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FEDERAL REGISTER

Vol. 85 Friday,

No. 35 February 21, 2020

Pages 10033–10268

OFFICE OF THE FEDERAL REGISTER

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

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Presidential Documents

Title 3—

The President

Memorandum of January 29, 2020

Delegation of Certain Authority Under the Federal Service Labor-Management Relations Statute

Memorandum for the Secretary of Defense

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. *Policy.* The national security interests of the United States require expedient and efficient decisionmaking. When new missions emerge or existing ones evolve, the Department of Defense requires maximum flexibility to respond to threats to carry out its mission of protecting the American people. This flexibility requires that military and civilian leadership manage their organizations to cultivate a lethal, agile force adaptive to new technologies and posture changes. Where collective bargaining is incompatible with these organizations' missions, the Department of Defense should not be forced to sacrifice its national security mission and, instead, seek relief through third parties and administrative fora.

Sec. 2. *Delegation of Authority to the Secretary of Defense.* (a) The Secretary of Defense (Secretary) is delegated authority under 5 U.S.C. 7103(b)(1) and 7103(b)(2) to issue orders excluding Department of Defense agencies or subdivisions thereof from Federal Service Labor-Management Relations Statute coverage. The Secretary is authorized to further delegate this authority to any official of the Department of Defense appointed by the President with the advice and consent of the Senate.

(b) When making the determination required by 5 U.S.C. 7103(b)(1) or 7103(b)(2), the Secretary or other official delegated this authority pursuant to subsection (a) of this section shall publish this determination in the *Federal Register.*

(c) Any official to whom the Secretary of Defense delegates the authority pursuant to subsection (a) of this section may not further delegate this authority.

(d) For purposes of this memorandum, the term ''Department of Defense agencies or subdivisions'' includes without limitation the military departments.

Sec. 3. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

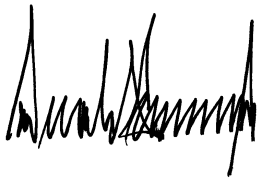
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

You are authorized and directed to publish this memorandum in the *Federal Register.*



THE WHITE HOUSE,
Washington, January 29, 2020

[FR Doc. 2020–03578
Filed 2–20–20; 8:45 am]
Billing code 5001–06–P

Rules and Regulations

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

The Code of Federal Regulations is sold by the Superintendent of Documents.

FARM CREDIT ADMINISTRATION

12 CFR Chapter VI

[NV–20–02]

Oversight of the Federal Agricultural Mortgage Corporation

AGENCY: Farm Credit Administration.

ACTION: Policy statement.

SUMMARY: The Farm Credit Administration (FCA) Board recently approved a new Policy Statement on Oversight of the Federal Agricultural Mortgage Corporation.

DATES: February 21, 2020.

FOR FURTHER INFORMATION CONTACT: Laurie A. Rea, Director, Office of Secondary Market Oversight, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090, (703) 883–4280.

SUPPLEMENTARY INFORMATION: The FCA is responsible for examining, regulating, and supervising the Farm Credit System (FCS or System), which includes Farmer Mac. Good agency governance practices require the FCA Board to establish general strategy and direction to the Office of Secondary Market Oversight (OSMO) for the examination, regulation, and supervision of Farmer Mac. This policy also establishes OSMO's responsibility to implement the annual risk-based examination program, and develop regulations and other guidance, as needed.

The text of the new Policy Statement is set forth below in its entirety. All FCA Board policy statements may be viewed on FCA's website. From *www.fca.gov,* select ''Laws & Regulations,'' then select ''FCA Handbook,'' then select ''FCA Board Policy Statements.''

Oversight of the Federal Agricultural Mortgage Corporation FCA–PS–35

Effective Date: January 16, 2020.

Source of Authority: Sections 5.9, 5.19, 8.1, and 8.11 of the Farm Credit Act of 1971, as amended.

