sub-awards or other related funding agreements.

FTA expects recipients to use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the submission includes information the applicant considers to be trade secret or confidential commercial or financial information, the applicant should do the following: (1) Note on the front cover that the submission ''Contains Confidential Business Information (CBI)''; (2) mark each affected page ''CBI''; and (3) highlight or otherwise denote the CBI portions. FTA protects such information from disclosure to the extent allowed under applicable law. In the event that FTA receives a Freedom of Information Act (FOIA) request for the information, FTA will follow the procedures described in the U.S. DOT FOIA regulations at 49 CFR 7. Only information that is ultimately determined to be confidential under that procedure will be exempt from disclosure under FOIA. Should FTA receive an order from a court of competent jurisdiction ordering the release of the information, FTA will provide applicant timely notice of such order to allow the applicant the opportunity to challenge such an order. FTA will not challenge a court order on behalf of applicant.

Recipients must make available to the Department copies of all work developed in performance of a project funded under this announcement, including but not limited to software and data. Data rights shall be in accordance with 2 CFR 200.315, Intangible property.

d. Knowledge and Technology Transfer

Project teams may be asked to participate in safety related information exchange meetings, conferences, webinars, or outreach events to share information with the transit industry and stakeholders on the progress and results of their project activities. Applicants should allocate a portion of their budgets to support such work, which may include travel or presentation at key industry gatherings. A knowledge transfer component is expected to be part of the proposal.

D. Application and Submission Information

1. Address and Form of Application Submission

Applications must be submitted electronically through *GRANTS.GOV.* general information for submitting applications through *GRANTS.GOV* can be found at *www.grants.gov.* Mail and fax submissions will not be accepted. A complete proposal submission will consist of at least two forms: (1) The SF 424 Application for Federal Assistance form (available at *GRANTS.GOV*) and

(2) the supplemental form for the ''Safety Research and Demonstration Program'' (available at *GRANTS.GOV* and *https://www.transit.dot.gov/research-innovation/safety-research-and-demonstration-program.*)

The supplemental profile provides guidance and a consistent format for applicants to respond to the criteria outlined in this NOFO. Once completed, the supplemental profile must be placed in the attachments section of the SF 424 Mandatory form. Applicants must use the supplemental form designated for the Safety Research and Demonstration Program and attach it to their submission in *GRANTS.GOV* to successfully complete the application process. Failure to submit the information as requested can disqualify the application.

An applicant may attach additional supporting information to the SF–424 submission and supplemental form submission, including but not limited to letters of support, project budgets and other support documentations. The supporting documentation must be described and referenced by file name in the appropriate response section of the supplemental form, or it may not be reviewed.

Within 24 to 48 hours after submitting an electronic application, the applicant should receive 3 email messages from *GRANTS.GOV:* (1) Confirmation of successful transmission to *GRANTS.GOV;* (2) confirmation of successful validation by *GRANTS.GOV;* and (3) confirmation of successful validation by FTA. If confirmations of successful validation are not received and a notice of failed validation or incomplete materials is received, the applicant must address the reason for the failed validation, as described in the email notice, and resubmit before the submission deadline. If making a resubmission for any reason, include all original attachments regardless of which attachments were updated and check the box on the supplemental form indicating this is a resubmission.

Complete instructions on the application process can be found at *https://www.transit.dot.gov/grants.* FTA strongly encourages applicants to submit their applications at least 72 hours prior to the due date to allow time to receive the validation messages and to correct any problems that may have caused a rejection notification. FTA will not accept submissions after the stated submission deadline for any reason. *GRANTS.GOV* scheduled maintenance and outage times are announced on *GRANTS.GOV.* Deadlines will not be extended due to scheduled maintenance or outages.

Applicants are encouraged to begin the process of registration on the *GRANTS.GOV* website well in advance of the submission deadline. Instructions on the *GRANTS.GOV* registration process are listed in Appendix A. Registration is a multi-step process, which may take 3 to 5 days, but could take as much as several weeks to complete before an application can be submitted if the applicant needs to obtain certain identifying numbers external to *GRANTS.GOV* (for example, applying for an Employer Identification Number). Registered applicants may be required to update their registration before submitting an application. Registration in the System for Award Management (SAM) must be renewed annually and persons making submissions on behalf of the Authorized Organization Representative (AOR) must be authorized in *GRANTS.GOV* by the AOR to make submissions.

Applicants may submit one proposal for each project but not one proposal containing multiple projects. Information such as applicant name, Federal amount requested, local match amount, description of areas served, etc. may be requested in varying degrees of detail on both the SF 424 Form and Supplemental Form. Applicants must fill in all fields unless stated otherwise on the forms. Applicants should use both the ''CHECK PACKAGE FOR ERRORS'' and the ''VALIDATE FORM'' buttons to check all required fields on both forms, and ensure that the federal and local amounts specified are consistent. The information described in Sections ''E'' through ''H'' below MUST be included and/or addressed on the SF 424 Form and other supplemental forms for all requests for the ''Safety Research and Demonstration Program'' funding.

2. Application Content

At a minimum, every proposal must include an SF–424 form, with the Applicant and a Proposal Profile supplemental form attached. The Applicant and Proposal Profile supplemental form for the SRD Program can be found at *https://www.transit.dot.gov/research-innovation/safety-research-and-demonstration-program.*

All applicants are required to provide detailed information on the Applicant and Proposal Profile supplemental form, including:

(a) State the project title, the overall goals of the project, and describe the project scope, including anticipated deliverables.

(b) Discuss the current state of practice, challenges and how the proposed project will mitigate and/or prevent the safety hazard(s) identified in rail transit system(s).

(c) Details on whether the proposed demonstration is a new effort or a continuation of a prior research and degree of improvement over current technologies, designs, and/or practices.

(d) Address each evaluation criterion separately, demonstrating how the project responds to each criterion as described in Section E.

(e) Provide a line-item budget for the total project with enough detail to indicate the various key components of the project. As FTA may elect to fund only part of some project proposals, the budget should provide for the minimum amount necessary to fund specific project components of independent utility. If the project can be scaled, provide a scaling plan describing the minimum funding necessary for a feasible project and the impacts of a reduced funding level.

(f) Provide the Federal amount requested and document the matching funds, including amount and source of the match (may include local or private sector financial participation in the project). Provide support documentation, including financial statements, bond-ratings, and documents supporting the commitment of non-federal funding to the project, or a timeframe upon which those commitments would be made.

(g) A project time-line outlining steps from project implementation through completion, including significant milestones and the roles of the responsible team members.

(h) The proposed location(s) of the research and demonstration, the type of rail modes, the type of rail vehicle, the number of rail vehicles involved in the demonstration.

(i) A description of any exceptions or waivers to FTA requirements or policies necessary to successfully implement the proposed project. FTA is not inclined to grant deviations from its requirements, but may consider deviations if the applicant can show a compelling benefit. Examples: Buy America requirement, Deferred Local Share, Letter of No prejudice, etc.

(j) Potential issues (technical or other) that may influence the success of the project.

(k) Address whether other Federal funds have been sought for the project.

(l) Provide Congressional district information for the project's place of performance.

(m) Consistent with the Department's R.O.U.T.E.S. Initiative (*https://www.transportation.gov/rural*), the Department encourages applicants to describe how activities proposed in

their application would address the unique challenges facing rural transportation networks, regardless of the geographic location of those activities.

3. Unique Entity Identifier and System for Award Management (SAM)

Each applicant must: (i) Be registered in SAM before submitting its application; (ii) provide a valid unique entity identifier in its application; and (iii) continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency. FTA may not make a Federal award to an applicant until the applicant has complied with all applicable unique entity identifier and SAM requirements and, if an applicant has not fully complied with the requirements by the time FTA is ready to make an award FTA may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

STEP 1: Obtain DUNS Number: Go to Dun & Bradstreet at *http://fedgov.dnb.com/webform* to obtain the number.

STEP 2: Register with SAM: The registration process can take as little as three to five business days or up to two weeks if registering for the first time.

STEP 3: Username & Password: Complete your AOR profile on *Grants.gov* and create a username and password.

STEP 4: AOR Authorization: Confirm the AOR. Please note that organizations can have more than one AOR. In some cases the E-Biz POC is also the AOR for an organization.

STEP 5: TRACK AOR STATUS: Login as an Applicant (enter your username & password you obtained in Step 3) to track the AOR status.

4. Submission Dates and Times

Project proposals must be submitted electronically through *GRANTS.GOV* by 11:59 p.m. EDT on March 24, 2020. Late applications will not be accepted.

5. Funding Restrictions

Funds under this NOFO cannot be used to reimburse projects for otherwise eligible expenses incurred prior to FTA award of a Cooperative Agreement unless FTA has issued a ''Letter of No Prejudice'' for the project before the expenses are incurred.

The SRD Program is a research and development effort and as such FTA Circular 6100.1E rules will apply in administering the program.

E. Application Review

1. Evaluation Criteria

Projects will be evaluated by FTA per the following six evaluation criteria described in this section. Each applicant is encouraged to demonstrate the responsiveness of a project to all the criteria shown below with the most relevant information that the proposer can provide.

The FTA will assess the extent to which a proposal addresses the following criteria:

(a) Project Innovation and Impact

(i) Anticipated effectiveness of the project in achieving and demonstrating the specific objectives of the FY 2018 SRD Program.

(ii) Anticipated demonstration of benefits in addressing the specific needs of the rail transit agencies and industry.

(iii) Anticipated degree of improvement over current and existing technologies, designs, and/or practices.

(b) Project Approach

(i) Quality of the project approach such as existing partnerships, collaboration strategies and level of commitment of the project partners.

(ii) Proposal is realistic in its approach to fulfill the milestones/deliverables, schedule and goals.

(iii) Proposal clearly establishes a research phase, a development phase and a demonstration phase.

(c) National Applicability

(i) Degree to which the project could be replicated by other rail transit agencies regionally or nationally. Consistent with the Department's R.O.U.T.E.S. Initiative (*https://www.transportation.gov/rural*), the Department recognizes that rural transportation networks face unique challenges. To the extent that those challenges are reflected in the merit criteria listed in this section, the Department will consider how the activities proposed in the application will address those challenges, regardless of the geographic location of those activities.

(ii) Ability to evaluate technologies, designs and/or practices in a wide variety of conditions and locales.

(iii) Degree to which the technology, designs and/or practices can be replicated by other rail modes and/or transportation modes.

(d) Team Resources and Capacity

(i) The level of local match (minimum of 20%) and the quality of cost share (in-kind or cash).

(ii) Availability of resources to carry out the project: Physical facilities, technical, human and financial.

(iii) Demonstrated capacity and experience of the partners to carry out the demonstration project of similar size and/or scope.

(e) Commercialization and/or Knowledge Transfer

(i) Demonstrates a realistic plan for moving the results of the project into the transit marketplace (patents, conferences, articles in trade magazines, webinar, site visits, etc.).

(ii) How the project team plans to work with the industry on improving best practices, guidance and/or standards, if applicable.

(iii) demonstrate a clear understanding and robust approach to data collection, access and management.

(f) Return on Investment

(i) Cost-effectiveness of the proposed project.

(ii) Anticipated measurable safety improvements and potential impact on industry guidance and/or standards. Safety performance data could include conventional data regarding safety incidents, operational data, exposure measures, and innovative measures of safety-relevant appropriate to the project that might indicate an improvement on safety performance.

(iii) Other anticipated benefits, such as making public transportation service more appealing to potential passengers (increase reliability, reduction of wait time, etc.), providing educational opportunities, or reducing negative externalities such as traffic congestion and others.

2. Review and Selection Process

A technical evaluation panel comprising FTA, and possibly other Departmental or Federal agency staff will review project proposals against the evaluation criteria listed above. The technical evaluation panel may seek clarification from any applicant about any statement in the proposal. FTA may also request additional documentation or information to be considered during the evaluation process. After the evaluation of all eligible proposals, the technical evaluation panel will provide project recommendations to the FTA Administrator.

The FTA Administrator will determine the final list of project selections, and the amount of funding for each project. Geographic diversity, diversity of project type, and the applicant's receipt of other Federal funding may be considered in FTA's award decisions. FTA may prioritize

projects proposed with a higher local share.

3. FAPIIS Review

FTA, prior to making an award, is required to review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently FAPIIS) (see 41 U.S.C. 2313). An applicant, at its option, may review information in the designated integrity and performance systems accessible through SAM and comment on any information about itself that a Federal awarding agency previously entered and is currently in the designated integrity and performance system accessible through SAM.

FTA will consider any comments by the applicant, in addition to the other information in the designated integrity and performance system, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in § 200.205 Federal awarding agency review of risk posed by applicants.

F. Federal Award Administration

The FTA intends to fund multiple meritorious projects to support executing eligible project activities. To enhance the value of the portfolio of research and demonstration projects to be implemented, FTA reserves the right to request an adjustment of the project scope and budget of any proposal selected for funding. Such adjustments shall not constitute a material alteration of any aspect of the proposal that influenced the proposal evaluation or decision to fund the project.

1. Federal Award Notice

Subsequent to announcement by the Federal Transit Administration of the final project selections posted on the FTA website, FTA may publish a list of the selected projects, including Federal dollar amounts and recipients.

2. Administrative and National Policy Requirements

a. Pre-Award Authority

The FTA will issue specific guidance to recipients regarding pre-award authority at the time of selection. The FTA does not provide pre-award authority for competitive funds until projects are selected and even then, there are Federal requirements that must be met before costs are incurred. Preparation of proposals is not an eligible pre-award expense. For more information about FTA's policy on pre-award authority, please see the Apportionment Notice published on July 3, 2019. *https://www.federalregister.gov/documents/2019/07/03/2019-14248/fta-fiscal-year-2019-apportionments-allocation-and-program-information.*

b. Grant Requirements

Successful proposals will be awarded through FTA's Transit Award Management System (TrAMS) as Cooperative Agreements.

c. Planning

The FTA encourages applicants to engage the appropriate State Departments of Transportation, Regional Transportation Planning Organizations, or Metropolitan Planning Organizations in areas likely to be served by the project funds made available under this programs.

d. Standard Assurances

The applicant assures that it will comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal administrative requirements in carrying out any project supported by the FTA grant. The applicant acknowledges that it is under a continuing obligation to comply with the terms and conditions of the grant agreement issued for its project with FTA. The applicant understands that Federal laws, regulations, policies, and administrative practices might be modified from time to time and may affect the implementation of the project. The applicant agrees that the most recent Federal requirements will apply to the project, unless FTA issues a written determination otherwise. The applicant must submit the Certifications and Assurances before receiving a grant if it does not have current certifications on file.

e. Buy America

FTA requires that all capital procurements meet FTA's Buy America requirements per 49. U.S.C. 5323(j), which require all iron, steel, or manufactured products be produced in the United States. Federal public transportation law provides for a phased increase in the domestic content for rolling stock. For FY 2020 and beyond, the cost of components and subcomponents produced in the United States must be more than 70 percent of the cost of all components. There is no change to the requirement that final assembly of rolling stock must occur in the United States. FTA issued guidance on the implementation of the phased increase in domestic content on September 1, 2016 (81 FR 60278). Applicants should read the policy guidance carefully to determine the applicable domestic content requirement for their project. Any proposal that will require a waiver must identify in the application the items for which a waiver will be sought. Applicants should not proceed with the expectation that waivers will be granted, nor should applicants assume that selection of a project under the Low-No Program that includes a partnership with a manufacturer, vendor, consultant, or other third party constitutes a waiver of the Buy America requirements applicable at the time the project is undertaken. Consistent with Executive Order 13858 Strengthening Buy-American Preferences for Infrastructure Projects, signed by President Trump on January 31, 2019, applicants should maximize the use of goods, products, and materials produced in the United States, in Federal procurements and through the terms and conditions of Federal financial assistance awards. Additional information on Buy America requirements can be found at *https://www.transit.dot.gov/buyamerica.*

3. Reporting

Post-award reporting requirements include submission of Federal Financial Reports and Milestone Reports in FTA's electronic grants management system reports on a quarterly basis for all projects. A final report is required upon the completion of the project as well.

G. Federal Awarding Agency Contacts

For further information concerning this notice, please contact the FTA SRD Program manager Roy Chen at *royweishun.chen@dot.gov* or 202–366–0462. A TDD is available for individuals who are deaf or hard of hearing at 1–800–877–8339.

Issued in Washington, DC.

K. Jane Williams,

Acting Administrator.

[FR Doc. 2020–02844 Filed 2–12–20; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2019–0027]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this

notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describe the nature of the information collection and their expected burdens.

DATES: Comments must be submitted on or before March 16, 2020.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725—17th Street NW, Washington, DC 20503, Attention: FTA Desk Officer. Alternatively, comments may be sent via email to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, at the following address: *oira_submissions@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Tia Swain, Office of Administration, Management Planning Division, 1200 New Jersey Avenue SE, Mail Stop TAD–10, Washington, DC 20590, (202) 366–0354 or *tia.swain@dot.gov.*

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On November 25, 2019, FTA published a 60-day notice (84 FR 64955) in the **Federal Register** soliciting comments on the ICR that the agency was seeking OMB approval. FTA received no comments from that publication. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The requirements are being submitted for clearance by OMB as required by the PRA.

Comments are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Title: 49 U.S.C. 5317 New Freedom Program.

OMB Control Number: 2132–0565.

Type of Request: Renewal of a previously approved information collection.

Abstract: The purpose of the New Freedom program was to make grants available to assist states and designated recipients to reduce barriers to transportation services and expand the transportation mobility options available to people with disabilities beyond the requirements of the Americans with Disabilities Act (ADA) of 1990. The New Freedom program was repealed in 2012 with the enactment of the Moving Ahead for Progress in the 21st Century Act (MAP–21). However, funds previously authorized for programs repealed by MAP–21 remain available for their originally authorized purposes until the period of availability expires, the funds are fully expended, the funds are rescinded by Congress, or the funds are otherwise reallocated. To meet program oversight responsibilities, FTA must continue to collect information until the period of availability expires, the funds are fully expended, the funds are rescinded by Congress, or the funds are otherwise reallocated. Grant recipients are required to make information available to the public and to publish a program of projects which identifies the sub-recipients and projects for which the State or designated recipient is applying for financial assistance. FTA uses the information to monitor the grantees' progress in implementing and completing project activities. FTA collects performance information annually from designated recipients in rural areas, small urbanized areas, other direct recipients for small urbanized areas, and designated recipients in urbanized areas of 200,000 persons or greater.

Respondents: State and local government, private non-profit organizations and public transportation authorities.

Estimated Annual Number of Respondents: 106.

Estimated Total Annual Burden: 4,240.

Frequency: Annually.

Nadine Pembleton,

Director, Office of Management Planning.

[FR Doc. 2020–02851 Filed 2–12–20; 8:45 am]

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FEDERAL REGISTER

Vol. 85 Thursday,

No. 30 February 13, 2020

Part II

Department of the Treasury

Internal Revenue Service

26 CFR Part 31

Income Tax Withholding From Wages; Proposed Rule

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[REG–132741–17]

RIN 1545–B032

Income Tax Withholding From Wages

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document sets forth proposed regulations that provide guidance for employers concerning the amount of Federal income tax to withhold from employee's wages, implementing recent changes in the Internal Revenue Code made by the Tax Cuts and Jobs Act (TCJA), and reflecting the redesigned 2020 Form W–4 and related IRS publications. These proposed regulations affect employers that pay wages subject to Federal income tax withholding and employees who receive wages subject to Federal income tax withholding.

DATES: Written (including electronic) comments and requests for a public hearing must be received by April 13, 2020.

ADDRESSES: Submit electronic submissions via the Federal eRulemaking Portal at *www.regulations.gov* (indicate IRS and REG–132741–17) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) will publish for public availability any comment received to their public docket, whether submitted electronically or in hard copy. Send hard copy submissions to: CC:PA:LPD:PR (REG–132741–17), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Mikhail Zhidkov of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes), (202) 317–4774; concerning submission of comments or requests for a hearing, please contact Regina Johnson at (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Table of Contents

Background
General Statutory and Regulatory Framework
TCJA Changes
Guidance Addressing TCJA
2019 Form W–4 and 2019 Publication 15
2020 Form W–4, Employee's Withholding Certificate
2020 Form W–4P, Withholding Certificate for Pension or Annuity Payments
Explanation of Provisions and Summary of Comments
1. Number of Withholding Exemptions Claimed
2. Definitions and Interchangeable Terms
3. Percentage Method of Withholding
4. Wage Bracket Method of Withholding
5. Determination and Disclosure of Filing Status
6. Withholding Allowance
7. Additional Withholding Allowance
a. Estimated Tax Deductions
b. Estimated Tax Credits
c. Estimated Tax Payments
d. Definitions and Special Rules
8. Furnishing of Withholding Allowance Certificates
a. Commencement of Employment
b. Change of Status
c. Special Rules Relating To Withholding Allowance Certificates
d. Submission of Certain Withholding Allowance Certificates
e. Notice of Maximum Withholding Allowance Permitted
9. When a Withholding Allowance Certificate Takes Effect
10. Period During Which Withholding Exemption Certificates Remain in Effect
11. Effective Period of a Withholding Allowance Certificate
12. Form and Contents of Withholding Allowance Certificates
13. Withholding Exemptions for Nonresident Alien Individuals
14. Supplemental Wage Payments
15. Alternative Withholding Methods
16. Additional Withholding
17. Increases in Withholding
18. Exemption From Withholding
Proposed Applicability Date
Paperwork Reduction Act
Special Analyses
Statement of Availability of IRS Documents
Comments and Public Hearing
Drafting Information
List of Subjects in 26 CFR Part 31
Proposed Amendments to the Regulations

Background

This document sets forth proposed amendments to the Employment Tax Regulations (26 CFR part 31) under sections 3401 and 3402 of the Internal Revenue Code (Code). Generally, these proposed regulations update the regulations under sections 3401 and 3402 to conform to the changes to sections 3401 and 3402 made by the Tax Cuts and Jobs Act, Public Law 115–97, 131 Stat. 2054 (2017) (TCJA) and other legislation enacted since the regulations were last revised. In addition, these proposed regulations are designed to accommodate the redesigned 2020 Form W–4, ''Employee's Withholding Certificate,'' and related wage withholding tables and computational procedures established by the IRS and reflected in Publication 15–T, ''Federal Income Tax Withholding Methods.''

General Statutory and Regulatory Framework

Section 3402(a)(1) provides that, except as otherwise provided in section 3402, every employer making a payment of wages shall deduct and withhold from such wages a tax determined in accordance with tables or computational procedures prescribed by the Secretary of the Treasury. Section 3402(a)(1) further provides that any tables or procedures prescribed under section 3402(a)(1) shall be in such form, and provide for such amounts to be deducted and withheld, as the Secretary determines to be most appropriate to carry out the purposes of chapter 1 (imposition of individual income tax). Section 3402 sets forth certain methods of withholding but also gives the Secretary broad regulatory authority in providing for tables or computational procedures for income tax withholding.