The Farm Credit Administration Board Hereby Adopts the Following Policy Statement: This policy provides the general strategy and direction to the Office of Secondary Market Oversight (OSMO) for the examination, regulation, and supervision of the Federal Agricultural Mortgage Corporation (Farmer Mac or Corporation).

Background

The Farm Credit Administration (FCA or Agency) is an independent Federal agency responsible for examining, regulating, and supervising the Farm Credit System (FCS or System), which includes Farmer Mac. FCA ensures that System institutions and Farmer Mac are safe, sound, and dependable sources of credit and related services for all creditworthy and eligible persons in agriculture and rural America. Farmer Mac is a government-sponsored enterprise with the mission of providing a secondary market for agricultural real estate mortgage loans, rural housing mortgage loans, and rural utility cooperative loans. The duties of the Corporation are defined in Section 8.1(b) of the Farm Credit Act of 1971, as amended (Act).

The OSMO provides for the examination, regulation, and supervision of the activities of Farmer Mac and its affiliates to ensure its safety and soundness and the accomplishment of its public policy purpose as authorized by Congress. OSMO was established by Section 8.11 of the Act and ensures that Farmer Mac complies with applicable laws and regulations, and it manages FCA's enforcement activities with respect to Farmer Mac.

Responsibilities

The OSMO is managed by a full-time Director selected by the FCA Board. The Director is responsible for the examination and supervision of Farmer Mac and its affiliates. The Director plans, organizes, and controls the operations of the OSMO in accordance with the policies and procedures of FCA. The Director oversees the implementation of the annual risk-based examination program, the development of regulations, and the formation of other guidance, as needed. The Director develops guidance to communicate to Farmer Mac regulatory interpretations and expectations for compliance.

The Director implements the FCA Board's strategic goals and objectives related to Farmer Mac, apprises Board members of significant issues, and identifies specialized resources within and outside FCA to address the priorities and activities established in the operating and performance plan. The Director provides appropriate responses to audit reports from the FCA's Inspector General and establishes and maintains internal controls for the OSMO. The Director reports to the FCA Board on policy and rulemaking, and to the Chief Executive Officer, or a Board designate, on office administrative matters.

Risk-Based Examination

Section 8.11(b)(1) and (2) of the Act requires FCA to examine the financial transactions of Farmer Mac no less than once each year. To ensure efficiency and effectiveness, the FCA Board directs a ''risk-based'' approach to the oversight and examination of System institutions, including Farmer Mac.

OSMO oversees and evaluates Farmer Mac on an ongoing basis to timely identify and monitor emerging risks and issues, and to facilitate efficient and effective risk-based examination activities. Pursuant to Section 8.11(a)(2), the Director must consider the reduced levels of risk associated with appropriately structured secondary market transactions. Through its oversight and examination activities, OSMO establishes a supervisory strategy and reporting requirements for effective analysis and evaluation of Farmer Mac's risks and financial performance. Additionally, OSMO ensures that Farmer Mac complies with laws and regulations, and that the Corporation's reports accurately reflect its condition.

In accordance with the risk-based examination approach, OSMO focuses oversight efforts and resources on those areas that could materially impact Farmer Mac's safety and soundness. OSMO determines the scope and depth of examination activities based on current conditions and risk assessments, and uses a wide range of sources to identify areas of risk.

The Director will develop procedures on operating parameters and responsibilities, including a quality assurance review, for the comprehensive annual examination process.

Communications

OSMO will issue an annual communication to Farmer Mac, which identifies risk topics that will be emphasized in ongoing examination, monitoring, and planning activities. OSMO will issue Examination Activity Letters to Farmer Mac to communicate the findings of significant examination activities. At the end of each annual examination cycle, OSMO will issue a Report of Examination.

Financial Institution Rating System

OSMO will use the Financial Institution Rating System (FIRS) as outlined in FCA Board Policy Statement 72 to evaluate and categorize the safety and soundness of Farmer Mac on an ongoing, uniform, and comprehensive basis. Based on the conclusions reached during the examination process and ongoing monitoring activities, OSMO will assign ratings for each component factor and assign a composite rating that reflects the condition and overall safety and soundness of Farmer Mac. The rating will be revised periodically to reflect Farmer Mac's condition. The FIRS analysis provides OSMO with valuable information to assess risk and allocate resources.

Risk-Based Capital

Section 8.32 of the Act directs the Director to establish a risk-based capital stress test (RBCST). The RBCST calculates the amount of regulatory capital for the Corporation that is sufficient to maintain positive working capital during a 10-year period under prescribed credit risk and interest rate risk scenarios. The RBCST estimates credit losses on agricultural mortgages and rural utility loans owned, or under Farmer Mac Standby Commitments, as well as loans serving as collateral for AgVantage bonds (collectively, program volume). The statute also provides that the Director may examine and revise the RBCST. The RBCST results, coupled with other analyses and information, will be used to evaluate Farmer Mac's capital adequacy and long-term resiliency.

Enforcement Level Rating

Section 8.35 of the Act requires the Director to determine and document an enforcement level classification for Farmer Mac ''on not less than a quarterly basis, and as appropriate for a discretionary classification.'' Further, Section 8.35(a) outlines the enforcement levels and directs the following:

Upon determining the Corporation is within Level II or III, the Director shall provide written notice to Congress and the Corporation:

- That the Corporation is within such level;
- that the Corporation is subject to the provisions of section 8.36 or 8.37, as applicable; and
- stating the reasons for the classification of the Corporation within such level.

Supervision and Enforcement Procedures

Section 8.11(a)(1) of the Act authorizes the Director to develop mandatory and discretionary supervision and enforcement procedures for Farmer Mac or its directors, officers, or employees. To the extent possible, the OSMO enforcement procedures will parallel the procedures developed by the Office of Examination. OSMO will identify any necessary distinctions and develop supplemental procedures for Farmer Mac.

If Farmer Mac, or its directors, officers, or employees, is unable or unwilling to address material unsafe and unsound practices, or if there is a serious statutory or regulatory violation, OSMO will pursue an appropriate supervisory or enforcement action.

The Director also has responsibilities under Section 8.37 of the Act for supervisory actions when Farmer Mac is classified as within Level III based on regulatory capital levels.

Regulatory Philosophy

The OSMO will develop regulations consistent with Farmer Mac's role to serve as a secondary market for agricultural credit, and to increase liquidity and lending capacity in the agricultural marketplace. Consistent with FCA Board Policy Statement 62, these regulations will: (1) Be necessary to implement the law; (2) support achieving Farmer Mac's mission; and (3) ensure Farmer Mac's safety and soundness. The regulations will support the secondary market and promote increased availability and affordability of competitive credit.

FCA Staff Assigned to OSMO

Section 8.11(f) of the Act states that the supervision of the powers, functions, and duties of Farmer Mac is to be performed, to the extent practicable, by personnel who are not responsible for the supervision of the System banks and associations. Thus, to safeguard the integrity of the oversight of Farmer Mac from any conflicts of interest that may arise, individuals working on rotational assignments and FCA examiners assigned to the annual Farmer Mac examination must sign OSMO's Conflict-of-Interest Questionnaire form annually.

Assessment

Section 8.11(d) of the Act directs FCA to assess Farmer Mac for the cost of any regulatory activities, including the cost of any examination. The Director, in coordination with the FCA Chief Financial Officer, will establish procedures for the financial assessment of Farmer Mac. The assessment process should consider the agency's resources used to accomplish supervisory and oversight requirements based on the Corporation's size, activities, and risk profile.

Reporting to the FCA Board

Annually, the Director will provide the FCA Board an oversight and examination plan (plan) for approval. This plan will:

- Identify risks affecting Farmer Mac;
- Establish priorities and identify staffing, training, and budgetary needs;
- Include an examination schedule that ensures statutory requirements are met; and
- Include operational objectives and strategies.