How an employer applies the withholding tables or computational procedures generally depends on the withholding allowance certificate the employee furnishes the employer. Under section 3402(f)(5), withholding allowance certificates must be in such form and include such information as the Secretary may by regulations prescribe. Section 31.3402(f)(5)–1 of the current Employment Tax Regulations (hereinafter, ''current regulations'') provides that the withholding allowance certificate is the Form W–4. An employee who receives wages subject to withholding under section 3402 is required to furnish his or her employer a Form W–4 on commencement of employment or, generally, within 10 days after the employee experiences a ''change of status'' that reduces the ''withholding allowance'' to which the employee is entitled. *See* section 3402(f)(2).

An employee completes Form W–4 based on the employee's personal tax situation by applying the factors listed in section 3402(f)(1), which, for 2019 and earlier years, were incorporated into the worksheets to the Form W–4. One of those factors reflects personal exemptions. See Section 3402(f)(1)(A).[1] Also, under section 3402(f)(1)(D), an employee may take into account additional amounts under section 3402(m), which allows employees to take into account items such as itemized

[1] Section 151(d)(5) suspends the deduction for personal exemptions for calendar years 2018–2025.

deductions in the manner provided under regulations prescribed by the Secretary.

Generally, for 2019 and earlier, an employee could make three entries on Form W–4 that could affect the amount of income tax withheld from the employee's wages: The employee's marital status, a number of withholding allowances based on the factors in section 3402(f)(1), and any additional amount, not otherwise required, that the employee requested to be withheld from the employee's wages. *See* sections 3402(l) (marital status), 3402(f)(1) (withholding allowance), and 3402(i) (increases in amount of withholding not otherwise required under section 3402).[2]

Once an employee completes a valid Form W–4, the employee must furnish the Form W–4 to the employer. The employer puts the Form W–4 into effect in accordance with the timing rules in section 3402(f)(3). Under § 31.3401(e)–1(b) of the current regulations, the employer is not required to ascertain whether the number of allowances an employee claims is greater than the number of withholding allowances to which the employee is entitled.[3] Once in effect, the employer generally applies the entries on an employee's Form W–4 to compute the amount of income tax to withhold from the employee's regular wages under either the percentage method of withholding or the wage bracket method of withholding. *See* section 3402(b) and (c).[4]

TCJA Changes

Prior to TCJA, one withholding exemption was equal to the amount of one personal exemption provided in section 151(b), prorated to the payroll period. *See* section 3402(a)(2) (2017). TCJA enacted section 151(d)(5), which reduced the personal exemption amount to zero for the years 2018–2025. *See* TCJA section 11041(a). TCJA also increased the standard deduction under section 63, increased the child tax credit under section 24, and created a new credit under section 24 for other dependents. *See* TCJA sections 11021 and 11022.

TCJA permanently modified the wage withholding rules in section 3402(a)(2) and, replaced ''withholding exemptions'' with a ''withholding allowance, prorated to the payroll period.'' *See* TCJA section 11041(c)(1). TCJA also repealed section 3401(e), which, prior to TCJA, provided, for purposes of chapter 24 (relating to collection of income tax at source on wages), that the ''number of withholding exemptions claimed'' meant the number of withholding exemptions claimed in a withholding exemption certificate in effect under section 3402(f) or in effect under the corresponding section of prior law, except that if no such certificate was in effect, the number of withholding exemptions claimed was considered zero. *See* TCJA section 11041(c)(2)(A).

TCJA modified section 3402(f), and defined a ''withholding allowance,'' which is determined based on the factors listed in section 3402(f)(1). *See* TCJA section 11041(c)(2)(B). TCJA further changed the list of factors on which the withholding allowance is based and added that the withholding allowance is determined based on rules determined by the Secretary. *See* TCJA section 11041(c)(2)(B). This change to section 3402(f)(1) revised section 3402(f)(1)(C), entitling an employee to take into account the number of individuals for which the employee expects to take an income tax credit under section 24 instead of the number of individuals with respect to whom the employee reasonably expects to claim a deduction under section 151. Section 3402(f)(1)(D) also changed an employee's entitlement to take into account the standard deduction from an amount generally equal to one withholding exemption to the standard deduction allowable to such employee (one-half of the standard deduction in the case of an employee who is married and whose spouse is an employee receiving wages subject to withholding). Finally, TCJA added section 3402(f)(1)(F), which provides that the employee's withholding allowance also takes into account ''whether the employee has withholding allowance certificates in effect with respect to more than one employer.'' *See* TCJA section 11041(c)(2)(B).

TCJA also made conforming changes to the ''change of status'' rules in section 3402(f)(2), changing ''withholding exemptions'' to ''withholding allowance,'' struck out ''exemption,'' and inserted ''allowance'' in various subsections of section 3402. This resulted in a conforming change to the statutory name of the withholding exemption certificate in section 3402(f)(5) to the withholding allowance certificate. *See* TCJA sections 11041(c)(2)(B) and (C).

TCJA amended section 3402(m) by changing the reference from ''withholding allowances'' to ''withholding allowance.'' *See* TCJA sections 11041(c)(2)(D) and (E). TCJA added the section 199A deduction to the list of deductions in section 3402(m)(1) that an employee may take into account in determining the additional withholding allowance that the employee is entitled to claim on Form W–4, and struck the reference to section 62(a)(10) in section 3402(m)(1) with respect to certain payments made under divorce or separation instruments previously described in section 62(a)(10). *See* TCJA sections 11011(b)(4) and 11051(b)(2)(B). Under section 11051(c) of TCJA, there are special effective date provisions with respect to this change, which are discussed in more detail in section 7(a) of the Explanation of Provisions.

TCJA changed the rules under section 3405(a)(4) for withholding from periodic payments under section 3405(a) when no withholding allowance certificate has been furnished, changing the requirement that the default rate of withholding be determined ''by treating the payee as a married individual claiming 3 withholding exemptions'' to a requirement that the default rate of withholding be determined ''under rules prescribed by the Secretary.'' TCJA also made conforming changes to the rules under section 3405(a) for withholding from periodic payments of pensions, annuities, and certain other deferred income, changing ''exemption'' to ''allowance'' in section 3405(a)(3) and (4).

The legislative history of TCJA states that ''the Secretary of the Treasury is to develop rules to determine the amount of tax required to be withheld by employers from a taxpayer's wages.'' H.R. Rep. No. 115–466, at 203 (2017).

Guidance Addressing TCJA and Comments Received

TCJA allowed the Secretary of the Treasury to administer section 3402 before January 1, 2019 without regard to the changes described above. *See* TCJA section 11041(f)(2). Nevertheless, on

[2] As discussed later in this preamble, an employee may also claim exemption from withholding under section 3402(n) on a valid Form W–4. Other special rules could also apply to affect the amount of tax withheld, such as for nonresident aliens or lock-in letters, discussed later in this preamble.

[3] Under § 31.3402(f)(2)–1(e) of the current regulations, an employer must disregard an ''invalid'' Form W–4 for purposes of computing withholding. An invalid Form W–4 is one that includes any alteration or unauthorized addition or that the employee clearly indicates to be false.

[4] Special rules apply to ''supplemental wages'' under § 31.3402(g)–1 of the current regulations. In the case of supplemental wages in excess of $1,000,000, employers must disregard the entries on the employee's Form W–4 and apply a mandatory flat rate of withholding. In the case of supplemental wages of less than $1,000,000, employers may either disregard the entries on the employee's Form W–4 and withhold using the optional flat rate or may use an aggregate procedure, taking into consideration the entries on the Form W–4 furnished by the employee.

January 11, 2018, the Treasury Department and the IRS released Notice 1036, ''Early Release Copies of the 2018 Percentage Method Tables for Income Tax Withholding,'' which implemented TCJA's tax rate changes, standard deduction, and suspension of the deduction under section 151. The Treasury Department and the IRS designed the 2018 withholding tables to work with the Forms W–4 that employees had already furnished their employers. On February 28, 2018, the Treasury Department and the IRS updated Form W–4, ''Employee's Withholding Allowance Certificate,'' incorporating TCJA's changes in the 2018 Form W–4's worksheets and updated the online withholding calculator to reflect TCJA changes. Notice 2018–14, 2018–7 I.R.B. 353, published February 12, 2018, allowed continued use of the 2017 Form W–4 temporarily in 2018 and included a relief provision stating that employees who experienced changes in their tax circumstances solely attributable to TCJA were not required to furnish a new Form W–4 to their employers in 2018. Notice 2018–14 also provided that, for 2018, the rules for withholding from periodic payments under section 3405(a) when no withholding allowance certificate has been furnished would parallel the rules for prior years and would be based on treating the payee as a married individual claiming three withholding allowances.

Notice 2018–92, 2018–51 I.R.B. 1038, published December 17, 2018, addressed some of TCJA's changes to section 3402 and provided interim rules for the 2019 calendar year. Section 3 of Notice 2018–92 addressed TCJA's use of ''withholding allowance'' (singular) and provided that withholding allowances (plural) were to be used for the computational procedures in 2019, consistent with Form W–4 for 2019 (discussed in the next section of this preamble) and prior years. Under section 3 of Notice 2018–92, any reference to a withholding exemption in the regulations and other guidance under section 3402 was to be applied as if it were a reference to a withholding allowance. Section 11 of Notice 2018–92 solicited comments generally, but no comments on this issue were received.

Section 4 of Notice 2018–92 extended the relief provided in Notice 2018–14 for changes in tax circumstances solely attributable to TCJA. Section 5 addressed the repeal of section 3401(e), noted earlier in this preamble, and provided that an employee who fails to furnish a valid Form W–4 will be treated as single but entitled to the number of withholding allowances provided in accordance with computational procedures set forth by the IRS in Publication 15 (Circular E), ''Employer's Tax Guide.'' For 2019, the computational procedures in Publication 15 provided that employees who fail to furnish a Form W–4 were treated as single with zero withholding allowances. One comment on this issue was received and is discussed in Section 8(a) of the Explanation of Provisions.

Section 6 of Notice 2018–92 allowed employees to include the employee's estimated deduction under section 199A in determining the additional withholding allowance under section 3402(m) that the employee is entitled to claim on Form W–4. Section 6 of Notice 2018–92 requested comments with respect to any additional items employees should be able to claim under section 3402(m), but no comments on this issue were received.

Section 7 of Notice 2018–92 allowed taxpayers to use the online withholding calculator (now called the Tax Withholding Estimator) or Publication 505, ''Tax Withholding and Estimated Tax,'' in lieu of the Form W–4 worksheets. One comment was received on the online withholding calculator and is discussed in section 7(b) of the Explanation of Provisions.

Section 8 of Notice 2018–92 requested comments on alternative withholding methods under section 3402(h) and announced that the IRS and the Treasury Department intend to eliminate the combined income tax withholding and employee Federal Insurance Contributions Act (FICA) tax withholding tables under § 31.3402(h)(4)–1(b). No comments on this issue were received. Section 9 of Notice 2018–92 reflected a modification of the notification requirements for the withholding compliance program. Specifically, employers in receipt of a notice prescribing a maximum number of withholding allowances an employee may claim (a lock-in letter) were instructed not to send a response to the IRS when the employer no longer employs the employee (within the meaning of § 31.3402(f)(2)–1(g)(2)(iii)). One commenter thanked the Treasury Department and the IRS for the change to the notice requirements in the lock-in letter program.

Section 10 of Notice 2018–92 provided that, for 2019, the rules for withholding from periodic payments under section 3405(a) when no withholding certificate has been furnished would parallel the rules for prior years and would be based on treating the payee as a married individual claiming three withholding allowances.

2019 Form W–4 and 2019 Publication 15

In June 2018, the Treasury Department and the IRS released for public comment a draft 2019 Form W–4 and draft instructions. Unlike the relatively minor changes made to Form W–4 in recent years prior to that, the 2019 draft Form W–4 and instructions incorporated significant changes intended to improve the accuracy of income tax withholding and make the withholding system more transparent for employees. Many comments were received on the draft form and instructions. In response to comments received from stakeholders, the Treasury Department and the IRS announced on September 20, 2018, that implementation of the redesigned form would be postponed until 2020, and that the Treasury Department and the IRS would continue working closely with stakeholders as additional changes were made to the form for 2020. In addition, Notice 2018–92 announced that the 2019 Form W–4 would include minimal changes to the 2018 Form W–4 and would continue to apply section 3402 by using the existing withholding system under which employees claimed a number of withholding allowances on a valid Form W–4.

Although the 2019 Form W–4 continued the computation of withholding principally based on the number of withholding allowances the employee claimed on Form W–4, the amount of each withholding allowance for 2019, like the years before it, was set to what would have been the value of a personal or dependency exemption in section 151(b) prior to enactment of TCJA. *See* Rev. Proc. 2018–57, 2018–49 I.R.B. 827, sections 2.03 and 3.25. For calendar years 2018 through 2025, however, the exemption amount is zero.[5] *See* section 151(d)(5)(A). Moreover, the high value of each withholding allowance ($4,050 for 2017, $4,150 for 2018, and $4,200 for 2019) led to rounding errors that made it difficult for some employees to have

[5] The 2019 Publication 15 (Circular E), ''Employer's Tax Guide,'' started its income tax withholding tables for single persons at the basic standard deduction ($12,200 for 2019) for unmarried individuals minus the value of two allowances ($8,400), which is $3,800 (for an annual payroll period, and otherwise be pro-rated to the payroll period). Similarly, the 2019 Publication 15 started its income tax tables for married persons at the basic standard deduction ($24,400) for married individuals filing joint returns minus the value of three allowances ($12,600), which is $11,800. Thus, the tables in Publication 15 applied section 151(d)(5)(A). The income tax withholding tables in the 2018 Publication 15 were similar.

their withholding equal their tax liability for the year. Accuracy was even more difficult to achieve for employees claiming tax credits, as these amounts first had to be converted into tax deductions and then expressed as a number of withholding allowances. In addition to limiting accuracy, the use of withholding allowances to compute withholding is not intuitive, given that wages, deductions, credits, and taxes are all expressed as dollar amounts, rather than a number of withholding allowances. Although the 2019 Form W–4 and prior Forms W–4 generally allow employees to achieve a high degree of accuracy if the employee requests an additional dollar amount to be withheld and/or uses the withholding calculator (now called the Tax Withholding Estimator) or Publication 505 in completing the Form W–4, most employees did not use these options.

In addition, employees with multiple withholding allowance certificates in effect, including married couples filing jointly where both spouses receive wages subject to withholding, had difficulty achieving accuracy using the Two-Earner/Multiple Jobs Worksheet. This worksheet required the employee to estimate wages at the lowest-paying job and the highest-paying job and, if applicable, reduce the withholding allowances with respect to the highest-paying job. In some cases, an employee would need to determine an additional amount to withhold from each paycheck for the highest-paying job by applying two tables in the Two-Earners/Multiple Jobs Worksheet. Despite the complexity of this approach, it did not allow employees to have their withholding equal their tax liability if there were two or more simultaneous jobs in the household, and accuracy was further reduced if new Forms W–4 were not furnished to all of the employers after the amount of wages from any employer changed. Moreover, it is unclear how many employees actually used the Two-Earners/Multiple Jobs Worksheet to compute their withholding allowances, even when it would have been advantageous for employees to do so to achieve more accurate withholding.

2020 Form W–4, Employee's Withholding Certificate

To address the limitations of the prior Form W–4, on May 31, 2019, a draft of a revised Form W–4 was released for public comment. The revised Form W–4 is intended to reduce the combined complexity of the form, instructions, and worksheets and to increase the transparency and accuracy of the withholding system. The 2020 Form W–4 uses the same underlying information as the 2019 Form W–4, but replaces complex worksheets with more straightforward questions. After extensive stakeholder feedback, the draft 2020 Form W–4 was further revised and re-released on August 8, 2019. This version was released to allow automated payroll providers sufficient time to update payroll systems, and it was announced no further substantive changes to the 2020 Form W–4 were expected. The form has been renamed from the Employee's Withholding Allowance Certificate to the Employee's Withholding Certificate. The final 2020 Form W–4 was released on December 4, 2019, and then was rereleased on December 31, 2019, to reflect a change in the medical expense deduction threshold under section 213 for 2020 made by the Further Consolidated Appropriations Act, 2020, Public Law 116–94, 133 Stat. 2534, 3228 (2019).

The 2020 Form W–4 does not use withholding allowances. An employee checks a filing status (single, married filing separately, head of household, married filing jointly, or qualifying widow(er)) on the Form W–4 and, as a result, will generally have the basic standard deduction corresponding to the employee's anticipated filing status on his or her income tax return taken into account in determining the amount of tax withheld from the employee's pay, in accordance with section 3402(f)(1)(E).[6] In addition, the 2020 Form W–4 streamlines the multiple jobs procedures and gives employees three options to account for a working spouse or multiple jobs held concurrently in accordance with sections 3402(f)(1)(B), (E), and (F): (1) Employees may use the Tax Withholding Estimator to achieve accurate withholding; (2) employees may complete the Multiple Jobs Worksheet and enter an additional amount to withhold from the employee's pay for each pay period; or (3) employees may check the box in Step 2(c) on the 2020 Form W–4 to request withholding using higher withholding rate tables. (For married taxpayers filing jointly with two jobs held concurrently, the effect of checking the box in Step 2(c) is similar to selecting ''Married, but withhold at higher Single rate'' on a Form W–4 from 2019 or earlier.) The 2020 Form W–4 also allows an employee to enter dollar amounts for tax credits, other income, and deductions the employee expects to claim on his or her income tax return to reflect the permitted allowance under sections 3402(f)(1)(C) and (f)(1)(D) and the increase in the amount of withholding under section 3402(i). The Tax Withholding Estimator is expected to provide instructions on how to complete Form W–4 to take into account an employee's personal tax circumstances in a manner that helps protect the employee's privacy by limiting the entries the employee is required to make on the 2020 Form W–4. The IRS will continue to update the Tax Withholding Estimator based on user feedback and to enhance accuracy, privacy, and the employee experience.

2020 Publication 15–T, Federal Income Tax Withholding Methods

On June 7, 2019, the IRS released for public comment a draft of Publication 15–T, ''Federal Income Tax Withholding Methods,'' which provided percentage method tables, wage bracket withholding tables, and other computational procedures for employers to use to compute withholding for employees for the 2020 calendar year, including employees who furnish a 2020 Form W–4 to be effective for 2020. After stakeholder feedback, Publication 15–T was revised and rereleased on August 13, 2019 and was rereleased on November 4, 2019. The income tax withholding tables reflecting 2020 cost-of-living adjustments were made available on November 28, 2019, for use with automated payroll systems. Publication 15–T was finalized and released on December 24, 2019.

Percentage method tables, wage bracket withholding tables, discussion on alternative withholding methods, and Tables for Withholding on Distributions of Indian Gaming Profits to Tribal Members that were formerly published in Publication 15 (Circular E), ''Employer's Tax Guide,'' Publication 15–A, ''Employer's Supplemental Tax Guide,'' and Publication 51, ''Agricultural Employer's Tax Guide,'' are now published in Publication 15–T, ''Federal Income Tax Withholding Methods.'' However, in 2020, the IRS discontinued publishing Formula Tables for Percentage Method Withholding (for Automated Payroll Systems), Wage Bracket Percentage Method Tables (for Automated Payroll Systems), and Combined Federal Income Tax, Employee Social Security Tax, and Employee Medicare Tax Withholding Tables.

[6] For employees who do not check the box in Step 2(c) to request withholding using higher rate tables, part of the basic standard deduction is built into the percentage method tables in Publication 15–T; the other part of the standard deduction is subtracted from the employee's wages before the tables are applied. This approach is to permit the tables to be used with Forms W–4 furnished in 2019 and prior years. Other entries on the 2020 Form W–4 can affect other additions and subtractions that determine the amount of tax withheld from the employee's pay.

In addition, the IRS has discontinued publishing Notice 1036, ''Early Release Copies of the Percentage Method Tables for Income Tax Withholding,'' effective beginning with calendar year 2020, and instead will post information previously included in Notice 1036 in early release drafts of Publication 15 (*www.irs.gov/Pub15*) and Publication 15–T (*www.irs.gov/Pub15T*) for use by the public and payroll community. Notice 1036 was developed in 1996 before advanced release drafts of forms and publications were posted on *www.irs.gov/draftforms* and various product web pages. The information previously included in Notice 1036 generally will be available on *www.irs.gov* more quickly than Notice 1036 was made available in prior years.

2020 Form W–4P, Withholding Certificate for Pension or Annuity Payments

Section 3405(a) generally requires the payor of periodic payments from pensions, annuities, or certain other deferred income to withhold from such payments as if such payments were wages paid by an employer to an employee. Under section 3405(a)(2), an individual may elect not to have withholding apply to periodic payments from pensions, annuities, or certain other deferred income; however, such election is not available with respect to eligible rollover distributions or certain payments to be made outside of the United States or its possessions. See sections 3405(c)(1) (eligible rollover distributions) and 3405(e)(13) (certain payments to be made outside the United States or its possessions). But see proposed § 31.3405(e)–1 (certain payments not considered made outside the United States).

An individual's withholding election (or election not to have withholding apply, if available), with respect to pensions, annuities, or certain other deferred income, including periodic payments under section 3405(a), generally is made using Form W–4P, Withholding Certificate for Pension or Annuity Payments. On December 13, 2019, the IRS early released a draft 2020 Form W–4P. As the early release draft indicates, the Treasury Department and the IRS do not plan to redesign the 2020 Form W–4P in the same manner as the 2020 W–4. Instead, the 2020 Form W–4P will continue to request withholding allowances and marital status, rather than filing status, with respect to periodic payments under section 3405(a). Similarly, the Step 2(c) checkbox on the 2020 Form W–4 to request withholding using a higher withholding rate table will be inapplicable for the 2020 Form W–4P. Notice 2020–3 (which the IRS released on December 18, 2019 in advance of its expected publication in the 2020–3 edition of the Internal Revenue Bulletin) describes withholding rules under section 3405(a) for the 2020 calendar year and provides additional information regarding the 2020 Form W–4P. Publication 15–A includes further information regarding the 2020 Form W–4P and alerts taxpayers that the related withholding tables and computational procedures for the 2020 Form W–4P are included in Publication 15–T.

Explanation of Provisions

These proposed regulations incorporate the changes made by TCJA to sections 3401 and 3402 and provide flexible and administrable rules for income tax withholding from wages that work with both the 2020 Form W–4 and its related tables and computational procedures described in Publication 15–T, and Forms W–4 and related tables and computational procedures provided in 2019 and earlier years. Because the ultimate goal of income tax withholding is to achieve withholding from employee's wages that accurately reflects the provisions of chapter 1 applicable to wages and the period wages are paid, the Treasury Department and the IRS have determined that the mechanical details of income tax withholding should be provided in forms, instructions, publications, and other guidance, so that these materials can be quickly updated as needed (for legislative changes or other reasons) to give payroll processors adequate time to program their systems to withhold the proper amount of income tax from employees' pay. These proposed regulations are generally compatible with the income tax withholding system in effect for 2019, as well as the system in effect for 2020, and as discussed in the Proposed Applicability Date section of this preamble, may be relied upon by employers for withholding until final regulations are published.

The changes made by TCJA to section 3405(a) (withholding on pensions, annuities, and certain other deferred income) were addressed in Notice 2018–14 and Notice 2018–92 for the 2018 and 2019 calendar years, respectively. These proposed regulations do not address withholding under section 3405(a); instead, Notice 2020–3 describes withholding rules under section 3405(a) for the 2020 calendar year.

1. Number of Withholding Exemptions Claimed

In accordance with the change made by section 11041(c)(2)(A) of TCJA and as indicated in section 5 of Notice 2018–92, the proposed regulations remove § 31.3401(e)–1. Because section 11041(c) of TCJA repealed section 3401(e) and generally changed the references in Chapter 24 from ''withholding exemptions'' to ''withholding allowance,'' current regulations under section 3401(e) are no longer consistent with the Code. (See section 2 of this Explanation of Provisions for definitions and interchangeable terms). However, rules similar to the substantive rules currently under § 31.3401(e)–1 are included in other parts of these proposed regulations. Section 5 of this Explanation of Provisions discusses the withholding allowance to which an employee is entitled, and section 6(a) of this Explanation of Provisions discusses the rules for employees who fail to furnish Forms W–4.

2. Definitions and Interchangeable Terms

These proposed regulations clarify that, for purposes of chapter 24 of the Code and subpart E of part 31 of the Employment Tax Regulations (relating to collection of income tax at source), any reference to withholding exemption certificates means withholding allowance certificates unless otherwise stated. Section 11041 of TCJA changed the statutory title of the withholding exemption certificate to the withholding allowance certificate. However, under section 3402(f)(4), a withholding allowance certificate in effect under section 3402(f) generally continues in effect until superseded by another such certificate that is effective under section 3402(f). Thus, the rules proposed in these regulations generally apply to both withholding exemption certificates and withholding allowance certificates.

These proposed regulations generally refer to the Form W–4 as the withholding allowance certificate, the statutory term in section 3402(f)(5). However, proposed § 31.3402(f)(5)–1 provides that the Form W–4, ''Employee's Withholding Certificate,'' previously called ''Employee's Withholding Allowance Certificate,'' is the form prescribed for the withholding allowance certificate required to be furnished under section 3402(f)(2).

An employee is not required to furnish a new Form W–4 solely because of the 2020 Form W–4 redesign, regardless of when the employee's Form W–4 currently in effect was furnished. Similarly, an employer must generally

continue to compute the amount of tax to be withheld from an employee's wages based on a valid Form W–4 furnished by the employee regardless of when the employee furnished the Form W–4 on which such computation is based.[7] The 2020 Publication 15–T provides guidance on how employers will withhold income tax, under the tables and computational procedures set forth therein, using Forms W–4 furnished and in effect on or before December 31, 2019. An employer may ask all employees first paid wages before 2020 to furnish a 2020 Form W–4, but in connection with the request the employer should explain that (1) employees are not required to furnish a new Form W–4, and (2) if the employee does not furnish a 2020 Form W–4, the amount of tax to be withheld from the employee's wages will continue to be based on the last valid Form W–4 previously furnished.

3. Percentage Method of Withholding

Section 31.3402(b)–1 of the current regulations provides that the amount of tax to be deducted and withheld under the percentage method of withholding is determined under the applicable percentage method withholding table included in Circular E (Employer's Tax Guide) according to the instructions therein. These proposed regulations clarify that employers that use the percentage method of withholding must compute the amount of tax to be withheld based on the entry for the employee's anticipated filing status or marital status and other entries on the employee's Form W–4 using the applicable percentage method tables and computational procedures in the applicable forms, instructions, publications, and other guidance prescribed by the IRS issued for use with respect to the period in which wages are paid. In 2020, percentage method tables and computational procedures are provided in Publication 15–T.

4. Wage Bracket Method of Withholding

Section 31.3402(c)–1(a) of the current regulations provides that, for employers using the wage bracket withholding method, the correct amount of withholding is determined under the applicable wage bracket withholding table in the Circular E (Employer's Tax Guide) issued for use with respect to the period in which such wages are paid. These proposed regulations clarify that employers that use the wage bracket withholding method and computational procedures based on the entry for the employee's anticipated filing status or marital status and other entries on the employee's Form W–4 should use the applicable wage bracket method tables and computational procedures in forms, instructions, publications, and other guidance prescribed by the IRS issued for use with respect to the period in which wages are paid. In 2020, wage bracket method tables and computational procedures are provided in Publication 15–T. In addition, these proposed regulations update the current regulations for the change in the Form W–4 and its computational procedures and provide that employers that use wage bracket method withholding tables applicable to a daily or miscellaneous pay period must use the wage bracket withholding tables applicable to the employee's filing status or marital status.

5. Determination and Disclosure of Filing Status

Under section 3402(l)(1), an employer must treat an employee as single unless there is in effect a withholding allowance certificate indicating that the employee is married. Although section 3402(l) speaks in terms of single and married persons and provides that an employee will be treated as single unless the employee furnishes a valid Form W–4 claiming married status, the Treasury Department and the IRS have determined that this provision does not preclude adoption of head of household status to compute withholding for certain filers because the ability to claim head of household filing status furthers the goal of accuracy in withholding and, thus, reflects the provisions of chapter 1. *See* section 3402(a)(1)(B). Under section 1(j), for calendar years 2018 through 2025,[8] there is a separate income tax rate table for taxpayers filing as head of household. Providing for a head of household filing status on the Form W–4 and providing withholding tables for head of household filing status further the goal of accuracy in withholding. An employee may select head of household filing status only if the employee reasonably expects to be eligible to claim head of household filing status under section 2(b) and § 1.2–2(b) of the Income Tax Regulations on the employee's income tax return.

On the other hand, although section 1 rates applicable to unmarried individuals and married individuals filing separate returns are different at higher marginal rates, the Treasury Department and the IRS have determined that the burden of providing separate withholding tables for married individuals filing separate returns outweighs the added accuracy that would be provided by having separate filing statuses for these two categories for the Form W–4 and tables. Consequently, the proposed regulations provide for three filing statuses: Single, head of household, and married filing jointly.

Section 31.3402(l)–1(a) of the current regulations provides that in computing the tax to be withheld from an employee's wages, the employer must apply the withholding table that relates to employees who are single persons unless there is in effect a withholding allowance certificate indicating that the employee is married. These proposed regulations generally incorporate the principle in § 31.3402(l)–1(a) of the current regulations and provide that the employee's entry for the employee's anticipated marital status or filing status on the Form W–4 determines what table employers apply under either the percentage method of withholding or wage bracket method of withholding. Employers may generally rely on the employee's entry for filing status on the Form W–4. These proposed regulations provide, consistent with section 3402(l)(1), that an employee who fails to furnish a valid Form W–4 must be treated as single.

Under section 3402(l)(2), the employee may furnish the employer a withholding allowance certificate indicating that the employee is married only if the employee is married (determined with the application of the rules in section 3402(l)(3), discussed in more detail below). Section 31.3402(l)–1(b)(1) of the current regulations generally states that an employee's marital status determines whether the employee may select married on the Form W–4. Generally, under the current regulations, the employee's anticipated filing status on the employee's income tax return does not determine whether an employee may indicate that he or she is married on the Form W–4. These proposed regulations change this rule.

[7] This rule does not apply to a Form W–4 claiming exemption from withholding, which, for a 2019 Form W–4, will expire on February 18, 2020. Under proposed § 31.3402(f)(4)–1(b), if a form claiming exemption from withholding expires, and the employee does not furnish a valid Form W–4 either renewing his or her exemption or claiming a withholding allowance, the employer must treat the employee as single but having the withholding allowance provided in forms, instructions, publications, and other guidance prescribed by the IRS. Publication 15 for 2020 provides that such an employee should be treated as if the employee had checked the box for single or married filing separately in Step 1(c) and made no entries in Step 2, Step 3, or Step 4 of the 2020 Form W–4.

[8] Sections 1(b) and (i) provide separate rates for head of household filers if the rates in section 1(j) cease to apply.

Specifically, in defining ''married'' under section 3402(l)(2), the Treasury Department and the IRS have determined that, in addition to the employee's marital status, the amount of tax to be withheld should also be determined by reference to the employee's anticipated filing status on the employee's income tax return because this furthers accuracy and reflects the applicable provisions of chapter 1. Under section 1(j), for calendar years 2018–2025,[9] different tax rates apply to married individuals filing joint returns than married individuals filing separate returns. Correspondingly, married individuals who anticipate filing separately should not be allowed to select married filing jointly on the Form W–4 because, otherwise, such individuals would risk being significantly underwithheld. Therefore, these proposed regulations provide that an employee may only select married filing jointly on the employee's Form W–4 if the employee (1) reasonably expects to file jointly a single return of income under Subtitle A with his or her spouse, (2) is lawfully married for federal tax purposes within the meaning of § 301.7701–18(b) on the day the Form W–4 is furnished, and (3) is treated as married within the meaning of section 3402(l)(3).

Furthermore, in accordance with section 3402(l)(3)(A), these proposed regulations incorporate a rule similar to § 31.3402(l)–1(c) of the current regulations and provide that an employee may not select married filing jointly filing status on the Form W–4 if the employee is legally separated from his or her spouse under a decree of divorce or separate maintenance. These proposed regulations also update § 31.3402(l)–1(c)(1)(ii) of the current regulations and provide that an employee may not select married filing jointly status on the Form W–4 if the employee or the employee's spouse is, or on any preceding day within the same calendar was, a nonresident alien unless the employee has made or reasonably expects to make an election under section 6013(g) [10] in the time and manner prescribed in § 1.6013–6(a)(4).

In accordance with section 3402(l)(3)(B), these proposed regulations provide that an employee may generally select married filing jointly on the Form W–4 if the employee's spouse (other than a spouse referred to in section 3402(l)(3)(A)) died during the employee's taxable year. Similarly, an employee may select married filing jointly status if the employee's spouse died during the previous two taxable years, and the employee reasonably expects as of the close of the current taxable year to be a surviving spouse as defined in section 2(a) and § 1.2–2(a) of the Income Tax Regulations and claim qualifying widow(er) filing status on the employee's income tax return. This rule is similar to § 31.3402(l)–1(c)(2) of the current regulations.

Under section 3402(l)(2) an employee whose marital status changes from married to single must, at such time as the Secretary may by regulations prescribe, furnish the employer with a new withholding allowance certificate. Because of the addition of head of household filing status for withholding purposes, these proposed regulations provide that an employee whose anticipated filing status changes from married filing jointly (or qualifying widow(er)) to head of household or single, must, generally, within 10 days of the change furnish his or her employer with a new Form W–4. In addition, an employee whose anticipated filing status changes from head of household to single, must generally furnish his or her employer with a new Form W–4 within 10 days of the change. However, the employee does not have to furnish a new Form W–4 within 10 days of the change of status if the amount of tax the employee expects to be withheld is greater than the amount of the employee's anticipated income tax liability. Nonetheless, in all cases, an employee whose anticipated filing status changes from married filing jointly (or qualifying widow(er)) to head of household or single (including married filing separately) or from head of household to single (including married filing separately) must furnish a new Form W–4, to take effect in the following calendar year, to his or her employer by the later of December 1 of the calendar year in which the change occurs, or within 10 days of the change.

6. Withholding Allowance

These proposed regulations provide that an employee is entitled to a ''withholding allowance'' as provided in section 3402(f)(1) but only if the employee furnishes a valid Form W–4 claiming the withholding allowance. This is similar to the rule in § 31.3402(f)(1)–1(a) of the current regulations. In addition, these proposed regulations provide that the employer is not required to ascertain whether the withholding allowance the employee claims is greater than the allowance to which the employee is entitled.

The proposed regulations define the withholding allowance, but in accordance with section 3402(a)(1), leave the computational details to forms, instructions, publications, and other guidance prescribed by the IRS. In 2020, these computational details will be set forth in the Form W–4, Publication 505, Publication 15–T, and the Tax Withholding Estimator.[11] The Treasury Department and the IRS have determined that this flexible computation of the withholding allowance is consistent with section 3402(a)(1) because it is the most appropriate way to reflect the provisions of chapter 1 applicable to wages for a given calendar year. This approach will also allow the IRS to make adjustment as appropriate to reflect any legislative changes to chapter 1 in withholding on employees' pay or based on statistical data.

Under these proposed regulations, the withholding allowance under section 3402(f)(1) is determined by reference to seven factors. First, the withholding allowance depends on whether the employee is an individual for whom a deduction is allowable under section 151. *See* section 3402(f)(1)(A). The regulations repeat the statutory language with respect to this factor. Second, if the employee is married, the withholding allowance depends on whether the employee's spouse is entitled to the section 151 deduction, or would be so entitled if the spouse were an employee receiving wages, but only if the spouse does not have in effect a Form W–4 claiming an allowance for the section 151 deduction. *See* section 3402(f)(1)(B). The first and second factors, however, have no effect on withholding for calendar years 2018 through 2025 because section 151(d)(5) suspends the deduction for personal exemptions for calendar years 2018 through 2025. Accordingly, these factors are not taken into account on the 2020 Form W–4.

Third, if the employee is married, the withholding allowance depends on whether the employee's spouse is entitled to any additional amount under section 3402(m) or would be so entitled if the employee's spouse were an employee receiving wages, but only if the spouse does not have in effect a withholding allowance certificate claiming the allowance. *See* section 3402(f)(1)(B). The 2020 Form W–4 takes

[9] Sections 1(b) and (i) provide separate rates for married individuals filing joint returns if the rates in section 1(j) cease to apply.

[10] Section 6013(g) was added by section 1012 of the Tax Reform Act of 1976, Public Law 94–455, 90 Stat. 1612 (1976). Under section 6013(g)(1)(B), this election applies for purposes of chapter 24.

[11] The withholding allowance for nonresident alien individuals is subject to the rules in proposed § 31.3402(f)(6)–1, and, for 2020, nonresident aliens will find further guidance in IRS Notice 1392, ''Supplemental Form W–4 Instructions for Nonresident Aliens.''

this factor into account by instructing taxpayers to complete the steps corresponding to any additional amount of tax deductions or tax credits on only one Form W–4 in the household.

Fourth, the withholding allowance depends on the number of individuals for whom a credit under section 24(a) may reasonably be expected to be allowable for the calendar year. *See* section 3402(f)(1)(C). These proposed regulations clarify that this means the credit under section 24(a) that the employee reasonably expects to claim on the employee's income tax return. This includes both the child tax credit and the credit for other dependents. The proposed regulations also clarify that the employee may not take into account any credit under section 24(a) that is claimed on another Form W–4. The 2020 Form W–4 takes this factor into account in Step 3 of the form.

Fifth, the withholding allowance depends on any additional amounts the employee elects to take into account under section 3402(m), but only if the employee's spouse does not have in effect a withholding allowance certificate making this election. *See* section 3402(f)(1)(D). These proposed regulations clarify this factor and state that the withholding allowance depends on additional deductions, credits, or other items the employee takes into account under proposed § 31.3402(m)–1. Specifically, proposed § 31.3402(m)–1(e)(3) allows the total deductions, credits, or estimated tax payments to be claimed on only one Form W–4. This is similar to the rule in § 31.3402(m)–1(f) of the current regulations. Thus, an employee or the employee's spouse may not claim an amount of a deduction, credit, or estimated tax payment in proposed § 31.3402(m)–1 if that same amount is claimed on any other Form W–4 in effect for the employee or the employee's spouse.

The 2020 Form W–4 takes into account estimated tax credits for dependents allowable under proposed § 31.3402(m)–1(b) in Step 3. The instructions to the 2020 Form W–4 clarify that employees may also claim other credits such as the education tax credit or the foreign tax credit in Step 3 of the 2020 Form W–4. The 2020 Form W–4 takes into account estimated tax deductions allowable under proposed § 31.3402(m)–1(c) in Step 4(b), which allows employees to claim deductions such as itemized deductions, student loan interest deductions, and deductible Individual Retirement Arrangement (IRA) contributions. Employees who wish to claim these and other deductions should complete the Deductions Worksheet on page 3 of Form W–4. Finally, under proposed § 31.3402(m)–1, certain employees may take into account the credit for income tax withholding under chapter 24 and may take into account estimated tax payments paid provided they take into account nonwage income and follow the instructions to the Tax Withholding Estimator.[12] As stated previously in this preamble, the IRS will continue to update the Tax Withholding Estimator. The Treasury Department and IRS also request comments on whether changes should be made to the proposed regulations so that in the future the Tax Withholding Estimator may enable employees to have all required withholding on wages while taking into account expected estimated tax payments on non-wage income to be made later in the year, and, if so, what safeguards should be added to prevent inappropriate underwithholding on wages.

Sixth, the withholding allowance depends on the standard deduction allowable to the employee (one-half of the standard deduction in the case of an employee who is married (as determined under section 7703) and whose spouse is an employee receiving wages subject to withholding). *See* section 3402(f)(1)(E). These proposed regulations define this as the basic standard deduction (as defined in section 63(c)(2)) relating to the filing status the employee reasonably expects to claim on the employee's income tax return for the calendar year for which the withholding allowance is claimed. (The additional standard deduction for the aged and blind is allowed under § 31.3402(m)–1(c)(5).) The 2020 Form W–4 takes into account the basic standard deduction allowable to the employee under section 3402(f)(1)(E) by having an employee check the box for the employee's anticipated filing status in Step 1(c). The basic standard deduction for each filing status is generally applied without further adjustment if the employee completes only Step 1 (including checking the box for a particular filing status) and Step 5 (signing under penalties of perjury) on the 2020 Form W–4.[13]

Seventh, the withholding allowance depends on whether the employee has withholding allowance certificates in effect with respect to more than one employer. *See* section 3402(f)(1)(F). For this factor, these proposed regulations reference the Form W–4 and other computational instructions (such as the Tax Withholding Estimator) to determine the adjustment resulting from multiple Forms W–4 the employee, the employee's spouse, or both have or reasonably expect to have in effect with respect to one or more employers. The Treasury Department and the IRS have determined that the Form W–4 and the instructions to the form are best able to direct employees how to take this factor into account in determining their withholding allowance and completing the Form W–4 due to the variety of fact patterns and the need to adjust this rule for the future based on statistical data or changes in the law to ensure accurate withholding on wages under chapter 1.

The 2020 Form W–4 provides employees three options with respect to multiple Forms W–4. Employees may use the Tax Withholding Estimator, may enter an amount computed on the Multiple Jobs Worksheet, or may select higher withholding rate tables by checking the box in Step 2(c) of the form. If the box in Step 2(c) is checked, Publication 15–T instructs employers to prorate and apply one-half of the standard deduction and marginal rates that account for equal wages for employment held concurrently. Thus, in the case of married taxpayers filing jointly, Publication 15–T applies the parenthetical in section 3402(f)(1)(E), which allows one-half of the standard deduction to an employee who is married and whose spouse is receiving wages subject to withholding.

7. Additional Withholding Allowance

These proposed regulations provide rules under which an employee determines the additional withholding allowance or additional reductions in withholding the employee is entitled to claim on a Form W–4 under section 3402(m). Under section 3402(m), in determining the additional withholding allowance or additional reductions in withholding, the employee may take into account estimated tax deductions under section 3402(m)(1), estimated tax credits under section 3402(m)(2), and such additional deductions and other items as may be specified by the Secretary in regulations under section 3402(m)(3). This additional withholding

[12] An employee whose employer must withhold for that employee pursuant to a notice under proposed § 31.3402(f)(2)–1(g)(2) (lock-in letter) may not take into account any credit for tax withheld on wages under section 31(a) or any estimated tax payments. Thus, an employee for whom a lock-in letter is issued may not take into account income tax withheld to date or estimated tax payments in computing the employee's withholding allowance.

[13] An employee—other than a student from India or business apprentice from India—who identifies as a nonresident alien employee by following the instructions in Notice 1392 will not have the basic standard deduction subtracted from the employee's wages. For 2020, the Publication 15–T provides special procedures employers must use with respect to such employees.

allowance and additional reductions in withholding are part of the ''withholding allowance'' the employee is entitled to claim as provided in section 3402(f)(1)(D).

Section 6 of Notice 2018–92 discussed section 3402(m) generally and allowed taxpayers to include the estimated deduction under section 199A in determining the additional withholding allowance or additional reductions in withholding under section 3402(m). Section 6 of Notice 2018–92 requested comments with respect to the list of items set forth in § 31.3402(m)–1(b). No comments on this issue were received. The Treasury Department and the IRS again request comments with respect to section 3402(m) generally, and, specifically, with respect to the aspects of these proposed regulations described in further detail in the following sections.

a. Estimated Tax Deductions

These proposed regulations implement section 3402(m)(1) by continuing the rule that taxpayers may take into account estimated itemized deductions (as defined in section 63(d)) allowable under Chapter 1. These proposed regulations combine the rule in § 31.3402(m)–1(b)(1) and § 31.3402(m)–1(c)(3) of the current regulations and define itemized deductions in proposed § 31.3402(m)–1(b)(1) by cross-referencing to section 63(d). This change updates the cross-reference to the definition of itemized deductions to conform to section 102 of the Tax Reform Act of 1986, Public Law 99–514, 100 Stat. 2085, 2101 (1987) (defining itemized deductions in section 63(d)).

These proposed regulations also implement section 3402(m)(1) by allowing employees to take into account the employee's estimated deduction under section 199A in determining the additional withholding allowance or other reductions in withholding under section 3402(m) that the employee is entitled to claim on a Form W–4. This is consistent with section 6 of Notice 2018–92.

Section 11051(b)(2)(B) of TCJA struck the reference to section 62(a)(10) (regarding certain payments made under divorce or separation instruments) in section 3402(m)(1) as a permitted estimated deduction. Under section 11051(c) of TCJA, this change generally applies to any divorce or separation instrument (as defined in section 71(b)(2) of the Code as in effect before December 22, 2017) executed after December 31, 2018, or to any divorce or separation instrument (as so defined) executed on or before December 22, 2017, and modified thereafter, if the modification expressly provides that the amendments made by section 11051 of TCJA apply to such modification. However, because these proposed regulations generally allow taxpayers to take into account deductions described in section 62 that the employee reasonably expects will be allowable on the employee's income tax return for the year such item is claimed, the Treasury Department and the IRS have determined that no special rule is necessary with respect to payments described in section 62(a)(10) for the period prior to the effective date of this change to section 3402(m)(1). Employees who, under section 11051(c) of TCJA, are eligible for the deduction described in section 62(a)(10), may generally continue to take this deduction into account in determining the employee's withholding allowance or other reductions in withholding if the employee reasonably expects this deduction to be allowable on the employee's income tax return for the year the Form W–4 is in effect.