The Director will also report on proposed new and amended regulations and implement any necessary follow-up strategies as directed by the FCA Board.

Dated this 16th day of January 2020.

By Order of the Board.

Dale Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2020–01888 Filed 2–20–20; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0399; Product Identifier 2018–NM–149–AD; Amendment 39–19823; AD 2020–03–10]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for The Boeing Company Model 737 series airplanes, except for Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This AD was prompted by reports of separation of the lower aft wing-to-body fairing panel 194E (''fairing panel 194E'') during flight, due to worn or damaged nutplates on the

support structure. This AD requires repetitive inspections for discrepancies of fairing panel 194E, wheel well panel 193D, and support structure, and related investigative and corrective actions if necessary. This AD also requires rework of the panels and support structure, which terminates the repetitive inspections. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 27, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 27, 2020.

ADDRESSES: For service information identified in this final rule, 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–2019–0399.

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–2019–0399; 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: Michael Bumbaugh, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3522; email: *michael.bumbaugh@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to The Boeing Company Model 737 series airplanes, except for Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. The NPRM published in the **Federal Register** on June 19, 2019 (84 FR 28429). The NPRM was prompted by reports of separation of the lower aft wing-to-body fairing panel 194E (''fairing panel 194E'') during flight, due to worn or damaged nutplates on the support structure. In the NPRM, the FAA proposed to require repetitive inspections of fairing panel 194E, wheel well panel 193D, and support structure for discrepancies, and required related investigative and corrective actions if necessary. The NPRM also proposed to require rework of the panels and support structure, which would terminate the repetitive inspections.

The FAA is issuing this AD to address separation of fairing panel 194E.

Comments

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

Support for the NPRM

One individual and United Airlines (United) stated support for the NPRM. United, commenting that they had no records of the unsafe condition, also concurred with the intent of the NPRM. In a subsequent comment submission, United also requested several changes, which are addressed later in this comment disposition.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that accomplishing the Supplemental Type Certificate (STC) ST00830SE, the installation of blended or split scimitar winglets, does not affect the ability to accomplish the actions specified in the NPRM, which affect the lower aft wing-to-body area.

The FAA agrees with the commenter. The FAA has added paragraph (c)(2) to this AD to state that installation of STC ST00830SE does not affect the ability to accomplish the actions required by this final rule. Therefore, for airplanes on which STC ST00830SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request, per 14 CFR 39.17, is not necessary to comply with the requirements of this AD.

Request To Delay Issuance of Final Rule Until Service Information Is Revised

Southwest Airlines (SWA) and Delta Airlines (DAL) asked that the final rule not be issued until a revision of the Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012, has been issued.

SWA stated that the referenced service information should be revised and released to include clarification on the fastener and hardware installation requirements to prevent the potential of overtorquing the fasteners and causing additional damage to the panels and the support structure. SWA noted that the referenced service information provides minimum and maximum torque values, but added that an Aircraft Maintenance Manual (AMM) referenced in the service information provides different torque values, including a higher maximum torque value. SWA added that the referenced service information does not provide an installation torque for the fasteners and nutplate, but stated that Boeing told it to use 29 to 31 in-lb.

The FAA notes that the torque values specified in Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012, must, as a result of this AD, be complied with. When those values contradict the values specified in the AMM referenced in the service information, the torque minimum and maximum specified in Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012, must be used, since it is now mandatory.

SWA also stated that the guidance currently provided in the referenced service information does not include provisions to address the open rivet holes after the removal of the existing nutplates. SWA added that the referenced service information provides guidance for repair of the fairing panel support structure in accordance with structural repair manual (SRM) 53–60–71, but that SRM 53–60–71, Repair 2, specifies installing a repair strap at the damaged nutplate location, which SWA states would interfere with the ability to install the support/plate assemblies at the nutplate locations specified in the referenced service information. SWA concluded that the referenced service information cannot be accomplished without multiple deviations, and requested clarification whether these deviations would require an AMOC.

DAL also stated that paragraph (g)(1) of the proposed AD would require doing a general visual inspection for discrepancies of fairing panel 194E, wheel well panel 193D, and support structure, in accordance with Part 1 and Part 2 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012; however, Part 1 of the referenced service information does not provide any instructions to inspect or

repair the 193D panel, so it would be necessary to request an AMOC.

Regarding DAL's suggestion that the referenced service information does not provide any instructions to inspect or repair the 193D panel, the FAA notes that the torque check specified in figure 1, step 1 of the referenced service information is an inspection of the 193D panel. If any repairs are needed that are not addressed in the referenced service information, operators will need to request an AMOC.

DAL also stated that it has already performed the actions specified in Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012, on three Model C–40A (737–700C military variant) airplanes and found that previous installation of repair parts per SRM 53–60–71 for damage at the nutplates will interfere with parts installed using the instructions provided in the referenced service information. DAL also stated that the referenced service information does not currently take into account that existing repairs on the fairing support structure may inhibit compliance with the service information as written, which will drive the need for AMOCs.

Regarding DAL's comment that the referenced service information does not take into account existing repairs, the FAA notes that an AD cannot predict every change in product that is different than type design; therefore DAL would need to request an AMOC if an existing repair prevented it from accomplishing the actions required by this AD.

The FAA acknowledges the commenters' concerns regarding the need to clarify the service information for the specific scenarios raised and is working with Boeing to address these concerns as soon as possible. If this effort culminates in a global AMOC that is approved by the FAA before the 24-month compliance time for the inspection has passed, and that AMOC addresses all the necessary deviations, commenters and other affected operators would not need to seek a separate AMOC. Therefore, the FAA has added paragraph (j)(1) to this AD to provide operators with information regarding how to address any actions in the service information that cannot be accomplished.

In light of the critical nature of the identified unsafe condition (*i.e.,* the possible separation of the lower aft wing-to-body fairing panel during flight) and the scope of affected airplanes, the FAA does not consider it warranted to delay the issuance of this final rule. If Boeing provides a revision to Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012, the FAA will review it in consideration of an AMOC to this AD or may consider future rulemaking action.

Request To Specify Applicability of a Note in the Service Information

DAL noted that figure 5, sheet 5, of the referenced service information includes note (b), which specifies procedures for installing a panel but is not referenced in the instructions for figure 5, and DAL does not know where that note should be applied.

The FAA clarifies that note (b) in figure 5, sheet 5 applies to steps 8 and 10 of figure 5 in Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012. The FAA has added paragraph (j)(2) of this AD to include this information.

Request To Clarify Cleaning Procedures

SWA and DAL requested that the cleaning procedures in Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012, be clarified. The commenters stated that although the referenced service information refers to cleaning procedures ''CM3'' and ''CM5'' in standard wiring practices manual (SWPM) 20–20–00, those procedures do not exist. SWA added that SWPM 20–20–00, as revised on June 1, 2015, lists what SWA considers to be corresponding cleaning procedures in paragraphs 2.E and 2.C. DAL suggested allowing operators to use standard cleaning procedures.

The FAA does not agree that any standard cleaning procedure would be acceptable, however the FAA agrees to clarify the acceptable cleaning procedures. The FAA has added paragraph (j)(3) to this AD to clarify that where note (a) to figure 5 of Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012 specifies to clean ''per abrasive cleaning method CM5'' and refers to ''SWPM 20–20–00,'' for this AD operators must use ''cleaning procedure 3'' and refer to ''SWPM 20–20–00.'' The FAA has also added paragraph (j)(4) to this AD to clarify that where note (a) to figure 5 of Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012, specifies to clean ''per solvent cleaning method CM3,'' and refers to ''SWPM 20–20–00,'' for this AD operators must use ''cleaning procedure 5'' and refer to ''SWPM 20–20–00.''