Section 3402(m)(3) authorizes the Secretary to prescribe regulations that allow employees to take into account such additional deductions (including the additional standard deduction under section 63(c)(3) for the aged and blind) in determining the additional withholding allowance or other reductions in withholding. Under this authority, these proposed regulations allow taxpayers to take into account the estimated additional standard deduction for the aged and blind provided under section 63(c)(3) and section 63(f). These proposed regulations also allow taxpayers to take into account the estimated deduction or deductions allowed for personal exemptions under section 151. Although, under section 151(d)(5), this deduction has been suspended for the calendar years 2018 through 2025, the Treasury Department and the IRS have determined that the limited period of the suspension and the specific reference to section 151 in section 3402(f)(1)(A) necessitate including in these proposed regulations a provision for a deduction for a dependency exemption or dependency exemptions under section 151 for changes scheduled to take effect after December 31, 2025.

The Treasury Department and the IRS have also determined, consistent with § 31.3402(m)–1(b) of the current regulations, that employees should be permitted to take into account estimated deductions described in section 62, with certain exceptions, in determining the employee's additional withholding allowance or other reductions in withholding under section 3402(m). The proposed regulations provide for three exceptions. First, these proposed regulations provide that employees may not take into account any estimated deduction described in section 62(a)(2) if the reimbursement or payment for the amount allowable as the deduction is excludible from wages subject to income tax withholding. For example, an employee may not take into account any expenses described in section 62(a)(2)(A) that are reimbursed under a reimbursement and expense allowance arrangement since those reimbursements are excludible from wages under § 31.3401(a)–4(a). The Treasury Department and the IRS have determined that it is inappropriate to allow an employee to claim an additional withholding allowance or other reductions in withholding with respect to items that are otherwise excludible from wages.

Second, these proposed regulations provide that, in determining the employee's additional withholding allowance or other reductions in withholding, employees are not allowed to take into account estimated trade or business deductions described in section 62(a)(1), estimated deductions for the production of income that are attributable to property held for the production of rent or royalties under section 62(a)(4), or estimated deductions described in section 62(a)(5) unless these amounts result in an aggregate net loss on schedules C (Profit or Loss from Business), E (Supplemental Income and Loss), or F (Profit or Loss from Farming) of Form 1040. Third, these proposed regulations provide that employees are not allowed to take into account estimated losses from the sale or exchange of property described in section 62(a)(3) unless these amounts result in a net loss on Schedule D (Capital Gains and Losses) of Form 1040 or on the last line of Part II of Form 4797 (Sale of Business Property). These limitations on estimated deductions described in section 62(a)(1), (3), (4), and (5) are consistent with § 31.3402(m)–1(b)(12) of the current regulations, which affirmatively permits taking into account the estimated deductions for these items ''from'' the applicable schedules. In addition, these proposed regulations continue the rule in § 31.3402(m)–1(b)(7) of the current regulations and allow employees to take into account a net operating loss carryover under section 172 in determining the employee's additional withholding allowance or other reductions in withholding under section 3402(m).

b. Estimated Tax Credits

These proposed regulations allow an employee to take into account estimated income tax credits allowable under chapter 1 in determining the employee's additional withholding allowance or other reductions in withholding and update the cross reference in § 31.3402(m)–1(b)(2) of the current regulations to conform to changes under section 471 of the Deficit Reduction Act of 1984, Public Law 98–369, 98 Stat. 494, 825 (1984). (The credit under section 24 of the Code (child tax credit) is part of the employee's withholding allowance under section 3402(f)(2)(C) and is thus not part of the employee's additional withholding allowance).

Section 31.3402(m)–1(b)(2)(i) of the current regulations does not allow an employee to take the credit for tax withheld on wages under section 31(a) into account in determining the employee's additional withholding allowance or other reductions in withholding under section 3402(m). However, section 7 of Notice 2018–92 stated that the Treasury Department and the IRS intend to update the regulations under section 3402 to explicitly allow employees to use the withholding calculator (now called the Tax Withholding Estimator) or Publication 505 to determine what entries to make on Form W–4 in lieu of completing certain worksheets included with the Form W–4. The Tax Withholding Estimator currently takes into account the amount of income tax withheld to date to estimate the amount of withholding required for the remaining payroll periods during the calendar year. Thus, the Treasury Department and the IRS have determined that employees may take into account the credit permitted under section 31(a) for income tax withheld under chapter 24 to date but only if (1) on the day the employee estimates the amount of income tax withheld, the amount has been withheld from the employee's wages (or other payments treated as wages for chapter 24 purposes, such as pension payments subject to withholding under section 3405 or certain other payments subject to backup withholding under section 3406) and (2) the employee enters this amount of tax withheld pursuant to the instructions in the Tax Withholding Estimator or Publication 505.[14]

The Treasury Department and the IRS have determined that these limitations in taking into account the credit for tax withheld are necessary to prevent employees from having a disproportionate amount of income tax withheld at the end of a calendar year. Historically, the withholding tables and procedures established under the Code are structured so that withholding from wages generally occurs evenly throughout the year. However, if an employee's employer has already withheld more Federal income tax from the employee's wages than necessary to satisfy the employee's anticipated income tax liability, employees should generally be able to take any excess amounts withheld into account.

One commenter to Notice 2018–92 suggested that the withholding calculator (now called the Tax Withholding Estimator) should include an entry accommodating an annual payroll period so a multiplier of one can be used if prior year tax information is used for the entries in the calculator. The Tax Withholding Estimator currently allows employees to enter weekly, bi-weekly, semi-monthly, and monthly payroll frequencies because those are the most common types of payroll periods used by employers. The Treasury Department and the IRS request comments on whether there is a need to provide additional payroll frequencies—other than weekly, bi-weekly, semi-monthly, and monthly—as part of the Tax Withholding Estimator. Also, the Treasury Department and the IRS note that the Tax Withholding Estimator currently asks the employee to enter the total wages the employee expects to receive this year and bases its recommendation, in part, on that annual entry. In addition, the Tax Withholding Estimator makes recommendations for the current year, and prior year information may not always be useful when employees' circumstances change.

With regard to nonresident aliens, these proposed regulations continue the rule in § 31.3402(m)–1(b)(2)(ii) of the current regulations to disregard the credit for tax withheld on nonresident aliens and foreign corporations. However, these proposed regulations update the cross-reference for the credit for tax withheld on nonresident aliens from section 32 to section 33 consistent with section 471(c) of the Deficit Reduction Act of 1984.

Finally, these proposed regulations provide that an employee may not take into account, in determining the employee's additional withholding allowance or other reductions in withholding under section 3402(m), any estimated chapter 1 tax credits the employee has claimed or expects to be refunded as a result of filing an IRS form other than the employee's individual income tax return (Form 1040). For example, an employee may not take into account an estimated credit under section 34 for certain uses of gasoline and special fuel the employee claimed or expects to claim on Form 8849, but if the employee expects to claim the section 34 credit on a Form 4136 attached to the employee's individual income tax return, the employee may take this credit into account. This rule is similar to § 31.3402(m)–1(b)(2)(iii) of the current regulations. However, under these proposed regulations, this rule applies to all chapter 1 tax credits that an employee claimed or expects to claim on an IRS form other than the employee's individual income tax return. The Treasury Department and the IRS have determined that it is inappropriate to allow an employee to take into account a chapter 1 tax credit that the taxpayer has otherwise requested to be refunded by filing an IRS form other than the employee's individual income tax return.

c. Estimated Tax Payments

The Treasury Department and the IRS have determined that certain estimated tax payments are ''other items'' referenced in section 3402(m)(3) because employees who have both wages and non-wage income, including net earnings from self-employment, should be able to take into account any estimated tax payments they already paid with respect to non-wage income if they want to have income tax withheld from their wages for the remainder of the year to apply toward tax liability with respect to non-wage income for that year. The Treasury Department and the IRS also want to ensure employees do not use estimated tax payments to inappropriately reduce required withholding on wages. Accordingly, these proposed regulations allow taxpayers to take into account, in determining the additional withholding allowance or other reductions in withholding under section 3402(m)(3), estimated tax payments paid to date if (1) the amount claimed has been paid with the payment voucher from Form 1040–ES, ''Estimated Tax for Individuals'' (or was otherwise designated by the taxpayer as a payment of estimated tax); (2) the employee uses the Tax Withholding Estimator and enters the amount claimed pursuant to the instructions in the Tax Withholding Estimator; and (3) in using the Tax Withholding Estimator, the employee includes all items of nonwage income the Tax Withholding Estimator prompts the employee to enter.[15] As a result,

[14] An employee subject to a lock-in letter may not take the credit under section 31(a) into account.

[15] An employee subject to a lock-in letter may not take estimated tax payments into account.

employees who desire to satisfy their tax obligations related to self-employment and other non-wage income through wage withholding rather than future estimated tax payments may use the Tax Withholding Estimator to compute the amount necessary to do so. Employees who desire to continue to pay estimated taxes in whole or in part on self-employment or other non-wage income, should not use the Tax Withholding Estimator, but should follow the instructions in Publication 505 to determine how to complete Form W–4. The Treasury Department and the IRS request comments on whether employees should be able to take into account in the Tax Withholding Estimator estimated tax payments they have not yet made but plan to make during the calendar year with regard to their non-wage income and, if so, what conditions are advisable to ensure employees do not shift required withholding on wages to estimated tax payments or inadvertently pay insufficient taxes during the calendar year so that they owe taxes when they file their tax returns and possibly face estimated tax or underpayment penalties.

d. Definitions and Special Rules

These proposed regulations continue the rules in § 31.3402(m)–1(c)(1) of the current regulations relating to the circumstances under which an employee may take into account, in determining the employee's additional withholding allowance or other reductions in withholding under section 3402(m), deductions, credits, and other items. Specifically, an employee may generally take into account only a particular deduction or credit (other than the credit for income tax withheld on wages) that the employee reasonably expects will be allowable for the year the estimation is made, which in no event may exceed the amount shown for that particular deduction or credit on the employee's tax return for the preceding taxable year plus a determinable additional amount. However, these proposed regulations provide that a taxpayer may not take into account any proposed adjustment relating to a disallowed tax deduction or credit that is the subject of any pending request for reconsideration, protest, request for consideration by an Appeals office, or civil action.

These proposed regulations partially incorporate the rule in the flush language of § 31.3402(m)–1(b) of the current regulations to provide that an employee must offset any deduction allowable under proposed § 31.3402(m)–1(b) with items includible in the employee's gross income for which no Federal income tax is withheld. However, unlike the rule in the flush language of § 31.3402(m)–1(b) of the current regulations, the rule in the proposed regulations is applied only with respect to deductions and not with respect to income tax credits. The Treasury Department and the IRS have determined that requiring taxpayers to apply this rule with respect to credits is mathematically cumbersome and would complicate withholding procedures for employees. In order to offset tax credits with nonwage income, employees would have to convert the credit to a deduction, and the Treasury Department and the IRS view such a procedure as undercutting the purpose of the 2020 Form W–4, which in separate steps requests dollar amounts for estimated tax credits and estimated deductions, facilitating determination of more accurate withholding. The Treasury Department and the IRS request comments with respect to this rule.

These proposed regulations also incorporate the rules in § 31.3402(m)–1(f) of the current regulations and provide that an employee may not take into account, in determining the employee's additional withholding allowance or other reductions in withholding under section 3402(m), deductions, credits, or estimated tax payments if these deductions, credits, or estimated tax payments are claimed on another valid Form W–4 in effect with respect to another employer of the employee or an employer of the employee's spouse. These proposed regulations provide that spouses who file jointly may only claim deductions, credits, or estimated tax payments once, but these amounts may be allocated between the spouses. These proposed regulations also provide that a married employee who expects to file separately from his or her spouse and has filed separately for the preceding taxable year may take into account deductions, credits, or estimated tax payments on the basis of the employee's individual wages and allowable items. These proposed regulations further provide that an employee must follow the instructions to the Form W–4, and other forms, instructions, publications, and related guidance in determining the credits, deductions, or estimated tax payments the employee may take into account under section 3402(m). This is similar to the rule in § 31.3402(m)–1(d)(1) of the current regulations, which instructs taxpayers to compute additional allowances using the tables and instructions on Form W–4. Finally, these proposed regulations delete the examples illustrating the application of section 3402(m) and the current regulations. The Treasury Department and the IRS request comments on the need for examples that illustrate the application of these proposed regulations.

8. Furnishing of Withholding Allowance Certificates

As stated earlier in this preamble, these proposed regulations implement TCJA's changes to section 3402(f)(2) of the Code and conform to the redesigned 2020 Form W–4. These proposed regulations also address the circumstances under which the employee must furnish the employer a Form W–4. Under section 3402(f)(2), in no event may the employee furnish the employer a withholding allowance certificate claiming a withholding allowance in excess of the withholding allowance the employee is entitled to claim under section 3402(f)(1).

In addition, these proposed regulations restate and clarify certain longstanding special rules relating to when an employer should request each employee to furnish a new Form W–4, rules relating to inclusion of social security numbers on a Form W–4, and rules relating to invalid Forms W–4. Finally, these proposed regulations clarify longstanding rules relating to the submission of certain Forms W–4 to the IRS and rules governing when the IRS may notify the employer in writing that an employee is not entitled to claim a complete exemption from withholding or more than the maximum withholding allowance specified by the IRS in a written notice (a lock-in letter).

a. Commencement of Employment

Under section 3402(f)(2)(A), on or before the commencement of employment with an employer, an employee must furnish the employer with a signed withholding allowance certificate relating to the withholding allowance claimed by the employee, which in no event may exceed the withholding allowance to which the employee is entitled. These proposed regulations clarify section 3402(f)(2)(A) and provide that, on or before commencement of employment, an employee must furnish the employer with a signed Form W–4 relating to the filing status the employee reasonably expects to claim on the employee's income tax return and the withholding allowance the employee is entitled to as discussed in section 6 of this Explanation of Provisions. These proposed regulations clarify that an employee may in no event furnish a

Form W–4 claiming a withholding allowance in excess of the withholding allowance the employee is entitled to as determined based on the employee's reasonable expectations and the instructions provided in forms, instructions, publications, and other guidance prescribed by the IRS.

These proposed regulations also clarify that an employee who may claim exemption from withholding under section 3402(n) and proposed § 31.3402(n)–1 may furnish a Form W–4 claiming the exemption from withholding on or before commencement of employment with an employer.

As stated in section 5 of Notice 2018–92, because TCJA struck section 3401(e) but did not make any substantive changes to section 3402(l) (providing that an employee is treated as single unless the employee furnishes the employer a Form W–4 indicating the employee is married), these proposed regulations provide, with respect to wages paid on or after January 1, 2020, that an employer with an employee who failed or fails to furnish a valid Form W–4 on or before commencing employment with the employer must treat the employee as single but having the withholding allowance provided in forms, instructions, publications, and other guidance prescribed by the IRS (default rate). This rule provides flexibility to adjust the applicable default rate of withholding, if warranted based on future legislation or statistical data, to better align withholding with income tax liability.

The IRS plans to provide a default rate for employees who fail to furnish a Form W–4 and who commenced employment on or before December 31, 2019 (and were paid wages in 2019 or earlier) that differs from the default rate for employees who fail to furnish a Form W–4 and were first paid wages on or after January 1, 2020. However, for this purpose, for any employee commencing employment on or after January 1, 2020, in determining when the employee was first paid wages, the employer may choose to disregard any previous payment of wages during a prior employment relationship between the employee and the employer that had ended, such as for an employee who retired and is later rehired. In this circumstance, the employer may treat the employee who fails to furnish a Form W–4 as though the employee was first paid wages on or after January 1, 2020.

Employees hired and paid wages on or before December 31, 2019, who failed to furnish Forms W–4 have historically been treated as single and claiming zero withholding allowances. This default rate will continue to apply to these employees hired and paid wages on or before December 31, 2019, who fail to furnish a valid Form W–4. As a result employees in this situation would generally have a similar amount of income tax withheld from wages in 2020 as in 2019 (although the 2020 Publication 15–T provides percentage method and wage bracket method withholding tables that take into account 2020 cost-of-living adjustments to certain items due to inflation as required by various provisions of the Code).

On the other hand, Publication 15–T instructs employers to treat an employee who is first paid wages on or after January 1, 2020 (even if hired at the end of 2019), and who fails to furnish a Form W–4 as if the employee had checked the box for single or married filing separately in Step 1(c) and made no entries in Step 2, Step 3, or Step 4 of the 2020 Form W–4. Thus, a single filer's standard deduction with no other entries for the steps on the 2020 Form W–4 will be taken into account in determining withholding for the employee. The tables and computational instructions in Publication 15–T were adjusted accordingly. The Treasury Department and the IRS have determined that this updated default rate of withholding adequately reflects the appropriate withholding for most employees.

However, if this updated default rate were applied to wages paid in 2020 or later to those employees who were hired and paid wages on or before December 31, 2019, those employees would generally have less income tax withheld from their wages paid in 2020 or later than they did in 2019 and earlier without furnishing a new Form W–4 to their employers. Thus, these employees might be surprised by such an unexpected change in withholding when they took no action to cause the change in withholding. The Treasury Department and the IRS note that if an employee desires and is entitled to have less tax withheld from the employee's wages, the employee should furnish his or her employer a valid Form W–4 (and employees will more easily achieve accurate withholding using the 2020 Form W–4). Accordingly, while the updated default rate for employees first paid wages on or after January 1, 2020, will lead to more accurate withholding than the continued default rate for employees hired and paid wages on or before December 31, 2019, the Treasury Department and the IRS view the use of separate default rates depending on when the employee commenced employment and first received wages as appropriately balancing the desire for accurate withholding and the desire to not reduce withholding for employees with no change in circumstance or newly furnished Form W–4.

Section 11 of Notice 2018–92 solicited comments generally, and one commenter suggested that an employee who fails to furnish a Form W–4 should continue to be treated as single with zero withholding allowances because adding allowances to the employee's wages complicates the withholding system. The Treasury Department and the IRS do not agree that adding withholding allowances complicates the withholding system, especially after implementation of the redesigned 2020 Form W–4. Recognizing that the goal of the withholding system is to achieve the appropriate withholding of income tax to approximate an employee's income tax liability, the proposed regulations provide that employees who fail to furnish Form W–4 will be treated as single having the withholding allowance provided in forms, instructions, publications, or other guidance by the IRS. Withholding on these employees' wages takes into consideration statistical data concerning the tax liability of employees and is designed to avoid placing an unnecessary burden on employers. Thus, Treasury Department and the IRS will not adopt this specific comment

b. Change of Status

Similar to the current regulations, these proposed regulations provide ''change of status'' rules for employees who experience changed circumstances that reduce the withholding allowance an employee is entitled to claim. In particular, these proposed regulations update the rules to reflect TCJA changes and changes in computational procedures set forth in forms, instructions and publications. *See* section 3402(f)(2)(B) and (C). As required by the Code, these proposed regulations provide that an employee is generally required to furnish a new Form W–4 to his or her employer within 10 days after the change of status if the change affects the current calendar year or by December 1 of the current calendar year to take effect in the following calendar year if the change affects the next calendar year. Due to the TCJA change in the definition of a withholding allowance and to reflect the goal of the withholding system to ensure the tax withheld approximates the employee's income tax liability while minimizing employee and employer burden, these proposed regulations provide that an employee does not have

to furnish a new Form W–4 if the amount of tax the employee expects to be withheld from the employee's pay for the calendar year is greater than the amount of the employee's anticipated income tax liability.

Furthermore, because this general rule may be difficult for certain employees to apply and because the 2020 Form W–4 generally uses annual estimates of dollar amounts, the IRS and the Treasury Department have determined that requiring employees to furnish, and employers to put into effect, new Forms W–4 for small changes in circumstances would be burdensome and complex. Therefore, these proposed regulations also provide a de minimis rule with respect to changes of status under section 3402(f)(2)(B) and (C). These change of status rules apply for Forms W–4 furnished in 2019 or prior years and for Forms W–4 furnished in 2020 or later years.

Specifically, these proposed regulations provide seven circumstances under which an employee must furnish a new Form W–4 to the employer. If any of the seven circumstances apply, the employee experiences a ''change of status'' and must, within 10 days after the change occurs (if the change of status affects the current calendar year) or by the later of December 1 of the current calendar year or 10 days after the change occurs (if the change of status affects the next calendar year), furnish his or her employer with a new Form W–4. Notwithstanding a change in status, however, if the employee's income tax withholding for the calendar year would continue to equal or exceed the employee's anticipated income tax liability for the year, then the employee generally does not have to furnish a new Form W–4 to the employer.[16]

First, if an employee's filing status changes from married filing jointly (or qualifying widow(er)) to head of household or single (including married filing separately) or from head of household to single (including married filing separately), the proposed regulations provide that the employee experiences a change of status.

Second, if an unmarried employee commences concurrent employment with a second employer that pays wages subject to income tax withholding and selects higher withholding rate tables on the second Form W–4, the proposed regulations provide that the employee experiences a change of status with respect to the first Form W–4 if higher withholding rates were not selected on the first Form W–4. Similarly, if a married employee (1) expects to file jointly with his or her spouse, (2) no longer has only one Form W–4 on file for the employee, the employee's spouse, or both, and (3) the employee or the employee's spouse selects higher withholding rate tables on a second Form W–4, then the employee experiences a change of status with respect to the first Form W–4 if higher withholding rate tables were not selected on the first Form W–4. The higher withholding rate tables are designed to work for employees with two employers (including married employees filing jointly if both spouses are employed by employers who pay wages subject to income tax withholding). Employees with two Forms W–4 in effect who select higher withholding rate tables on one Form W–4 without selecting higher withholding rate tables on the second Form W–4 have a significant risk of having less than the amount necessary to satisfy their tax liability withheld from their wages.

Third, if an employee has multiple Forms W–4 in effect, and the employee or the employee's spouse reasonably expects an annual increase in regular wages of $10,000, the proposed regulations provide that a change of status occurs with respect to the Form W–4 on which the employee has utilized the multiple job procedures (other than selecting higher withholding rate tables) set forth in forms, instructions, publications, and other guidance. For this purpose, the proposed regulations indicate that ''regular wages'' means wages paid by an employer for a payroll period either at a regular periodic rate (*e.g.,* daily, hourly) or at a predetermined fixed amount. The Treasury Department and the IRS anticipate that this change of status rule will promote accuracy in withholding without imposing unnecessary burden in requiring new Forms W–4 for smaller changes in regular wages. As in prior years, in 2020, the income tax withholding tables in Publication 15–T do not adequately account for increases in regular wages for employees who utilize the multiple job procedures (other than selecting higher withholding rate tables) because these wages may be subject to a higher marginal rate of income tax on the employee's income tax return.

Fourth, if an employee claims a child tax credit on a Form W–4 and expects the number of qualifying children with respect to whom a child tax credit was claimed to decrease, the proposed regulations provide that the employee experiences a change of status with respect to the Form W–4 on which the child tax credit was claimed.

Fifth, if an employee has claimed any tax credit, including a child tax credit, and the amount of tax credits the employee reasonably expects to claim decreases by more than $500, the proposed regulations provide that the employee experiences a change of status with respect to the Form W–4 on which these tax credits are claimed.