Request To Limit Inspection Area for Certain Airplanes

SWA requested that the FAA revise paragraph (g)(2) of the proposed AD such that for line numbers 3533 and subsequent that have not altered the type design since the original airworthiness certificate, the inspection should be limited to an external visual inspection of the panels only. SWA noted that, for those airplanes, the rework to the support structure can be verified based upon the number of attachments on the panels.

The FAA agrees with the commenter's request because, for those airplanes, an equivalent change to the support structure and panels was made in production, and this change can be verified by an external visual inspection. The FAA has revised paragraphs (g)(1) and (2) of the proposed AD and added paragraph (g)(3) to specify that, for airplanes having line numbers 3533 and subsequent that have not altered the type design since the issuance of an original airworthiness certificate or an original export certificate of airworthiness, an external visual inspection of fairing panel 194E and wheel well panel 193D may be used to verify the correct panel configuration, provided it can be determined that fairing panel 194E, wheel well panel 193D, and the support structure have the number and type of attachments specified in the post-reworked configuration of Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012.

Request To Clarify Repairs That Require an AMOC

SWA and DAL commented on the need for an AMOC for repairs to the panel and substructure interface, which are classified as secondary structure.

SWA stated that the subject structure is classified as secondary, non-FCBS (fatigue critical baseline structure) in 737NG SRM 51–00–04, and repairs to the panel and substructure that do not adversely alter the panel to the substructure interface should not require an AMOC to the AD (*i.e.,* as long as the required number and type of fasteners attaching the panel to the substructure remain the same). SWA added that requiring an AMOC would necessitate the original equipment manufacturer (OEM) to generate an FAA Form 8100–9 for a minor repair, which is in conflict with FAA Order 8100–17B and Boeing Service Letter 737–SL–51–041–E.

DAL stated that repairs to AD-related secondary structure per SRM 51–70 are minor repairs (SRM 51–00–04) and should not require an AMOC or additional approvals for any deviations to the SRM repairs. DAL added that repairs to the panel or substructure that do not adversely affect or inhibit the intended function of the modification of the panel-to-substructure interface

should continue to be done in accordance with approved data or data that is acceptable to the Administrator with no additional approval or AMOC required.

The FAA acknowledges the commenters' concerns and infers that the commenters are requesting that the agency clarify the requirements of paragraph (g) of this AD regarding the need for AMOCs. The FAA agrees to clarify this paragraph. Repairs or alterations to the panel that do not interfere with the requirements of this AD will not require an AMOC. The FAA has added paragraph (g)(4) of this AD to specify that repairs that do not affect the number or type of fasteners necessary for the post-reworked configuration may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining an AMOC.

Request To Clarify Certain Procedures in the Referenced Service Information

SWA and DAL asked that Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012, be clarified to define the procedures for panels 194E and 193D that have not been reworked.

SWA stated that the proposed AD does not allow fairing panel 194E or wheel well panel 193D to be installed on any airplane after the effective date of the AD, if the panels have not been reworked. SWA noted that this would prohibit normal maintenance of the panels prior to implementing the terminating action. SWA requested that the proposed AD be revised to add a grace period for normal maintenance of unmodified panels prior to accomplishment of the terminating action. SWA added that the referenced service information does not provide part numbers for the reworked panels, and should be revised in order to control the part number of the modified panels.

DAL stated that the referenced service information should be revised because it does not identify a post-service bulletin part number in order to track and maintain the fairing panel configuration. DAL recommended that it be revised before issuance of the final rule to ensure a separate part number is created for tracking of the attachment configuration. DAL noted that as the proposed AD is currently written, any panel installed after the effective date of the AD will drive immediate full incorporation of the referenced service information. DAL believes that paragraph (i) of the proposed AD would force immediate compliance in the event of non-routine maintenance action or just accomplishment of paragraph (g)(1) of the proposed AD, either of which may not be associated with the identified unsafe condition, although the proposed compliance time for the terminating action is 72 months. The proposed AD would have, at paragraph (i), prohibited installation of fairing panel 194E ''unless fairing panel 194E, wheel well panel 193D, and the support structure have the number and type of attachments specified in the post-reworked configuration of Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012.'' DAL suggested that paragraph (i) be changed to prohibit installation of fairing panel 194E ''unless a general visual inspection for discrepancies has been accomplished on fairing panel 194E, wheel well panel 193D, and the support structure, within the compliance times specified in SB 737–53–1307 Paragraph 1.E.''

The FAA agrees that some clarification is necessary. Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012, already provides a method of identifying modified panels in figure 5, step 9. The FAA has revised paragraph (i) of this AD to include separate requirements for airplanes with an original airworthiness certificate or an original export certificate of airworthiness dated after the effective date of this AD, for airplanes with an original airworthiness certificate or an original export certificate of airworthiness dated before the effective date of this AD, and for airplanes on which the terminating action has been done.

Request To Define Final Configuration of the Panel-to-Substructure

SWA asked that the final configuration of the panel-to-substructure interface be defined in the subject of the proposed AD, rather than referenced in Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012, in its entirety, by the individual configuration of the discrepant panels, or the associated substructure. SWA noted that the subject structure is classified as secondary, non-FCBS in 737NG SRM 51–00–04; therefore, typical repairs given in 737NG SRM 51–70 apply to the panel and the associated substructure. SWA stated that as there is no specific section in the published SRM for the discrepant structure, these typical SRM repairs can be accomplished with no additional approval from the operator or the applicable regulatory body. SWA and DAL both noted that there are no provisions to alert the mechanic that the structure is subject to an AD.

The FAA acknowledges the commenter's concern; however, the agency relies on the referenced service information to define the modification, and operators must ensure that they are meeting all the requirements of any applicable AD. As noted in prior comments, there are a significant number of other SRM repairs or modifications that can be present and alter the final configuration of the support structure or panel. It would be difficult if not impossible to address all possible individual configurations in this AD. Under the provisions of paragraph (k) of this AD, the FAA will consider requests for approval of other SRM repairs or modifications if sufficient data are submitted to substantiate that the change would provide an acceptable level of safety. The AD has not been changed in this regard.

Request To Revise Compliance Time for the Inspections

SWA, DAL, and United asked that the compliance time for the inspections be extended.

United stated that the proposed compliance time of 24 months for the initial general visual inspection, with a repetitive interval of 1,000 flight cycles thereafter, would require operators performing both the inspection and the terminating action in a line environment. United asked that the FAA and Boeing to consider revising the AD and service information to allow an initial detailed visual inspection within 36 months and the repeat inspections every 4,000 flight cycles thereafter, in lieu of the proposed inspection method and compliance times. United noted that this would allow more time to properly schedule the airplanes in a heavy check environment where both the inspection and rework per the referenced service information can be easily accomplished.

DAL stated that a 36-month compliance time for the initial inspection would provide a better opportunity to catch the initial inspection at a C-check (a type of heavy check) and not drive special visits. DAL noted that waiting on approvals if damage is found would cause significant delays.

The FAA does not agree with the commenters' requests to extend the compliance time for the initial and repetitive inspections. In developing an appropriate compliance time for this action, the FAA considered not only the safety implications of the identified unsafe condition, but also the average

utilization rate of the affected fleet, the availability of required parts, and the practical aspect of accomplishing the required inspections within a period of time that corresponds to the normal scheduled maintenance for most affected operators. Further, United did not provide substantiation in support of its request to increase inspection intervals with a detailed visual inspection. The FAA has not changed this AD in this regard.

SWA stated that the inspection specified in paragraph (g) and the terminating action specified in paragraph (h) of the proposed AD require compliance within a calendar time of 24 months and 72 months of the AD effective date, respectively; however, due to the unknown return-to-service (RTS) dates of the Boeing Model 737–8 and –9 (MAX) airplanes, SWA is awaiting delivery of several airplanes. SWA recommended the compliance thresholds be defined based upon total flight cycles, in order to alleviate the concerns regarding the MAX airplanes' RTS.