Sixth, the proposed regulations provide that an employee experiences a change of status with respect to deductions the employee reasonably expects to claim (such as itemized deductions in excess of the basic standard deduction corresponding to the employee's claimed filing status) if the employee reasonably expects the deductions claimed on the employee's tax return to decrease by more than $2,300.

The Treasury Department and the IRS anticipate that these dollar thresholds for requiring a new Form W–4 will account for decreases in credits and deductions and will promote accuracy in the withholding system. Indeed, these threshold amounts for requiring a new Form W–4 will lead to more accuracy than the change of status rules in the current regulations that are in effect for 2019, which turn on the value of one allowance that historically has been tied to the pre-TCJA personal exemption amount, which for 2019 is $4,200.[17] Accordingly, this proposed change of status rule should help make withholding more accurate and thereby decrease the risk of underwithholding for employees.

Seventh, an employee experiences a change of status under the proposed regulations if he or she no longer reasonably expects to be able to claim exemption from withholding under section 3402(n) and proposed § 31.3402(n)–1. This change can occur if the employee expects to incur an income tax liability under subtitle A for either the current or the previous calendar year.

Finally, similar to the rule in § 31.3402(f)(2)–1(b)(2) of the current

[16] However, any employee whose anticipated filing status changes from married filing jointly (or qualifying widow(er)) to head of household or single (including married filing separately) or from head of household to single (including married filing separately) must furnish a new Form W–4 to take effect in the following calendar year to his or her employer by the later of December 1 of the calendar year in which the change occurs, or within 10 days of the change.

[17] Under section 3 of Notice 2018–92, an employee would experience a change of status if the employee's claimed deductions decrease by more than $4,200 or if the employee's claimed tax credits decrease by as much as $1,554 (*i.e.,* assuming the individual is taxed at the highest marginal tax rate in section 1(j) of 37%, the maximum benefit from a tax credit equivalent to $4,200 in deductions is $1,554).

regulations, these proposed regulations provide that if an employee experiences a change of status that increases the employee's withholding allowance, the employee may furnish the employer with a new Form W–4 claiming the increased withholding allowance the employee is entitled to claim under proposed § 31.3402(f)(1)–1(b). Like § 31.3402(f)(2)–1(b)(3) of the current regulations, these proposed regulations also provide that if, on any day during the calendar year, the employee may claim exemption from withholding under section 3402(n) and proposed § 31.3402(n)–1, the employee may furnish the employer with a new Form W–4 claiming exemption from withholding.

c. Special Rules Relating to Withholding Allowance Certificates

These proposed regulations provide that employers should request each employee to furnish a new Form W–4 for the next calendar year before December 1 of each year, in the event of a change to an employee's withholding allowance. A similar rule is in § 31.3402(f)(2)–1(c)(3) of the current regulations, which states that employers should request each employee to furnish a new Form W–4. These proposed regulations update the current ''exemption status'' nomenclature to ''withholding allowance,'' which is defined in proposed § 31.3402(f)(1)–1(b).

These proposed regulations provide that an employee must include the employee's social security number on the signed Form W–4 the employee furnishes to the employer. An employee may not use a truncated social security number in completing the employee's Form W–4 because a person may not truncate his or her own taxpayer identification number on any statement or document the person furnishes to another person. *See* § 301.6109–4(b)(2)(iv). A similar rule is set forth in § 31.3402(f)(2)–1(d) of the current regulations.

These proposed regulations continue the rule that any alteration or unauthorized addition to a Form W–4 causes a Form W–4 to be invalid.[18] In addition, any oral or written statement clearly indicating that an employee's Form W–4 is false that an employee makes to the employer on or before the date on which the employee furnishes the Form W–4 causes the employee's Form W–4 to be invalid. An employer that receives an invalid Form W–4 must disregard the invalid Form W–4 for purposes of computing withholding. The employer must inform the employee that the Form W–4 is invalid and must request another Form W–4 from the employee. If the employee fails to comply with the employer's request the employer must withhold according to the employee's last valid Form W–4 in effect. If no valid Form W–4 is in effect, the employer must treat the employee as single but having the withholding allowance provided by the forms, instructions, and publications prescribed by the IRS. This treatment is consistent with default rates described in section 8(a) of this Explanation of Provisions that apply if an employee fails to furnish a valid W–4 upon commencement of employment.

These proposed regulations remove § 31.3402(f)(2)–1(f) of the current regulations, which provides that the withholding exemption certificate shall be used for purposes of withholding with respect to qualified State individual taxes, as well as Federal Tax. Section 31.3402(f)(2)–1(f) relates to a subchapter of the Code that was repealed by section 11801(a)(45) of Title XI of the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508, 104 Stat. 1388–522 (repealing Subchapter E of Chapter 64).

d. Submission of Certain Withholding Allowance Certificates

These proposed regulations continue the rule in the current regulations regarding the submission of withholding exemption certificates to the IRS but update any reference to ''withholding exemption certificate'' to ''withholding allowance certificate''. Under these proposed regulations, the IRS may, by written notice or through published guidance in the IRB, request submission of a Form W–4.[19]

e. Notice of Maximum Withholding Allowance Permitted

These proposed regulations continue the rule from the current regulations regarding the notice prescribing the maximum number of withholding exemptions an employee may claim (a lock-in letter) but update any reference to ''maximum number of withholding exemptions permitted'' to ''maximum withholding allowance.'' This change is consistent with TCJA's changes to section 3402(f)(1). In addition, these proposed regulations replace the term ''marital status'' with an employee's ''filing status.'' These proposed regulations also replace references to ''number of exemptions'' with ''withholding allowance'' to implement TCJA's changes to section 3402(f)(1).

These proposed regulations are consistent with section 3 of Notice 2019–92, which provided that, until further guidance is issued, any reference to a withholding exemption in the regulations and guidance under section 3402 is applied as if it were a reference to a withholding allowance.[20] Proposed § 31.3402(f)(1)–1(b) prescribes the withholding allowance an employee is entitled to, and, therefore, the maximum withholding allowance the employee is entitled to is based on that definition. Correspondingly, the IRS and the Treasury Department have determined that the notices issued under § 31.3402(f)(2)–1(g)(2), including a lock-in letter or a modification notice, which the IRS may issue subsequently to a lock-in letter to modify an employee's filing status and/or permitted withholding allowance, will be updated to reflect the 2020 Form W–4 withholding procedures. These proposed regulations update the reference to the withholding allowance certificate if an employee subject to a lock-in letter requests more withholding or requests less withholding to correspond to proposed § 31.3402(f)(1)–1(b) (defining the withholding allowance to which the employee is entitled), § 31.3402(i)–1(a)(1) and (2) (providing for voluntary increases in the amount of withholding not otherwise required under section 3402), and proposed § 31.3402(l)–1(b) (providing for the filing status an employee may claim on the Form W–4). If an employer is required to apply a maximum withholding allowance prescribed by a lock-in letter or modification notice, and the employee subsequently furnishes the employer a new Form W–4, the employer must put this new Form W–4 into effect only if it requires the employer to withhold more income tax than prescribed by the lock-in letter or modification notice. If the new Form W–4 would result in less income tax being withheld from the employee's

[18] Similar to the rule in the current regulations, proposed § 31.3402(f)(5)–1(b)(1) provides that an alteration of a Form W–4 is any deletion of the language of the jurat or other similar provision of the Form W–4 by which the employee certifies or affirms the correctness of the completed Form W–4, or any material defacing the Form W–4. Proposed § 31.3402(f)(5)–1(b)(2) provides that an unauthorized addition to a Form W–4 is any writing on the Form W–4 other than the entries requested on the Form W–4 (*e.g.,* name, address, and filing status) or permitted by instructions or other guidance.

[19] Separate procedures apply to examination of returns, which are further discussed in § 601.105.

[20] Section 3 of Notice 2018–92 further provides, as an example, that the language in § 31.3402(f)(2)–1(g)(2)(i) providing for an IRS notification process to specify a ''maximum number of withholding exemptions'' an employee may claim will be applied as a reference to a maximum number of withholding allowances.

wages, the employer may not put the Form W–4 into effect.

Consistent with section 9 of Notice 2018–92, these proposed regulations eliminate the requirement that the employer send a written response to the IRS office designated in the lock-in letter that the employee is not employed by the employer. Notices issued under § 31.3402(f)(2)–1(g)(2) will continue to provide that if an employer no longer employs an employee, no action is required. These proposed regulations also include minor non-substantive changes with regard to the lock-in letter.

Finally, these proposed regulations provide for three special rules in determining the withholding allowance for employees who are subject to a lock-in letter or who request that the IRS issue a modification notice to modify a lock-in letter. First, the anticipated tax benefit from any tax credit or deduction must be offset by the anticipated tax attributable to items includible in the employee's gross income in the manner determined by the IRS. Second, the section 31(a) credit may not be taken into account. Third, estimated tax payments may not be taken into account. The Treasury Department and the IRS have determined that these special rules are appropriate because taxpayers subject to a lock-in letter have been significantly noncompliant with wage withholding rules and requirements for payment of income tax liability. Moreover, these rules will generally be applied by the IRS in preparing any modification notice, once such notices have been revised to incorporate the 2020 Form W–4 withholding procedures, and thus concerns that apply to other employees regarding the complexity of these computations do not apply to employees subject to a lock-in letter.

9. When a Withholding Allowance Certificate Takes Effect

Section 31.3402(f)(3)–1 of the current regulations was last updated in 1983 by T.D. 7915, 48 FR 44072–01 (September 27, 1983). These proposed regulations update the regulations under section 3402(f)(3) to reflect the statutory rules enacted in section 10302 of the Omnibus Reconciliation Act of 1987, Public Law 100–203, 101 Stat. 1330, 1330–429 (1987). As noted in section 2, above, these rules apply to withholding exemption certificates, and any reference to withholding allowance certificates or Forms W–4 includes a reference to a withholding exemption certificate, furnished and effective on or before December 31, 2017.

Specifically, section 3402(f)(3)(A) provides that when there is no withholding allowance certificate in effect for a particular employee, and the employee furnishes a withholding allowance certificate to the employer, the employer must put the certificate into effect as of the beginning of the first payroll period ending after the date the certificate is furnished. If the payment of wages is made without regard to a payroll period, the employer must put the withholding allowance certificate into effect as of the first payment of wages after it is furnished. These proposed regulations reiterate the statutory rule.

Under section 3402(f)(3)(B), if the employer has a valid withholding allowance certificate in effect with respect to a particular employee, and the employee furnishes a withholding allowance certificate to take effect during the calendar year, the employer must put the certificate into effect as of the beginning of the first payroll period ending (or the first payment of wages made without regard to a payroll period) on or after the 30th day after the day on which the certificate is furnished. An employer may elect to put a withholding allowance certificate into effect earlier but no earlier than on or after the day the withholding allowance certificate is furnished. An employer may not put into effect a withholding allowance certificate furnished to take effect in the next calendar year under section 3402(f)(2)(C) until the next calendar year. These proposed regulations reiterate these statutory rules.

10. Period During Which Withholding Exemption Certificates Remain in Effect

The proposed regulations remove § 31.3402(f)(4)–1 of the current regulations, which applies to withholding exemption certificates furnished prior to January 1, 1982. Generally, withholding exemption or allowance certificates continue in effect until replaced by a new Form W–4. The Treasury Department and the IRS have determined that the rules discussed in section 11 of this Explanation of Provisions are sufficient to account for Forms W–4 in effect under prior law.

11. Effective Period of a Withholding Allowance Certificate

Similar to the current regulations, the proposed regulations provide that Forms W–4 that took effect under prior law generally remain in effect until another Form W–4 is furnished. *See* section 3402(f)(4). This applies with respect to withholding exemption certificates and Forms W–4 furnished on or before December 31, 2019, including those that are in effect on December 31, 2019, that have not been superseded by a new Form W–4 furnished to be effective for 2020 or subsequent years. However, under these proposed regulations, a Form W–4 furnished by an employee subject to a lock-in letter ceases to be effective when the lock-in letter takes effect unless the Form W–4 results in more withholding than prescribed by the lock-in letter. If the employee's Form W–4 results in more withholding than prescribed by the lock-in letter, the employer should continue withholding according to the employee's Form W–4, even after the employee is released from the lock-in letter. If the employer had been withholding according to a lock-in letter, upon the employee's release from the lock-in letter, the proposed regulations provide that the employee must furnish his or her employer a new valid Form W–4 in order to ensure that withholding after release from the lock-in letter is as accurate as possible. If the employee fails to do so, the employee will be treated as single but having the withholding allowance provided in forms, instructions, publications, and other guidance prescribed by the Commissioner, in accordance with § 31.3402(f)(2)–1(a)(4). Accordingly, an employee subject to a lock-in letter and subsequently released who does not furnish a new Form W–4 would be treated as single or married filing separately in Step 1(c) of the 2020 Form W–4 with no entries in Step 2, Step 3, or Step 4 of the 2020 Form W–4, once withholding compliance notices are modified for 2020 withholding procedures.

These proposed regulations delete the cross reference in § 31.3402(f)(4)–2(b) of the current regulations to the withholding allowance under section 3402(m) because this cross-reference is designed to highlight a distinction relevant to Forms W–4 furnished before 1982. Even though this distinction is no longer relevant, these proposed regulations continue the general rule in the current regulations and provide that an employee who claims deductions, credits, or other items under section 3402(m) must furnish a new Form W–4 when he or she experiences a change of status to which the rules under proposed § 31.3402(f)(2)–1(b) (change of status that affects the current calendar year) or proposed § 31.3402(f)(2)–1(e) (change of status that affects the next calendar year) apply.

These proposed regulations continue the rule of the current regulations and provide that Forms W–4 that claim exemption from withholding under section 3402(n) generally are effective up to and including February 15 of the

following year, and an employer may continue to rely on an employee's Form W–4 claiming exemption from withholding until February 16 of the following year. *See* section 3402(n) (providing in flush language that the Secretary shall by regulations provide for the coordination of the provisions of section 3402(n) and section 3402(f)). However, these proposed regulations provide that if a Form W–4 claiming exemption from withholding expires, and the employee does not furnish a valid Form W–4 either renewing his or her exemption or claiming a withholding allowance, the employer must treat the employee as single but having the withholding allowance provided in forms, instructions, publications, and other guidance prescribed by the IRS. Unlike the current regulations, these proposed regulations do not require the employer to put into effect a previously furnished valid Form W–4 when an employee's Form W–4 claiming exemption from withholding expires.

For 2020, Publication 15 instructs employers to treat employees who claimed exemption from withholding in 2019 and who do not furnish a new 2020 Form W–4 as single or married filing separately in Step 1(c) of the 2020 Form W–4 with no entries in Step 2, Step 3, or Step 4 of the 2020 Form W–4. This treatment is consistent with default rates described in section 8(a) of this Explanation of Provisions that apply if an employee fails to furnish a Form W–4 upon commencement of employment.

12. Form and Contents of Withholding Allowance Certificates

These proposed regulations provide that the withholding allowance certificate required to be furnished under section 3402(f)(2) is the Form W–4. The Form W–4 is called the ''Employee's Withholding Certificate.'' Previously, for years 1972 through 2019, the Form W–4 was called the ''Employee's Withholding Allowance Certificate.'' The name of the form was changed for the 2020 revision because the Form W–4 is no longer based on a number of withholding allowances valued at a particular dollar amount. Blank copies of paper Forms W–4 will be supplied to employers upon request to the IRS. An employer may also download and print Form W–4 from the IRS internet site at *www.irs.gov.* These proposed regulations provide rules similar to § 31.3402(f)(5)–1(a) of the current regulations relating to substitute paper Forms W–4.

These proposed regulations provide that, unless provided otherwise in forms, instructions, publications, or other guidance prescribed by the IRS, only the Form W–4 revision in effect for a calendar year may be furnished by an employee in that calendar year and given legal effect by the employer as a new Form W–4 or to replace a previously furnished Form W–4. However, an employee may furnish the Form W–4 revision for the following calendar year in the current calendar year to take effect for the following calendar year. These proposed regulations provide an example illustrating this rule.

The Treasury Department and the IRS have received questions from payroll groups on the extent to which employers have to comply with revenue procedures relating to substitute forms when providing paper substitute Forms W–4 to employees. Rev. Proc. 2018–51, 2018–44 I.R.B. 721 (also published in Publication 1167, ''General Rules and Specifications for Substitute Forms and Schedules'') applies to any substitute paper Forms W–4. However, because the broader purpose of Rev. Proc. 2018–51 and Publication 1167 is to provide guidance on forms filed with the IRS, and the Form W–4 is generally not filed with the IRS, the Treasury Department and the IRS request comments on whether additional guidance is needed regarding substitute paper Forms W–4.

These proposed regulations also provide rules similar to § 31.3402(f)(5)–1(b) of the current regulations relating to invalid Forms W–4. However, these proposed regulations replace any reference to ''withholding exemption certificate'' with a reference to the ''withholding allowance certificate'' because of TCJA's changes to section 3402(f)(5) and clarify certain provisions. Under these proposed regulations, an unauthorized addition to a Form W–4 is any writing on the certificate other than the entries on the Form W–4 (*e.g.,* name, address, and filing status). An unauthorized addition does not include entries on the Form W–4 permitted by the instructions or other guidance. Thus, a 2020 Form W–4 with an entry ''Exempt'' on Form W–4 in the space below Step 4(c) is not an unauthorized addition because this entry is permitted by the 2020 Form W–4 instructions. Similarly, an entry on the Form W–4 indicating an employee is a nonresident alien individual is not an unauthorized addition because this entry is permitted by Notice 1392, ''Supplemental Form W–4 Instructions for Nonresident Aliens.'' The proposed regulations clarify, however, that an entry claiming exemption from withholding that is accompanied by any other entry on the Form W–4 (other than the employee's filing status) that could potentially affect the amount of income tax withheld from the employee's pay (*i.e.,* an entry on Step 2, Step 3, or Step 4 of the 2020 Form W–4) is an unauthorized addition and, thus, a Form W–4 that includes such an entry is invalid.

In addition to all the rules under § 31.3402(f)(5)–1(c) of the current regulations related to electronic Form W–4 systems, these proposed regulations provide that an employer that maintains an electronic Form W–4 system for its employees to furnish Forms W–4 electronically must provide the employee with the same information as the current version of the official IRS Form W–4 available on *irs.gov* and must satisfy any requirements specified by the IRS in forms, publications, and other guidance. These proposed regulations further provide that an employer that maintains an electronic Form W–4 system for its employees must provide the employees the ability to claim exemption from withholding under section 3402(n) and must include the two certifications described in proposed § 31.3402(n)–1(a).

13. Withholding Exemptions for Nonresident Alien Individuals

Section 3402(f)(6) provides that a nonresident alien individual (other than an individual described in section 3401(a)(6)(A) or (B)) [21] shall be entitled to only one withholding exemption. The Treasury Department and the IRS have concluded that the withholding exemption referenced in section 3402(f)(6) is the deduction allowed to the nonresident alien individual under section 151, which for 2018–2025 means zero under section 151(d)(5). These proposed regulations include this clarification.

In addition, proposed § 31.3402(f)(6)–1(a) provides that a nonresident alien individual (other than a nonresident individual treated as a resident under section 6013(g) and (h)) must follow administrative guidance such as forms, instructions, publications, or other guidance prescribed by the IRS that apply to the nonresident alien individual's withholding. For 2020, nonresident alien individuals should review and apply Notice 1392 to determine how to complete the 2020 Form W–4. Employers are instructed to apply special procedures in Publication 15–T for these individuals. The application of the procedures in the

[21] Although section 3402(f)(6) references section 3401(a)(6)(A) or (B), section 3401(a)(6) was amended so that there are no longer separately enumerated subparagraphs (A) or (B). Thus, this reference applies to section 3401(a)(6) and § 31.3401(a)(6)–1 of the current regulations.

2020 Publication 15–T depends on whether the nonresident alien individual has furnished a Form W–4 on or after January 1, 2020.

14. Supplemental Wage Payments

These proposed regulations provide that mandatory flat rate withholding under § 31.3402(g)–1(a)(2) is computed without regard to any entries on a Form W–4, including the expanded entries on the 2020 Form W–4. In addition, optional flat rate withholding under § 31.3402(g)–1(a)(7) applies without regard to any entries on the Form W–4 other than the entry claiming exempt status. However, employers who use the aggregate procedure for withholding on supplemental wages under § 31.3402(g)–1(a)(6) of the current regulations should take into consideration the Form W–4 (including a 2020 Form W–4) furnished by the employee.

15. Alternative Withholding Methods

The proposed regulations eliminate the combined income tax withholding and employee FICA tax withholding tables under § 31.3402(h)(4)–1(b) of the current regulations. The Treasury Department and the IRS announced their intention to eliminate these tables in section 8 of Notice 2018–92. No comments were received on this issue. As stated in section 8 of Notice 2018–92, although employers may withhold a combined amount of income and FICA tax, employers must still compute and report amounts of income tax and FICA tax separately on quarterly or annual employment tax returns and Forms W–2. Though use of the combined tables would generally reduce the number of computations in determining the withholding from wages for an employer, this difference in the number of computations has become less relevant with the advance in computational technology since 1970 when these tables were first provided.

Moreover, the combined tables are not consistent with these proposed regulations as applied to certain entries on the 2020 Form W–4. Specifically, income tax must be withheld with respect to an employee's entry in Step 4(a) (Other income) of the 2020 Form W–4, which applies proposed § 31.3402(i)–1(a)(2)(i). An employer must reduce wages by an employee's entry in Step 4(b) (Deductions) of the 2020 Form W–4, which applies proposed § 31.3402(m)–1(b). However, neither the entry in Step 4(a) nor the entry on Step 4(b) impacts employees' FICA tax liability under section 3101. Thus, an employer who is furnished a Form W–4 with entries on either Step 4(a) or Step 4(b) would not be able to use combined tables, which further diminishes the usefulness of this alternative withholding procedure.

Because section 8 of Notice 2018–92 announced the Treasury Department's and the IRS' intent to remove the combined income tax withholding and employee FICA tax withholding tables, this rule will be proposed with an effective date of January 1, 2020. Accordingly, the 2020 version of Publication 15–T does not include combined income tax withholding and employee FICA tax withholding tables. The Treasury Department and the IRS again request comments on alternative withholding procedures under section 3402(h) generally. However, the Treasury Department and the IRS do not consider allowing employees to base their withholding on a fixed dollar amount or percentage as consistent with section 3402(a).

16. Additional Withholding

These proposed regulations remove § 31.3402(i)–1 of the current regulations because this provision applies to agreements to withhold additional amounts of Federal income tax, not otherwise required, entered into before October 1, 1981. The Treasury Department and the IRS request comments on whether this rule should be retained.

17. Increases in Withholding

Section 3402(i) provides that the Secretary may by regulations provide for increases in the amount of withholding in cases in which an employee requests such changes. The current regulations express this rule as an agreement to withhold ''an additional amount'' from the employee's wages. See § 31.3402(i)–1(a). This rule was consistent with the format of Form W–4 for years prior to 2020 with respect to the line requesting an additional amount to be withheld from each payment of regular wages. To reflect the revised computational procedures on the 2020 Form W–4, these proposed regulations provide that, for amounts not otherwise required to be withheld from an employee's wages under section 3402, in addition to specifying an additional amount to withhold from the employee's wages, the employee may request that an additional amount be added to the employee's wages on Form W–4, so that the employer may withhold an additional amount of income tax resulting from this addition under the computational procedures prescribed by the IRS in forms, instructions, publications, and other guidance for the calendar year for which the Form W–4 is in effect. In addition, these proposed regulations provide that an employee may request an additional amount, not otherwise required, to be withheld from the employee's wages by selecting higher withholding rate tables.

These proposed regulations also clarify the circumstances under which the employer must comply with the employee's request. Employers must generally comply with the employee's request on a valid Form W–4 after the employer has withheld all amounts otherwise required to be withheld by Federal law (other than by amounts described in this section), state law, and local law (other than by state or local law that provides for voluntary withholding). The amounts withheld under section 3402(i) are considered tax required to be withheld under section 3402. Finally, these proposed regulations delete references to decreases in withholding under section 3402(i) because of statutory changes made in section 1581 of the Tax Reform Act of 1986, Public Law 99–514, 100 Stat 2085, 2766 (1987), which eliminated the option to decrease withholding by a set dollar amount from section 3402(i).

18. Exemption From Withholding

These proposed regulations add certain clarifying rules to the rules in § 31.3402(n)–1 of the current regulations concerning claiming an exemption from withholding, and thereby propose to restore in substance rules that were formerly in the regulations. See 26 CFR 31.3402(n)–1(2005). To qualify for the exemption provided by section 3402(n) for a taxable year, an employee must certify that the employee incurred no liability for income tax imposed under subtitle A of the Code for the employee's preceding taxable year, and that the employee anticipates that he or she will incur no liability for income tax imposed under subtitle A for the current taxable year. These proposed regulations amend the current regulations to add a provision concerning when the employee is considered to incur no liability for income tax imposed under subtitle A. Specifically, § 31.3402(n)–1(c) of these proposed regulations provides that, for purposes of section 3402(n) and § 31.3402(n)–1 of the regulations, an employee is not considered to incur liability for income tax imposed under subtitle A if the amount of the tax is equal to or less than the total amount of credits against the tax that are allowable to the employee under chapter 1, other than the credits allowable under section 31 or 34. Proposed § 31.3402(n)–1(c) also provides that, for purposes of section 3402(n) and § 31.3402(n)–1, an

employee who files a joint return under section 6013 is considered to incur liability for any tax shown on that return. These proposed regulations provide that an employee who is entitled to file a joint return under section 6013 shall not certify that the employee anticipates that he or she will incur no liability for income tax imposed by subtitle A for the employee's current taxable year if the statement would not be true in the event the employee files a joint return for the year, unless the employee filed a separate return for the preceding taxable year and anticipates that he or she will file a separate return for the current taxable year.

The rule concerning incurring liability for income tax imposed by Subtitle A and the rule concerning joint returns were in the regulations before 2006 (see 26 CFR 31.3402(n)–1(2005)) but were deleted by T.D. 9276, 71 FR 42049 (July 26, 2006). This deletion did not indicate a change in position by the Treasury Department and the IRS, and the position of the Treasury Department and the IRS on these issues has remained the same as reflected in Publication 505 for each year from 2007 through 2019. Restoring the rules to the regulations is intended to provide additional clarity and guidance as to the Treasury Department and the IRS position on these issues.

Proposed Applicability Date

The amendments set forth in this notice of proposed rulemaking are generally proposed to apply on the date of publication of a Treasury Decision adopting these rules as final regulations in the **Federal Register**. Taxpayers may rely on the rules set forth in this notice of proposed rulemaking, in their entirety, until the date a Treasury Decision adopting these regulations as final regulations is published in the **Federal Register**. However, proposed § 31.3402(f)(2)–1(g) relating to withholding compliance is proposed to apply as of the date the notice of proposed rulemaking is published in the **Federal Register**, proposed § 31.3402(f)(5)–1(a)(3) regarding the requirement to use the current version of Form W–4 is proposed to apply as of 30 days after the date the notice of proposed rulemaking is published in the **Federal Register**, and the proposed removal of § 31.3402(h)(4)–1(b) relating to the combined income tax withholding and employee FICA tax withholding tables is proposed to apply on and after January 1, 2020. Except with regard to the removal of § 31.3402(h)(4)–1(b), the proposed regulations provide that, under section 7805(b)(7), taxpayers may choose to apply the rules therein on or after January 1, 2020.

Paperwork Reduction Act

Any collection of information associated with this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review under OMB control number 1545–0074 in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). In general, the collection of information is required under § 3402 of the Internal Revenue Code (the Code). The Treasury Department and the IRS request comments on all aspects of information collection burdens related to these proposed regulations, including estimates for how much time it would take to comply with the paperwork burdens described in OMB control number 1545–0074 and ways for the IRS to minimize the paperwork burden. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a valid OMB control number.

Special Analyses

I. Regulatory Planning and Review

This regulation is not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Department of the Treasury and the Office of Management and Budget regarding review of tax regulations.

II. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA) (5 U.S.C. chapter 6), it is hereby certified that these proposed regulations, if adopted, would not have a significant economic impact on a substantial number of small entities that are directly affected by the proposed regulations. The proposed regulations will apply to all employers that have an income tax withholding obligation and, therefore, are likely to affect a substantial number of small entities. Although the proposed regulations are likely to affect a substantial number of small entities, the economic impact of the regulations will not be significant.

These proposed regulations do not independently impact employers or employees because these regulations support both the 2019 and 2020 Form W–4 and related withholding procedures, and employees are not required to furnish a new Form W–4 solely because of the redesign of the Form W–4. Employees who have a Form W–4 on file with their employer from years prior to 2020 generally will continue to have their withholding determined based on that form. These proposed regulations incorporate the changes made by TCJA to sections 3401 and 3402 and conform the regulations to provide flexible and administrable rules for income tax withholding from wages to implement the 2020 Form W–4 and its related tables and computational procedures described in Publication 15–T, and to work with Forms W–4 provided in 2019 and earlier years. Any economic impact on small entities that have an income tax withholding obligation is generally a result of the change in underlying substantive tax rules which led to revisions in the method of computing withholding, not these proposed regulations. Because the proposed regulations preserve the option of continuing to use old Forms W–4 for existing employees who have not had significantly changed circumstances, the proposed regulations minimize impact of the statutory changes on employers, including small entities. Accordingly, Treasury and the IRS certify that this proposed rule will not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6). Notwithstanding this certification, the Treasury Department and the IRS invite comments on any impact this rule would have on small entities.

Pursuant to section 7805(f), this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

III. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a state, local, or tribal government, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. This rule does not include any Federal mandate that may result in expenditures by state, local, or tribal governments, or by the private sector in excess of that threshold.

IV. Executive Order 13132: Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on state and local governments, and is not

required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This proposed rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Statement of Availability of IRS Documents

IRS Revenue Procedures, Revenue Rulings, and Notices cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *http://www.irs.gov.*

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and written comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available at *http://www.regulations.gov* or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Mikhail Zhidkov, Office of the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). Other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 31

Employment taxes, Fishing vessels, Gambling, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 31 is proposed to be amended as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

■ **Paragraph 1.** The authority citation for part 31 is amended by adding an entry for § 31.3402 in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

* * * * *

Section 31.3402 also issued under 26 U.S.C. 3402(i) and (m)

* * * * *

§ 31.3401(e)–1 [Removed]

■ **Par. 2.** Section 31.3401(e)–1 is removed.

■ **Par. 3.** Section 31.3402(a)–1 is amended by adding paragraphs (g) and (h) to read as follows:

§ 31.3402(a)–1 Requirement of withholding.

* * * * *

(g) *Definitions and Interchangeable Terms.*—For purposes of Chapter 24 and this Subpart E of Part 31 of the Employment Tax Regulations:

(1) References to ''withholding exemption certificate'' include ''withholding allowance certificate'' unless otherwise stated in Subpart E of Part 31 of the Employment Tax Regulations.

(2) [Reserved]

(h) *Applicability date.*—The provisions of paragraph (g) of this section apply on and after [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **FEDERAL REGISTER**]. Under section 7805(b)(7) a taxpayer may choose to apply paragraph (g) of this section on and after January 1, 2020.

■ **Par. 4.** Section 31.3402(b)–1 is revised to read as follows:

§ 31.3402(b)–1 Percentage method of withholding.

(a) *Percentage method of withholding.* The amount of tax to be deducted and withheld from an employee's wages under the percentage method of withholding is determined based on the entry for the employee's anticipated filing status or marital status and other entries on the employee's withholding allowance certificate using the applicable percentage method tables and computational procedures set forth in the applicable forms, instructions, publications, and other guidance prescribed by the Commissioner issued with respect to the period in which wages are paid.

(b) *Applicability date.* The provisions of this section apply on and after [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **FEDERAL REGISTER**]. For rules that apply before [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **FEDERAL REGISTER**], see 26 CFR part 31, revised as of March 14, 2019. Under section 7805(b)(7) a taxpayer may choose to apply this section on and after January 1, 2020.

■ **Par. 5.** Section 31.3402(c)–1 is amended by:

■ 1. Revising paragraph (a)(1).

■ 2. Redesignating paragraph (a)(2) as paragraph (a)(3).

■ 3. Adding a new paragraph (a)(2).

■ 4. Revising paragraph (b).

■ 5. In paragraph (c)(1), revising the first sentence

■ 6. Adding paragraph (f).

The revisions and additions read as follows:

§ 31.3402(c)–1 Wage bracket withholding.

(a) * * *

(1) The employer may elect to use the wage bracket method provided in section 3402(c) instead of the percentage method with respect to any employee. The tax computed under the wage bracket method shall be in lieu of the tax required to be deducted and withheld under section 3402(a).

(2) The amount of tax to be deducted and withheld from an employee's wages under the wage bracket method of withholding is determined based on the entry for the employee's anticipated filing status or marital status and other entries on the employee's withholding allowance certificate using the applicable wage bracket method tables and computational procedures set forth in the applicable forms, instructions, publications, and other guidance prescribed by the Commissioner issued with respect to the period in which wages are paid.

* * * * *

(b) *Established payroll periods, other than daily or miscellaneous, covered by wage bracket withholding tables.* The wage bracket withholding tables applicable to the employee's filing status set forth in forms, instructions, publications, and other guidance prescribed by the Commissioner for established periods other than daily or miscellaneous should be used in determining the tax to be deducted and withheld for any such period without reference to the time the employee is actually engaged in the performance of services during such payroll period.

(c) * * *

(1) * * * The tables applicable to a daily or miscellaneous payroll period show the tentative amount of tax to be deducted and withheld from an

employee's wages for the employee's filing status for one day.* * *

* * * * *

(f) *Applicability date.* The provisions of this section apply on and after [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **FEDERAL REGISTER**]. For rules that apply before [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **FEDERAL REGISTER**], see 26 CFR part 31, revised as of March 14, 2019. Under section 7805(b)(7) a taxpayer may choose to apply this section on and after January 1, 2020.

■ **Par. 6.** Section 31.3402(f)(1)–1 is revised to read as follows:

§ 31.3402(f)(1)–1 Withholding allowance.

(a) *In general.* (1) Except as otherwise provided in section 3402(f)(6) (see § 31.3402(f)(6)–1), an employee receiving wages will, on any day, be entitled to a withholding allowance as provided in section 3402(f)(1) and paragraph (b) of this section. In order to receive the benefit of the withholding allowance, the employee must furnish to the employer a valid withholding allowance certificate in effect for the calendar year as provided in section 3402(f)(2) and § 31.3402(f)(2)–1.

(2) The employer is not required to ascertain whether the withholding allowance claimed is greater than the withholding allowance to which the employee is entitled. For rules relating to invalid withholding allowance certificates, see § 31.3402(f)(2)–1(f)(3), for rules relating to required submission of copies of certain withholding allowance certificates to the Internal Revenue Service, see § 31.3402(f)(2)–1(g)(1), and for rules relating to the notice of the maximum withholding allowance permitted, see § 31.3402(f)(2)–1(g)(2).

(b) *Withholding allowance defined.* (1) Generally, the withholding allowance to which an employee is entitled is determined under the computational procedures prescribed by the Commissioner in forms, instructions, publications, and other guidance for the calendar year for which the withholding allowance certificate is in effect.

(2) The withholding allowance is determined based on the following—

(i) Whether the employee is an individual for whom a deduction is allowable with respect to another taxpayer under section 151;

(ii) If the employee is married, whether the employee's spouse is an individual for whom a deduction is allowable with respect to another taxpayer under section 151 but only if such spouse does not have in effect a withholding allowance certificate claiming such deduction;

(iii) If the employee is married, whether the employee's spouse is entitled to additional deductions, credits, or other items the employee elects to take into account under § 31.3402(m)–1 or would be so entitled if the employee's spouse were an employee receiving wages, but only if such spouse does not have in effect a withholding allowance certificate claiming such allowance;

(iv) Any credit under section 24(a) that the employee reasonably expects to be able to claim on the employee's income tax return for the calendar year for which the withholding allowance certificate is in effect, except that the employee may not take into account any credit under section 24(a) if this credit is claimed on another valid withholding allowance certificate in effect with respect to another employer of the employee or the employee's spouse. In addition, an employee whose employer must withhold for that employee pursuant to a notice under § 31.3402(f)(2)–1(g)(2) must offset any tax benefit resulting from a credit under section 24(a) with any anticipated income tax attributable to items other than wages includible in the employee's gross income in the manner prescribed by the Commissioner;

(v) Any additional deductions, credits, or other items the employee elects to take into account under § 31.3402(m)–1 for the calendar year for which the withholding allowance certificate is in effect;

(vi) The basic standard deduction (as defined in section 63(c)(2)) relating to the filing status the employee reasonably expects to claim on the employee's income tax return for the calendar year for which the withholding allowance certificate is in effect; and

(vii) Any adjustment resulting from multiple withholding allowance certificates the employee, the employee's spouse, or both have or reasonably expect to have in effect with respect to one or more employers, determined based on the instructions to the withholding allowance certificate and other guidance for the calendar year for which the withholding allowance certificate is in effect.

(c) *Applicability date.* The provisions of this section apply on and after [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **FEDERAL REGISTER**]. For rules that apply before [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **FEDERAL REGISTER**], see 26 CFR part 31, revised as of March 14, 2019. Under section 7805(b)(7) a taxpayer may choose to apply this section on and after January 1, 2020.

■ **Par. 7.** Section 31.3402(f)(2)–1 is revised to read as follows:

§ 31.3402(f)(2)–1 Furnishing of withholding allowance certificates

(a) *On commencement of employment.* (1) On or before the date on which an individual commences employment with an employer, the individual must furnish the employer with a signed withholding allowance certificate (see § 31.3402(f)(5)–1) relating to the filing status the employee reasonably expects to claim under § 31.3402(l)–1(b) for the calendar year for which the withholding allowance certificate is in effect and the withholding allowance under § 31.3402(f)(1)–1(b) that the employee claims.

(2) In no event may the withholding allowance exceed the withholding allowance that the employee is entitled to as determined based on the employee's reasonable expectations and the instructions set forth in forms, instructions, publications, and other guidance prescribed by the Commissioner.

(3) The employee may claim exemption from withholding if the certifications described in section 3402(n) and § 31.3402(n)–1(a)(1) and (2) are true with respect to the employee.

(4) If an employee has no valid withholding allowance certificate in effect with the employer at the time of the payment of the wages, and fails to furnish a valid withholding allowance certificate to the employer, the employee will be treated as single but having the withholding allowance provided in forms, instructions, publications, and other guidance prescribed by the Commissioner.

(b) *Change of status that affects calendar year*—(1) *General rule.* If, on any day during the calendar year, the employee experiences a change of status that reduces the employee's withholding allowances, or withholding allowance in the manner described in paragraph (b)(2) of this section, the employee must, within 10 days after the change occurs, furnish the employer with a new withholding allowance certificate claiming the withholding allowance to which the employee is entitled under § 31.3402(f)(1)–1(b), unless paragraph (b)(3) of this section applies to the employee.

(2) *Changes of status.* A change of status occurs if any of the following changes occur on any day during the calendar year:

(i) The employee's filing status changes in the manner described in § 31.3402(l)–1(c).

(ii) The employee no longer has only one withholding allowance certificate in effect for the employee, the employee's spouse, or both, and the employee or the employee's spouse selects higher withholding rate tables on the additional withholding allowance certificate, but higher withholding rate tables are not selected on any previously furnished withholding allowance certificate.

(iii) The employee has multiple withholding allowance certificates in effect on which higher withholding rate tables are not selected, and the employee or the employee's spouse reasonably expects an increase in regular wages for the calendar year (as defined in § 31.3402(g)–1(a)(1)(ii)) in excess of $10,000.

(iv) The employee has included on a valid withholding allowance certificate the child tax credit allowed under section 24(a) but reasonably expects the number of individuals who satisfy the definition of ''qualifying child'' as defined in section 24(c) who will be reported on the employee's income tax return for the year for which tax is being withheld to be less than the number taken into account in completing the withholding allowance certificate.

(v) The employee has included on a valid withholding allowance certificate a tax credit allowed under section 24(a) or other tax credits allowed under § 31.3402(m)–1 but reasonably expects the employee's tax credits that will be reported on the employee's income tax return for the year for which tax is being withheld to decrease by more than $500 from the amount taken into account in completing the withholding allowance certificate.

(vi) The employee has included on a valid withholding allowance certificate deductions allowed under § 31.3402(m)–1 but reasonably expects the employee's included income tax deductions that will be reported on the employee's income tax return for the year for which tax is being withheld to decrease by more than $2,300 from the amount taken into account in completing the withholding allowance certificate.

(vii) It is no longer reasonable for an employee who has furnished the employer with a withholding allowance certificate which relies upon the certifications described in § 31.3402(n)–1(a) to anticipate that the employee will incur no liability for income tax imposed under subtitle A of the Code for the current or previous taxable year.

(3) *Exception.* If one or more of the changes described in paragraph (b)(2) of this section occurs, but the total effect of the changes together with any other changes affecting the employee's anticipated tax liability under Subtitle A is not anticipated to result in an amount of tax to be deducted and withheld from the employee's wages under section 3402 for the year that is less than the employee's anticipated tax liability under Subtitle A, the employee is not required to furnish a new withholding allowance certificate.

(c) *Increase in withholding allowance.* If, on any day during the calendar year, the employee experiences a change of status that increases the employee's withholding allowance, the employee may furnish the employer with a new withholding allowance certificate claiming the withholding allowance the employee is entitled to under § 31.3402(f)(1)–1(b).

(d) *Exemption from withholding.* If, on any day during the calendar year, the certifications described in section 3402(n) and § 31.3402(n)–1(a)(1) and (2) are true with respect to an employee, the employee may furnish his employer with a withholding allowance certificate claiming exemption from withholding in the manner described in forms, instructions, publications, and other guidance prescribed by the Commissioner.

(e) *Change of status which affects next calendar year*—(1) *General rule.* If, on any day during the calendar year, the withholding allowance to which the employee will be, or may reasonably be expected to be, entitled under § 31.3402(f)(1)–1(b) for the next calendar year, but not for the current calendar year, decreases in the manner prescribed in paragraph (b)(2) of this section, the employee must furnish a new withholding allowance certificate claiming the withholding allowance the employee is entitled to under § 31.3402(f)(1)–1(b) to take effect in the next calendar year by the later of December 1 of the calendar year of the year in which the change occurs or within 10 days after the change occurs, unless paragraph (e)(2) of this section applies to the employee.

(2) *Exception.* If one or more of the changes in paragraph (b)(2) of this section occurs, but the total effect of the changes together with any other changes affecting the employee's anticipated tax liability under subtitle A is not anticipated to result in an amount of tax to be deducted and withheld from the employee's wages under section 3402 for the employee's next year that is less than the employee's anticipated tax liability under Subtitle A, the employee is not required to furnish a new withholding allowance certificate.

(f) *Special rules*—(1) *Employer requests.* Before December 1 of each year, every employer should request each employee to furnish a new withholding allowance certificate for the next calendar year, in the event of a change to the employee's withholding allowance.

(2) *Social security account numbers.* Every individual to whom a social security number has been assigned must include such number on any withholding allowance certificate furnished to an employer. An employee may not use a truncated social security number (see § 301.6109–4) in completing the withholding allowance certificate. For provisions relating to the obtaining of an account number from the Social Security Administration, see § 31.6011(b)–2.

(3) *Invalid withholding allowance certificates*—(i) *General rule.* Any alteration of or unauthorized addition to a withholding allowance certificate causes such certificate to be invalid; see § 31.3402(f)(5)–1(b) for the definitions of alteration and unauthorized addition. Any withholding allowance certificate which the employee clearly indicates to be false by an oral statement or by a written statement (other than one made on the withholding allowance certificate itself) made by the employee to the employer on or before the date on which the employee furnishes such certificate is also invalid. For purposes of the preceding sentence, the term ''employer'' includes any individual authorized by the employer either to receive withholding allowance certificates, to make withholding computations, or to make payroll distributions.

(ii) *Employer disregard of invalid withholding allowance certificate.* If an employer receives an invalid withholding allowance certificate, the employer must disregard it for purposes of computing withholding. The employer must inform the employee who furnished the certificate that it is invalid, and must request another withholding allowance certificate from the employee. If the employee who furnished the invalid certificate fails to comply with the employer's request, the employer must treat the employee as single but having the withholding allowance provided by the forms, instructions, publications, and other guidance prescribed by the Commissioner. If, however, a prior certificate is in effect with respect to the employee, the employer must continue to withhold in accordance with the prior certificate.

(g) *Submission of certain withholding allowance certificates and notice of maximum withholding allowance permitted*—(1) *Submission of certain withholding allowance certificates*—(i) *In general.* An employer must submit to the Internal Revenue Service (IRS) a copy of any currently effective withholding allowance certificate as directed in a written notice to the employer from the IRS or as directed in published guidance.

(A) *Notice to submit withholding allowance certificates.* A notice to the employer to submit withholding allowance certificates may relate either to one or more named employees, to one or more reasonably segregable units of the employer, or to withholding allowance certificates under certain specified criteria. The notice will designate the IRS office to which the copies of the withholding allowance certificates must be submitted. Alternatively, upon notice from the IRS, the employer must make available for inspection by an IRS employee withholding allowance certificates received from one or more named employees, from one or more reasonably segregable units of the employer, or from employees who have furnished withholding allowance certificates under certain specified criteria.

(B) *Published guidance.* Employers may also be required to submit copies of withholding allowance certificates under certain specified criteria when directed to do so by the IRS in published guidance in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter).

(ii) *Withholding after submission of withholding allowance certificate.* After a copy of a withholding allowance certificate has been submitted to the IRS under this paragraph (g)(1), the employer must withhold tax on the basis of the withholding allowance certificate, if the withholding allowance certificate meets the requirements of § 31.3402(f)(5)–1. However, the employer may not withhold on the basis of the withholding allowance certificate if the certificate must be disregarded based on a notice of the maximum withholding allowance permitted under the provisions of paragraph (g)(2) of this section.

(2) *Notice of the maximum withholding allowance permitted*—(i) *Notice to employer.* The IRS may notify the employer in writing that the employee is not entitled to claim a complete exemption from withholding or more than the maximum withholding allowance specified by the IRS in the written notice. The notice will also specify the applicable filing status for purposes of calculating the required amount of withholding. The notice will specify the IRS office to be contacted for further information. The notice of maximum withholding allowance permitted may be issued if—

(A) The IRS determines that a copy of a withholding allowance certificate submitted under paragraph (g)(1) of this section or otherwise provided to the IRS includes a materially incorrect statement or determines, after a request to the employee for verification of the statements on the certificate, that the IRS lacks sufficient information to determine if the certificate is correct; or

(B) The IRS otherwise determines that the employee is not entitled to claim a complete exemption from withholding and is not entitled to claim more than a specified number of withholding exemptions, withholding allowances, or a specified withholding allowance.

(ii) *Notice to employee.* If the IRS provides a notice to the employer under this paragraph (g)(2), the IRS will also provide the employer with a similar notice for the employee (employee notice) that identifies the maximum withholding allowance permitted and specifies the filing status to be used for calculating the required amount of withholding for the employee. The employee notice will also indicate the process by which the employee can provide additional information to the IRS for purposes of determining the appropriate withholding allowance and/or modifying the specified filing status. The IRS will also mail a similar notice to the employee's last known address. For further guidance regarding the definition of last known address, see § 301.6212–2 of this chapter. If the IRS is unable to determine a last known address for the employee, the IRS will use other available information as appropriate to mail the notice to the employee.

(iii) *Requirement to furnish.* If the employee is employed by the employer as of the date of the notice, the employer must furnish the employee notice to the employee within 10 business days of receipt. The employer may follow any reasonable business practice to furnish the copy of the notice to the employee. For purposes of this paragraph (g)(2)(iii), the determination of whether an employee is employed as of the date of the notice is based on all the facts and circumstances, including whether the employer has treated the employment relationship as terminated for other purposes. An employee who is not performing services for the employer as of the date of the notice is employed by the employer as of the date of the notice for purposes of this paragraph (g)(2)(iii) if—

(A) The employer pays wages with respect to prior employment to the employee subject to income tax withholding on or after the date specified in the notice;

(B) The employer reasonably expects the employee to resume the performance of services for the employer within twelve months of the date of the notice; or

(C) The employee is on a bona fide leave of absence and either the period of such leave does not exceed twelve months or the employee retains a right to reemployment with the employer under an applicable statute or by contract.

(iv) *Requirement to withhold based on the notice.* If the employer is required to furnish the employee notice to the employee under paragraph (g)(2)(iii) of this section, then the employer must withhold tax on the basis of the maximum withholding allowance and the filing status specified in the notice for any wages paid after the date specified in the notice, except as provided in paragraphs (g)(2)(v) through (ix) of this section. The employer must withhold tax in accordance with the notice as of the date specified in the notice, which shall be no earlier than 45 calendar days after the date of the notice.

(v) *Employment resumes after twelve months.* If the employer is required to furnish the employee notice to the employee only pursuant to paragraph (g)(2)(iii)(B) of this section and the employee resumes the performance of services for the employer more than 12 months after the date of the notice, then the employer is not required to withhold based on the notice.

(vi) *Requirement to withhold based on an existing Form W–4.* If a withholding allowance certificate is in effect with respect to the employee before the employer receives a notice of the maximum withholding allowance permitted under this paragraph (g)(2), the employer must continue to withhold tax in accordance with the existing withholding allowance certificate, rather than on the basis of the notice, if the existing withholding allowance certificate does not claim complete exemption from withholding and claims a filing status, a withholding allowance, and any additional amount under § 31.3402(i)–1(a)(1) and (2) that results in more withholding than would result from applying the filing status and withholding allowance specified in the notice.

(vii) *Modification notice.* After issuing the notice specifying the maximum

withholding allowance permitted and the filing status, the IRS may issue a subsequent notice to the employer and the employee that modifies the original notice (modification notice). The modification notice may change the filing status and/or the withholding allowance permitted. The employer must withhold based on the modification notice as of the date specified in the modification notice.

(viii) *Requirement to withhold after termination of employment.* If the employee is employed as of the date of the notice under paragraph (g)(2)(iii) of this section but the employer or employee terminates the employment relationship after the date of the notice, the employer must continue to withhold based on the maximum withholding allowance and the filing status specified in the notice or a modification notice if any wages subject to income tax withholding are paid with respect to the prior employment after such date. Furthermore, the employer must withhold based on the notice or modification notice if the employee resumes an employment relationship with the employer within 12 months after the termination of the employment relationship. Whether the employment relationship is terminated is based on all the facts and circumstances.

(ix) *Requirement to withhold based on new Form W–4.* The employee may furnish a new withholding allowance certificate after the employer receives a notice or modification notice from the IRS of the maximum withholding allowance permitted under this paragraph (g)(2).

(A) *Employee requests more withholding.* If the employee furnishes a new withholding allowance certificate after the employer receives the notice or modification notice, the employer must withhold tax on the basis of that new certificate only if the new certificate does not claim complete exemption from withholding and claims a filing status, a withholding allowance, and any additional amount under § 31.3402(i)–1(a)(1) and (2) that results in more withholding than would result under the notice or modification notice.

(B) *Employee requests less withholding.* If the employee furnishes a new withholding allowance certificate after the employer receives the notice or modification notice, the employer must disregard the new certificate and withhold on the basis of the notice or modification notice if the employee claims complete exemption from withholding or claims a filing status, a withholding allowance, and any additional amount under § 31.3402(i)–1(a)(1) and (2) that results in less withholding than would result under the notice or modification notice. If the employee wants to put a new certificate into effect that results in less withholding than that required under the notice or modification notice, the employee must contact the IRS. The employer must withhold on the basis of the notice or modification notice unless the IRS subsequently notifies the employer to withhold based on the new certificate.

(3) *Definition of employer.* For purposes of this paragraph (g), the term employer includes any person authorized by the employer to receive withholding allowance certificates, to make withholding computations, or to make payroll distributions.

(4) *Examples.* The following examples illustrate the rules of this section.

(i) *Example 1.* Employer U receives a notice from the IRS that identifies the maximum withholding allowance permitted and specifies the filing status for Employee A. Employee A is not currently performing any services for Employer U. However, Employer U is continuing to make certain wage payments to Employee A. Employer U must furnish the employee notice to Employee A within 10 business days of receipt and must withhold based on the notice on any wages paid to Employee A on or after the date specified in the notice.

(ii) *Example 2.* Employer V receives a notice in October of Year 1 from the IRS that identifies the maximum withholding allowance permitted and specifies the filing status for Employee B. Employee B has not performed services for Employer V since August of Year 1. However, since Employee B has performed services for Employer V for several years on a seasonal basis, Employer V reasonably expects Employee B to resume the performance of services for Employer V in June of Year 2, a date that is within 12 months of the date of the notice. Employer V is required to furnish the notice to Employee B within 10 business days of receipt. Employee B does not resume the performance of services with Employer V until June of Year 3. Employer V is not required to withhold based on the notice.

(iii) *Example 3.* Employer W receives a notice from the IRS that identifies the maximum withholding allowance permitted and specifies the filing status for Employee C. Employee C began a 4-month unpaid maternity leave of absence three weeks before Employer W received the notice. Employer W must furnish the employee notice to Employee C within 10 business days of receipt. When her maternity leave ends and Employee C resumes performing services for Employer W, Employer W must withhold based on the notice.

(iv) *Example 4.* Employer X receives a notice from the IRS in Year 1 that identifies the maximum withholding allowance permitted and specifies the filing status for Employee D. Employer X must furnish the employee notice to Employee D within 10 business days of receipt and withhold based on the notice. In Year 2, Employee D terminates the employment relationship. Employee D applies for a different position with Employer X and resumes employment 10 months after having left her previous position with Employer X. Since Employer X rehired Employee D within 12 months after the termination of employment, Employer X must withhold based on the notice.

(v) *Example 5.* Employer Y receives a notice from the IRS that identifies the maximum withholding allowance permitted and specifies the filing status for Employee E. Employer Y must furnish the employee notice to Employee E within 10 business days of receipt. After receipt of this notice, Employee E contacts the IRS and establishes that the employee is entitled to claim a modified filing status and withholding allowance. Employer Y receives a modification notice from the IRS that changes the maximum withholding allowance permitted for Employee E. Employer Y must withhold tax based on the modification notice as of the date specified in such notice.

(vi) *Example 6.* Employer Z pays remuneration to Employee F, a United States citizen, for services performed in Country M. Employer Z receives a notice from the IRS in Year 1 that identifies the maximum withholding allowance permitted and specifies the filing status for Employee F. Employer Z must furnish the employee notice to Employee F within 10 business days of receipt. Employer Z reasonably believes all the remuneration paid to Employee F in Year 1 is excluded from Employee F's gross income under section 911. Since section 3401(a)(8)(B) excludes such remuneration from wages for income tax withholding purposes, Employer X does not have to withhold on such remuneration, notwithstanding the maximum withholding allowance permitted and filing status specified in the notice. In Year 2, Employee F returns to the United States to perform services. Employer Z does not reasonably believe any part of Employee F's remuneration paid in Year 2 is excluded from Employee F's gross income under section 911. Rather, Employer Z reasonably believes that remuneration paid to Employee F in Year 2 is subject to income tax withholding. Employer Z must withhold on the remuneration paid to Employee F in Year 2 based on the notice.

(h) *Applicability date.* The provisions of paragraph (g) of this section apply on February 13, 2020. For rules that apply under paragraph (g) before February 13, 2020, see 26 CFR part 31, revised as of March 14, 2019. The provisions of paragraphs (a) through (f) of this section apply on and after [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **FEDERAL REGISTER**]. For rules that apply before [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **FEDERAL REGISTER**], see 26 CFR part 31, revised as of March 14, 2019. Under section 7805(b)(7) a taxpayer may choose to

apply paragraphs (a) through (g) of this section on and after January 1, 2020.

■ **Par. 8.** Section 31.3402(f)(3)–1 is revised to read as follows:

§ 31.3402(f)(3)–1 When withholding allowance certificate takes effect.

(a) *No withholding allowance certificate on file.* A withholding allowance certificate furnished to the employer in any case in which no previous withholding allowance certificate is in effect with such employer, takes effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished.

(b) *Withholding allowance certificate on file.* Except as provided in paragraph (c) of this section, a withholding allowance certificate furnished to the employer in any case in which a previous withholding allowance certificate is in effect with such employer takes effect as of the beginning of the 1st payroll period ending (or the 1st payment of wages made without regard to a payroll period) on or after the 30th day after the day on which such certificate is so furnished. However, the employer may elect to put a withholding allowance certificate into effect earlier, beginning with any payment of wages on or after the day on which the certificate is so furnished.

(c) *Withholding allowance certificate furnished to take effect in next calendar year.* A withholding allowance certificate furnished to the employer pursuant to section 3402(f)(2)(C) (see § 31.3402(f)(2)–1(e) or § 31.3402(l)–1(c)) which effects a change for the next calendar year, does not take effect, and may not be made effective, with respect to the calendar year in which the certificate is furnished.

(d) *Applicability date.* The provisions of this section apply on [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **FEDERAL REGISTER**]. For rules that apply before [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **FEDERAL REGISTER**], see 26 CFR part 31, revised as of March 14, 2019. Under section 7805(b)(7) a taxpayer may choose to apply this section on and after January 1, 2020.

§ 31.3402(f)(4)–1 [Removed]

■ **Par. 9.** Section 31.3402(f)(4)–1 is removed.

§ 31.3402(f)(4)–2 [Redesignated as § 31.3402(f)(4)–1]

■ **Par. 10.** Section 31.3402(f)(4)–2 is redesignated as § 31.3402(f)(4)–1.

■ **Par. 11.** Newly redesignated § 31.3402(f)(4)–1 is revised to read as follows:

§ 31.3402(f)(4)–1 Effective period of a withholding allowance certificate.

(a) *In general.* Except as provided in paragraph (b) of this section and § 31.3402(f)(2)–1(g)(2), a withholding allowance certificate that takes effect under section 3402(f) of the Internal Revenue Code of 1986 continues in effect with respect to the employee until another withholding allowance certificate takes effect under section 3402(f).

(b) *Certifications under section 3402(n) eliminating requirement of withholding.* The certifications described in § 31.3402(n)–1(a) made by an employee with respect to the employee's preceding taxable year and current taxable year are effective until either a new withholding allowance certificate furnished by the employee takes effect or the existing certificate that relies upon such certifications expires. If an employee's certificate expires and the employee fails to furnish a valid withholding allowance certificate, the employee will be treated as single but having the withholding allowance provided in forms, instructions, publications, and other guidance prescribed by the IRS. In no case shall a withholding allowance certificate that relies upon such certifications be effective with respect to any payment of wages made to an employee:

(1) In the case of an employee whose liability for tax under subtitle A is determined on a calendar year basis, after February 15 of the calendar year following the estimation year, or

(2) In the case of an employee to whom paragraph (b)(1) of this section does not apply, after the 15th day of the 2nd calendar month following the last day of the estimation year.

(c) *Estimation year.* The estimation year is the taxable year including the day on which the employee furnishes the withholding allowance certificate to the employer, except that if the employee furnishes the withholding allowance certificate to the employer and specifies on the certificate that the certificate is not to take effect until a specified future date, the estimation year will be the taxable year including that specified future date.

(d) *Applicability to notice of maximum withholding allowance.* If a withholding allowance certificate is no longer in effect because of the application of § 31.3402(f)(2)–1(g)(2), the employer is no longer required to withhold pursuant to any notice under § 31.3402(f)(2)–1(g)(2), and the employee fails to furnish the employer a valid withholding allowance certificate, then the employee will be treated as single but having the withholding allowance provided in forms, instructions, publications, and other guidance prescribed by the Commissioner, in accordance with § 31.3402(f)(2)–1(a)(4).

(e) *Applicability date.* The provisions of this section apply on and after [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **Federal Register**]. For rules that apply before [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **Federal Register**], see 26 CFR part 31, revised as of March 14, 2019. Under section 7805(b)(7) a taxpayer may choose to apply this section on and after January 1, 2020.

■ **Par. 12.** Section 31.3402(f)(5)–1 is revised to read as follows:

§ 31.3402(f)(5)–1 Form and contents of withholding allowance certificates

(a) *In general*—(1) *Form W–4.* Form W–4, ''Employee's Withholding Certificate,'' previously called ''Employee's Withholding Allowance Certificate,'' is the form prescribed for the withholding allowance certificate required to be furnished under section 3402(f)(2). A withholding allowance certificate must be prepared in accordance with the instructions applicable thereto, and must set forth fully and clearly the information that is called for therein. In lieu of the prescribed form, an employer may prepare and provide to employees a form the provisions of which are identical to those of the prescribed form, but only if the employer also provides employees with all the tables, instructions, and worksheets set forth in the Form W–4 in effect at that time, and only if the employer complies with all revenue procedures relating to substitute forms in effect at that time.

(2) *Employee substitute forms.* Employers are prohibited from accepting a substitute form developed by an employee, and an employee furnishing such form will be treated as failing to furnish a withholding allowance certificate. For further guidance regarding the employer's obligations when an employee is treated as failing to furnish a withholding allowance certificate, see § 31.3402(f)(2)–1.

(3) *Current year revision.* Only the Form W–4 revision in effect for a calendar year may be furnished by an employee in that calendar year and given legal effect by the employer, unless provided otherwise in forms,

instructions, publications, or other guidance, except that an employee may furnish the Form W–4 revision for the following calendar year in the current calendar year to take effect for the following calendar year.

(4) *Examples.* The following examples illustrate the rule in paragraph (a)(3) of this section.

(i) *Example 1.* Employee A furnishes a 2019 Form W–4 to Employer X in calendar year 2020. The 2019 Form W–4 furnished by Employee A in 2020 has no legal effect. Employer X must disregard this 2019 Form W–4 furnished in 2020 and continue to withhold based on a previously furnished Form W–4 that has been in effect for Employee A, if any. If Employee A has no Form W–4 in effect, she is treated as having no valid withholding allowance certificate in effect.

(ii) *Example 2.* Employee A furnishes a 2021 Form W–4 to Employer X in calendar year 2020 to take effect in calendar year 2021. The 2021 Form W–4 is valid, and the employer must put this form in effect in 2021 in accordance with the timing rules in § 31.3402(f)(3)–1.

(b) *Invalid Form W–4.* A Form W–4 does not meet the requirements of section 3402(f)(5) or this section and is invalid if it includes an alteration or unauthorized addition. For purposes of § 31.3402(f)(2)–1(f)(3) and this paragraph (b)—

(1) An alteration of a withholding allowance certificate is any deletion of the language of the jurat or other similar provision of such certificate by which the employee certifies or affirms the correctness of the completed certificate, or any material defacing of such certificate;

(2) An unauthorized addition to a withholding allowance certificate is any writing on such certificate other than the entries requested on the Form W–4 (*e.g.,* name, address, and filing status) or permitted by instructions or other guidance. For purposes of this rule, an entry claiming exemption from withholding that is accompanied by other entries on the Form W–4 (other than the employee's filing status) that could potentially affect the amount of income tax deducted and withheld from the employee's pay is an unauthorized addition; consequently, the employer must treat the Form W–4 as an invalid Form W–4.

(c) *Electronic Form W–4*—(1) *In general.* An employer may establish a system for its employees to furnish withholding allowance certificates electronically.

(2) *Requirements*—(i) *In general.* The electronic system must ensure that the information received is the information sent, and must document all occasions of employee access that result in the furnishing of a Form W–4. In addition, the design and operation of the electronic system, including access procedures, must make it reasonably certain that the person accessing the system and furnishing the Form W–4 is the employee identified in the form.

(ii) *Information to employer.* The electronic furnishing must provide the employer with exactly the same information as the current version of the official Internal Revenue Service (IRS) Form W–4 available on irs.gov.

(iii) *Information to employee.* The electronic Form W–4 system must provide the employee with the same information as the current version of the official IRS Form W–4 available on *irs.gov* and must satisfy any requirements specified by the IRS in forms, publications, and other guidance. The electronic Form W–4 system must provide employees the ability to claim exemption from withholding under section 3402(n) and must include the two certifications described in § 31.3402(n)–1(a).

(iv) *Jurat and signature requirements.* The electronic furnishing must be signed by the employee under penalties of perjury.

(A) *Jurat.* The jurat (perjury statement) must contain the language that appears on the paper Form W–4. The electronic program must inform the employee that he or she must make the declaration set forth in the jurat and that the declaration is made by signing the Form W–4. The instructions and the language of the jurat must immediately follow the employee's income tax withholding selections and immediately precede the employee's electronic signature.

(B) *Electronic signature.* The electronic signature must identify the employee furnishing the electronic Form W–4 and authenticate and verify the furnishing. For this purpose, the terms ''authenticate'' and ''verify'' have the same meanings as they do when applied to a written signature on a paper Form W–4. An electronic signature can be in any form that satisfies the foregoing requirements. The electronic signature must be the final entry in the employee's Form W–4 furnishing.

(v) *Copies of electronic Forms W–4.* Upon request by the Internal Revenue Service, the employer must supply a hard copy of the electronic Form W–4 and a statement that, to the best of the employer's knowledge, the electronic Form W–4 was furnished by the named employee. The hardcopy of the electronic Form W–4 must provide exactly the same information as, but need not be a facsimile of, the paper Form W–4.

(d) *Applicability date.* The provisions of this section apply on and after [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **Federal Register**], except that paragraph (a)(3) of this section applies on and March 16, 2020. For rules that apply before [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **Federal Register**], see 26 CFR part 31, revised as of March 14, 2019. Under section 7805(b)(7) a taxpayer may choose to apply this section on and after January 1, 2020.

■ **Par. 13.** Section 31.3402(f)(6)–1 is revised to read as follows:

§ 31.3402(f)(6)–1 Withholding exemptions for nonresident alien individuals.

(a) *In general.* (1) A nonresident alien individual (other than a nonresident alien individual treated as a resident under section 6013(g) or (h)) subject to withholding under section 3402 is on any one day entitled to the number of withholding exemptions corresponding to the number of personal exemptions to which the nonresident alien is entitled on such day by reason of the application of section 873(b)(3) or section 876, whichever applies. Thus, a nonresident alien individual who is not a resident of Canada or Mexico and who is not a resident of Puerto Rico during the entire taxable year, is allowed only one withholding exemption.

(2) The withholding exemption in paragraph (a) of this section and section 3402(f)(6) is the deduction allowed to the nonresident alien individual under section 151.

(b) *Additional guidance.* A nonresident alien individual (other than a nonresident alien individual treated as a resident under section 6013(g) or (h)) subject to withholding must follow administrative guidance such as forms, instructions, publications, or other guidance prescribed by the IRS to determine the nonresident alien's withholding allowance.

(c) *Applicability date.* The provisions of this section apply on and after [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **FEDERAL REGISTER**]. For rules that apply before [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **FEDERAL REGISTER**], see 26 CFR part 31, revised as of March 14, 2019. Under section 7805(b)(7) a taxpayer may choose to apply this section on and after January 1, 2020.

■ **Par. 14.** Section 31.3402(g)–1 is amended by

■ 1. In paragraph (a)(2), revising the second sentence.

■ 2. In paragraph (a)(7)(ii), revising the first sentence.

■ 3. Adding paragraph (d).

The revisions and addition read as follows:

Sec. 31.3402(g)–1 Supplemental wage payments.

(a) * * *

(2) * * * This flat rate shall be applied without regard to whether income tax has been withheld from the employee's regular wages, and without regard to any entries on Form W–4, including whether the employee has claimed exempt status on Form W–4 or whether the employee has requested additional withholding on Form W–4, and without regard to the withholding method used by the employer. * * *

* * * * *

(7) * * *

(ii) * * * The determination of the tax to be withheld under paragraph (a)(7)(iii) of this section is made without reference to any payment of regular wages and without regard to any entries on the Form W–4 other than the entry claiming exempt status on Form W–4 (see § 31.3402(n)-1(b)). * * *

* * * * *

(d) *Applicability date.* The provisions of paragraph (a)(2) and (a)(7)(ii) of this section apply on and after [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **FEDERAL REGISTER**]. Under section 7805(b)(7) a taxpayer may choose to apply paragraph (a)(2) and (a)(7)(ii) of this section on and after January 1, 2020.

§ 31.3402(h)(4)–1 [Amended]

■ **Par. 15.** Section 31.3402(h)(4)-1 is amended by removing paragraph (b) and redesignating paragraph (c) as paragraph (b).

§ 31.3402(i)–1 [Removed]

■ **Par. 16.** Section 31.3402(i)–1 is removed.

§ 31.3402 (i)–2 [Redesignated as § 31.3402(i)–1]

■ **Par. 17.** Section 31.3402(i)–2 is redesignated as § 31.3402(i)–1.

■ **Par. 18.** Newly redesignated § 31.3402(i)–1 is amended by:

■ 1. Revising the section heading.

■ 2. Revising paragraph (a)(2).

■ 3. Adding paragraph (a)(3).

■ 4. Revising paragraph (b).

The revisions and addition read as follows:

§ 31.3402 (i)–1 Increases in withholding.

(a) * * *

(2) *Increases in withholding based on additional income.* (i) The employee may request that the employer add an additional amount to the employee's wages and that the employer deduct and withhold an additional amount of income tax resulting from this addition under the computational procedures prescribed by the IRS in forms, instructions, publications, and other guidance for the calendar year for which the withholding allowance certificate claiming an additional amount to add to the employee's wages is furnished;

(ii) The employee may request that the employer deduct and withhold additional amounts of income tax resulting from the employee selecting higher withholding rate tables on the withholding allowance certificate;

(iii) The employer must comply with the employee's request under paragraph (a)(1)(i) or (ii) of this section, except that the employer shall comply with the employee's request only to the extent that the amount that the employee requests to be deducted and withheld under this section does not exceed the amount that remains after the employer has deducted and withheld all amounts otherwise required to be deducted and withheld by Federal law (other than by section 3402(i) and this section), State law, and local law (other than by State or local law that provides for voluntary withholding); and

(iv) The employer must comply with the employee's request in accordance with the time limitations in § 31.3402(f)(3)–1. The employee must make the request on Form W–4 as provided in § 31.3402(f)(5)–1 (relating to form and contents of withholding allowance certificates), and this Form W–4 shall take effect and remain effective in accordance with section 3402(f) and § 31.3402(f)(4)–1.

(3) *Amount deducted treated as tax.* The amount deducted and withheld pursuant to paragraphs (a)(1) and (2) of this section shall be treated as tax required to be deducted and withheld under section 3402.

(b) *Applicability date.* The provisions of paragraph (a)(2) and (3) of this section apply on and after [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **FEDERAL REGISTER**]. Under section 7805(b)(7) a taxpayer may choose to apply paragraphs (a)(2) and (3) of this section on and after January 1, 2020.

■ **Par. 19.** Section 31.3402(l)–1 is revised to read as follows:

§ 31.3402 (l)–1 Determination and disclosure of marital or filing status.

(a) *In general.* An employer shall apply the applicable percentage method or wage bracket method withholding tables corresponding to the marital status or filing status that the employee selects on a valid withholding allowance certificate as set forth in forms, instructions, publications, and other guidance prescribed by the Commissioner.

(b) *Employee's filing status.* An employee will be treated as single unless the employee selects head of household or married filing jointly filing status on a valid withholding allowance certificate. Employees may select a filing status other than single, subject to the following conditions:

(1) The employee may select head of household filing status on the employee's withholding allowance certificate only if the employee reasonably expects to be eligible to claim head of household filing status under section 2(b) and § 1.2–2(b) of this chapter on the employee's income tax return.

(2) The employee may select married filing jointly filing status on the employee's withholding allowance certificate only if paragraph (d) of this section applies to the employee and the employee reasonably expects to file jointly a single return of income under Subtitle A with the employee's spouse. If an employee is married and expects to file a separate return from the employee's spouse, the employee must select single or married filing separately filing status on the employee's withholding allowance certificate.

(c) *Change in filing status*—(1) *In general.* Unless paragraph (c)(2) of this section applies, the employee must within 10 days furnish the employer with a new withholding allowance certificate if the employee's filing status changes—

(i) From married filing jointly (or qualifying widow(er)) to head of household, married filing separately, or single, or

(ii) From head of household to married filing separately or single.

(2) *Exception.* If the employee's filing status changes in the manner described in paragraph (c)(1)(i) or (ii) of this section, but the total effect of the changes together with other changes affecting the employee's anticipated tax liability under Subtitle A does not result in an amount of tax to be deducted and withheld from the employee's wages for the taxable year that is less than the employee's anticipated tax liability under Subtitle A, the employee is not required to furnish a new withholding allowance certificate within 10 days. However, the employee must furnish a new withholding allowance certificate to take effect the following calendar year by the later of December 1 of the calendar year in which the employee's filing status changes, or within 10 days of such change.

(d) *Determination of marital status.* For the purposes of section 3402(l)(2) and paragraph (b) of this section, paragraphs (d)(1) and (2) of this section shall be applied in determining whether an employee is a single person or a married person:

(1) An employee shall on any day be considered as a single person and not married if—

(i) The employee is legally separated from the employee's spouse under a decree of divorce or separate maintenance, or

(ii) Either the employee or the employee's spouse is, or on any preceding day within the same calendar year was, a nonresident alien unless the employee has made or reasonably expects to make an election under section 6013(g) in the time and manner prescribed in § 1.6013–6(a)(4) of this chapter.

(2) An employee shall on any day be considered as a married person if paragraph (d)(1) of this section does not apply and—

(i) The employee is married within the meaning of § 301.7701–18(b) of this chapter on the day the withholding allowance certificate is furnished;

(ii) The employee's spouse died during the employee's taxable year; or

(iii) The employee's spouse died during one of the two taxable years immediately preceding the current taxable year and, on the basis of facts existing at the beginning of such day, the employee reasonably expects, at the close of the taxable year, to be a surviving spouse as defined in section 2 and § 1.2–2(a) of this chapter. The employee must reasonably expect to file an income tax return claiming qualifying widow(er) status.

(e) *Applicability date.* The provisions of this section apply on and after [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **FEDERAL REGISTER**]. For rules that apply before [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **FEDERAL REGISTER**], see 26 CFR part 31, revised as of March 14, 2019. Under section 7805(b)(7) a taxpayer may choose to apply this section on and after January 1, 2020.

■ **Par. 20.** Section 31.3402(m)–1 is revised to read as follows:

§ 31.3402 (m)–1 Additional withholding allowance.

(a) *In general.* In determining the withholding allowance or additional reductions in withholding under section 3402(m) on employee withholding allowance certificates furnished to the employer to be effective on or after January 1, 2020, employees may take into account the estimated tax deductions described in paragraph (b) of this section, the estimated tax credits described in paragraph (c) of this section, and estimated tax payments described in paragraph (d) of this section. Employees may only claim items in paragraphs (b), (c), and (d) of this section to the extent provided in paragraph (e) of this section.

(b) *Estimated tax deductions.* Employees may take into account the following income tax deductions in chapter 1:

(1) Estimated itemized deductions (as defined in section 63(d)) allowable under chapter 1;

(2) Estimated deductions described in section 62(a), except for—

(i) Any deduction described in section 62(a)(1);

(ii) Any deduction described in section 62(a)(2) if the reimbursement or payment for the amount allowable as such deduction is excludable from wages subject to income tax withholding;

(iii) Any deduction described in section 62(a)(3);

(iv) Any deduction described in section 62(a)(4); and

(v) Any deduction described in section 62(a)(5).

(3) Estimated deductions for net operating loss carryovers under section 172;

(4) The estimated aggregate net losses from schedules C (Profit or Loss from Business), D (Capital Gains and Losses), E (Supplemental Income and Loss), and F (Profit or Loss from Farming) of Form 1040 and from the last line of Part II of Form 4797 (Sale of Business Property);

(5) Estimated additional standard deduction for the aged and blind provided under section 63(c)(3) and section 63(f);

(6) Estimated deduction allowed under section 199A; and

(7) Estimated deduction or deductions allowed under section 151.

(c) *Estimated tax credits.* Employees may take into account the estimated income tax credits allowable under chapter 1, except for—

(1) The credit under section 31(a) for taxes withheld under chapter 24 (which includes taxes withheld on wages and amounts treated as wages for chapter 24 purposes, such as pension withholding under section 3405 and backup withholding under section 3406) unless, on the day the employee estimates this amount, the amount has been actually withheld from the employee's wages (or another payment treated as wages for this purpose), the employee enters this amount of tax withheld pursuant to the instructions in the Tax Withholding Estimator (or successor) or Publication 505 (or successor), and the employee is not an employee whose employer must withhold for that employee pursuant to a notice under § 31.3402(f)(2)–1(g)(2);

(2) The credit for tax withheld at source for nonresident aliens and foreign corporations under section 33; and

(3) Any credit to the extent that the employee has filed or expects to file any IRS form claiming such credit other than the employee's United States Individual Income Tax Return (Form 1040).

(d) *Estimated tax payments.* Employees may take into account estimated tax payments paid to date only if—

(1) The employee's employer is not obligated to withhold on the employee's wages pursuant to a notice under § 31.3402(f)(2)–1(g)(2);

(2) The amount claimed has been paid with the payment voucher from Form 1040–ES (or was otherwise designated by the taxpayer as a payment of estimated tax); (3) The employee uses the Tax Withholding Estimator (or successor) and enters the amount claimed pursuant to the instructions in the Tax Withholding Estimator (or successor); and

(4) In using the Tax Withholding Estimator (or successor product), the employee includes all items of nonwage income the Tax Withholding Estimator (or successor product) prompts the employee to enter.

(e) *Definitions and special rules*—(1) *Estimated.* The term ''estimated'' as used in this section to modify the terms ''deduction,'' ''deductions,'' ''credits,'' ''losses,'' and ''amount of decrease'' means with respect to an employee the aggregate dollar amount of a particular item that the employee reasonably expects will be allowable to the employee on the employee's income tax return for the estimation year under the section of the Code specified for each item. In no event shall that amount exceed the sum of:

(i) The amount shown for that particular item on the income tax return that the employee has filed for the taxable year preceding the estimation year (or, if such return has not yet been filed, then the income tax return that the employee filed for the taxable year preceding such year), which amount the employee also reasonably expects to show on the income tax return for the estimation year, plus

(ii) The determinable additional amounts (as defined in paragraph (e)(1)(iii) of this section) for each item for the estimation year.

(iii) The determinable additional amounts are amounts that are not included in paragraph (e)(1)(i) of this section and that are demonstrably attributable to identifiable events during the estimation year or the preceding year. Amounts are demonstrably attributable to identifiable events if they relate to payments already made during the estimation year, to binding obligations to make payments (including the payment of taxes) during the year, and to other transactions or occurrences, the implementation of which has begun and is verifiable at the time the employee furnishes a withholding allowance certificate. The estimation year is the taxable year including the day on which the employee furnishes the withholding allowance certificate to the employer, except that if the employee furnishes the withholding allowance certificate to the employer and specifies on the certificate that the certificate is not to take effect until a specified future date, the estimation year shall be the taxable year including that specified future date. It is not reasonable for an employee to include in his or her withholding computation for the estimation year any amount that is shown for a particular item on the income tax return that the employee has filed for the taxable year preceding the estimation year (or, if such return has not yet been filed, then the income tax return that the employee filed for the taxable year preceding such year) and that has been disallowed by the Service as part of an adjustment described in § 601.103(b) of this chapter (relating to examination and determination of tax liability) and § 601.105(b) through (d) of this chapter (relating to examination of returns), without regard to any pending request for reconsideration, protest, request for consideration by an Appeals office, or civil action in which such proposed adjustment is at issue.

(2) *Restriction for employees with non-wage income.* The employee must offset any deduction described in paragraph (b) of this section with items includible in the employee's gross income for which no Federal income tax is withheld in accordance with forms, instructions, publications, and other guidance prescribed by the Commissioner. In addition, an employee whose employer must withhold for that employee pursuant to a notice under § 31.3402(f)(2)–1(g)(2) must offset any tax benefit resulting from any deduction or credit described in paragraph (b) or (c) of this section with the anticipated income tax attributable to items other than wages includible in the employee's gross income in the manner determined by the Commissioner.

(3) *Multiple withholding allowance certificates*—(i) *In general.* The employee may not take into account deductions, credits, or estimated tax payments described in paragraph (b), (c), or (d) of this section if these deductions, credits, or estimated tax payments are claimed on another valid withholding allowance certificate in effect with respect to another employer of the employee or any employer of the employee's spouse.

(ii) *Married taxpayers filing jointly.* Married taxpayers who reasonably expect to file as married filing jointly on their federal income tax return for the estimation year determine the withholding allowance to which they are entitled under section 3402(m) on the basis of their combined wages, allowable credits or deductions, and estimated tax payments permitted to be taken into account. The deductions, credits, or estimated tax payments described in paragraphs (b), (c), and (d) of this section to which either spouse is entitled may be claimed by either spouse or may be allocated between both spouses. However, one spouse may not claim deductions, credits, or estimated tax payments described in paragraphs (b), (c), and (d) of this section claimed on the other spouse's withholding allowance certificate.

(iii) *Married taxpayers filing separately.* A married taxpayer who reasonably expects to file a separate income tax return from the employee's spouse for the estimation year determines the withholding allowance deductions, credits, or estimated tax payments described in paragraphs (b), (c), and (d) of this section on the basis of the employee's individual wages, deductions, credits, and estimated tax payments.

(4) *IRS instructions.* An employee must follow the instructions to the Form W–4, and other IRS forms, instructions, publications, and related guidance in determining the employee's withholding allowance or other reductions in withholding permitted under section 3402(m) for deductions, credits, or estimated tax payments described in paragraphs (b), (c), and (d) of this section.

(f) *Applicability date.* The provisions of this section apply on or after [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **FEDERAL REGISTER**]. For rules that apply before [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **FEDERAL REGISTER**], see 26 CFR part 31, revised as of March 14, 2019. Under section 7805(b)(7) a taxpayer may choose to apply this section on and after January 1, 2020.

■ **Par. 21.** Section 31.3402(n)–1 is revised to read as follows:

§ 31.3402 (n)–1 Employees incurring no income tax liability.

(a) *In general.* Notwithstanding any other provision of this subpart (except to the extent a payment of wages is subject to withholding under § 31.3402(g)–1(a)(2)), an employer shall not deduct and withhold any tax under chapter 24 upon a payment of wages made to an employee, if there is in effect with respect to the payment a withholding allowance certificate furnished to the employer by the employee which certifies that—

(1) The employee incurred no liability for income tax imposed under subtitle A of the Internal Revenue Code for the employee's preceding taxable year; and

(2) The employee anticipates that the employee will incur no liability for income tax imposed under subtitle A for the employee's current taxable year.

(b) *Mandatory flat rate withholding.* To the extent wages are subject to income tax withholding under § 31.3402(g)–1(a)(2), such wages are subject to such income tax withholding regardless of whether a withholding allowance certificate under section 3402(n) and this section has been furnished to the employer.

(c) *Liability for income tax.* For purposes of section 3402(n) and this section, an employee is not considered to incur liability for income tax imposed under subtitle A if the amount of such tax imposed is equal to or less than the total amount of credits against such tax which are allowable under chapter 1 of the Internal Revenue Code, other than those credits allowable under section 31 or 34. For purposes of this section, an employee who files a joint return under section 6013 is considered to incur liability for any tax shown on such return. An employee who is entitled to file a joint return under section 6013 shall not certify that the employee anticipates that he or she will incur no liability for income tax imposed by subtitle A for the employee's current taxable year if such statement would not be true in the event that the employee files a joint return for such year, unless the employee filed a separate return for the preceding taxable year and anticipates that the employee will file a separate return for the current taxable year.

(d) *Rules about withholding allowance certificates.* For rules relating to invalid withholding allowance certificates, see § 31.3402(f)(2)–1(h), and for rules relating to disregarding certain

withholding allowance certificates on which an employee claims a complete exemption from withholding, see § 31.3402(f)(2)–1(i).

(e) *Examples.* The following examples illustrate this section:

(1) *Example 1.* A, an unmarried, calendar-year basis taxpayer, files an income tax return for 2020 on April 10, 2021, showing that A had adjusted gross income of $5,000 and is not liable for any income tax for 2020. A had $180 of income tax withheld during 2020. A anticipates that A's gross income for 2021 will be approximately the same amount, and that A will not incur income tax liability for that year. On April 20, 2021, A commences employment and furnishes the employer a withholding allowance certificate certifying that A incurred no liability for income tax imposed under subtitle A for 2020, and that A anticipates that A will incur no liability for income tax imposed under subtitle A for 2021. A's employer shall not deduct and withhold on payments of wages made to A on or after April 20, 2021. Under § 31.3402(f)(4)–1(b), unless A furnishes a new withholding allowance certificate including the certifications described in paragraph (a) of this section to the employer, the employer is required to deduct and withhold upon payments of wages to A made after February 15, 2022.

(2) *Example 2.* Assume the facts are the same as in Example 1 in paragraph (e)(1) of this section except that A had been employed by the employer prior to April 20, 2021, and had furnished the employer a withholding allowance certificate prior to furnishing the withholding allowance certificate including the certifications described in paragraph (a) of this section on April 20, 2021. Under § 31.3402(f)(3)–1(b), the employer would be required to give effect to the new withholding allowance certificate no later than the beginning of the first payroll period ending (or the first payment of wages made without regard to a payroll period) on or after May 20, 2021. However, under § 31.3402(f)(3)–1(b), the employer could, if it chose, make the new withholding allowance certificate effective with respect to any payment of wages made on or after April 20, 2021, and before the effective date mandated by section 3402(f)(3)(B)(i) and § 31.3402(f)(3)–1(b). Under § 31.3402(f)(4)–1(b), unless A furnishes a new withholding allowance certificate including the certifications described in § 31.3402(n)–1(a) to A's employer, the employer is required to deduct and withhold upon payments of wages to A made after February 15, 2022.

(3) *Example 3.* Assume the facts are the same as in Example 1 in paragraph (e)(1) of this section except that for 2020 A has taxable income of $8,000, income tax liability of $839, and income tax withheld of $1,195. Although A received a refund of $356 due to income tax withholding of $1,195, A may not certify on A's withholding allowance certificate that A incurred no liability for income tax imposed by subtitle A for 2020.

(f) *Applicability date.* The provisions of this section apply on and after [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **FEDERAL REGISTER**].

For rules that apply before [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **FEDERAL REGISTER**], see 26 CFR part 31, revised as of March 14, 2019. Under section 7805(b)(7) a taxpayer may choose to apply this section on and after January 1, 2020.

Sunita Lough,

Deputy Commissioner for Services and Enforcement.

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Vol. 85, No. 30

Thursday, February 13, 2020

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FEDERAL REGISTER PAGES AND DATE, FEBRUARY

5903–6022 3
6023–6418 4
6419–6730 5
6731–7190 6
7191–7442 7
7443–7652 10
7653–7852 11
7853–8128 12
8129–8372 13

CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
9983 6698
9984 6709
9985 6715
9986 6717
9987 6719

Executive Orders:
13903 6721
13904 6725

Administrative Orders:
Order of February 10, 2020 8129

Presidential Determinations:
No. 2020–05 of January 6, 2020 6731

5 CFR

Proposed Rules:
532 8205
2641 7252

7 CFR

Ch. I 7443
210 7853
220 7853
226 7853
1464 8131
1471 6419

Proposed Rules:
930 6102
984 7669

10 CFR

Proposed Rules:
Ch. I 6103
429 6102
430 6102
590 7672

12 CFR

204 7855
600 6421
604 6421
622 6023
Ch. X 6733

Proposed Rules:
303 7453
337 7453

13 CFR

103 7622
120 7622
121 7622

Proposed Rules:
119 7254
125 6106
134 7893

14 CFR

25 .....6025, 6026, 6028
39 .....6738, 6741, 6744, 6747, 6749, 6752, 6755, 6757, 7191, 7653, 7655, 7857, 7860, 7863, 7865, 7868, 8145, 8148, 8150, 8153
71 .....6030, 6422, 7192, 7445, 7447, 7871
97 .....7194, 7195

Proposed Rules:
21 5905
39 .....5906, 6107, 6110, 7256, 7894, 7897, 7899, 8207, 8209
71 .....6115, 6118, 7472, 7474, 7681, 8212
382 6448

15 CFR

2013 7448

Proposed Rules:
287 7258
922 8213

17 CFR

201 6270
240 .....6270, 6359

18 CFR

11 6760
40 .....7197, 8155, 8161

Proposed Rules:
40 6831

19 CFR

12 .....7204, 7209, 7214
Ch. I 6044, 7214
351 6031

20 CFR

404 7661
408 7661
416 7661

21 CFR

101 6045
866 7215

Proposed Rules:
573 7682

24 CFR

Proposed Rules:
5 8215
92 8215
578 8215

26 CFR

1 6424
25 6803

Proposed Rules:
31 8344

29 CFR

4001 6046

4006 6046
4010 6046
4041 6046
4043 6046
4233 6046
Proposed Rules:
103 6120

30 CFR

550 7218
553 7218
1241 7221
Proposed Rules:
948 7475

31 CFR

555 7223

32 CFR

1288 6803

33 CFR

1 8169
3 6804
100 ....6428, 6804, 8169
110 8169
117 ....6806, 8173
165 ....6428, 6804, 8169, 8175, 8177
Proposed Rules:
165 ....5909, 5911, 8225

36 CFR

254 8180

37 CFR

Proposed Rules:
1 6476
Ch. III 6121

38 CFR

36 7230
42 7230
Proposed Rules:
9 7683

39 CFR

Proposed Rules:
501 6838

40 CFR

52 ....6430, 6808, 7232, 7449, 8181, 8185
63 6064
70 6431
79 7016
80 7016
272 6810
Proposed Rules:
52 ....6121, 6123, 6125, 6482, 6491, 7262, 7480, 7491, 7494, 7496, 7686, 7692, 7695, 8227, 8229, 8230, 8233, 8240
70 8240
81 6491
174 6129
180 ....6129, 7499, 7698, 7708

41 CFR

102-82 5903

42 CFR

71 7874
414 7666
Proposed Rules:
600 7500

43 CFR

10 8189
Proposed Rules:
2 7515

44 CFR

Proposed Rules:
59 7902
64 7902

45 CFR

1611 8190
Proposed Rules:
146 7088
149 7088
155 7088
156 7088
158 7088
1610 7518
1630 7518

47 CFR

73 7880
Proposed Rules:
2 6841
15 6841
90 6841
95 6841

48 CFR

Proposed Rules:
19 7910
28 7910
32 7910
52 7910
53 7910
804 8242
805 8242
849 8242
852 8242

49 CFR

Ch. XII 6044, 7214
191 8104
192 8104
195 8104
367 8192
380 6088
383 6088
384 6088
Proposed Rules:
192 7162
195 7162

50 CFR

300 ....6101, 8198
622 ....6816, 6819, 6825
635 6828
648 ....6446, 7414, 8199
660 ....7246, 8200
665 7892
Proposed Rules:
10 ....5913, 5915
17 6856
300 6883
648 ....6494, 7520
655 6131
660 6135
665 7521
679 6890

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List February 10, 2020

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