The FAA does not agree to define the compliance thresholds based on total flight cycles. Consistent with 14 CFR 39.7, no person will be in violation of this AD because the MAX airplanes are not currently operated. The actions required by this AD can be accomplished before the airplanes' RTS. In addition, the actions required by this AD will be accomplished on all new MAX airplanes before delivery. Therefore, this AD has not been changed in this regard.

Request To Change Applicability

Boeing and United asked that the applicability in the proposed AD be changed.

Boeing noted that there is a difference between Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012, and the proposed AD in capturing airplane effectivity. Boeing stated that there may be some instances where operators are rotating parts outside of type design, beyond effectivity limits, or having ''pre-mod'' panels installed on airplane configurations where service bulletins and design changes have already been incorporated. Boeing noted that it understands the FAA's concerns with the possibility of parts being rotated outside the effectivity contained in the referenced service information, and would like to seek an alternative solution to address these FAA concerns. Boeing recommended that it and the FAA collaborate with the company's airline partners, other OEMs, and other Civil Aviation Authorities (CAAs) to develop an action to implement safe, fair, and consistent policy to address the company's concerns on rotable parts for the industry. Boeing concluded that the applicability of the proposed AD extends beyond that specified in the referenced service information, and suggested that rotable parts be addressed separately.

United stated that the proposed airplane effectivity range in the proposed AD falls outside of the effectivity specified in Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012. United added that the specified action is to add airplanes with the new panels already incorporated at the OEM to the current effectivity range given in the referenced service information, for a one-time inspection verification. (The range is for line numbers (L/Ns) 3533 and subsequent with an original airworthiness certificate or an original export certificate of airworthiness dated on or before the effective date of this AD.) United noted that the reason for the inspection verification is that the FAA believes that since these parts are rotable, there is a possibility the older parts could be installed on future airplanes. United respectfully disagreed on this action and requested that the FAA revisit this matter and keep the effectivity range limited to those airplanes identified in the referenced service information. United disagreed with the FAA because even though the subject parts are rotable, United controls and maintains all its interchangeability and installation of these panels through production drawings and aircraft manuals, such as the illustrated parts catalog (IPC), which have always shown the latest up-to-date panels affected for L/Ns 3533 and subsequent. United concluded that to this day, it has never had a parts-departing-airplane (PDA) incident with the subject panels 193D and 194E on any of its Model 737–NG airplanes.

The FAA does not agree to change the applicability. The affected parts are rotable parts, and the FAA has determined that, regardless of operator diligence, these parts could later be installed on airplanes that were initially delivered with acceptable parts, thereby subjecting those airplanes to the unsafe condition. The FAA has not changed this AD in this regard.

Request To Allow the Use of Later Revisions of the Service Information

An individual asked the FAA to modify the AD to allow later revisions of the referenced service information. He said this would ensure that operators are promptly in compliance with obligations and all maintenance is certified to the latest approved version of the maintenance data. The commenter also stated that this would remove the requirement for the proposed AD to be revised to reflect changes in revised service information, and to eliminate the need to request an AMOC to approve the use of the revised service information, again reducing the delay in implementing a revision and reducing the maintenance costs associated with the issuance of an AMOC. The commenter added that the European Union Aviation Safety Agency (EASA) already incorporates the ''or later revision'' statement in any EASA AD. The commenter noted that this would demonstrate a further harmonization of regulatory control.

The FAA does not agree to change the AD to allow the use of later revisions of the service information. The FAA may not require compliance with a document that does not yet exist. In general terms, the FAA is required by Office of the Federal Register (OFR) regulations for approval of materials incorporated by reference, as specified in 1 CFR 51.1(f), to either publish the service document contents as part of the actual AD language; or submit the service documents to the OFR for approval as referenced material, in which case the FAA may only refer to such material in the text of an AD. The AD may refer to the service document only if the OFR approved it for incorporation by reference. See 1 CFR part 51. To allow operators to use later revisions of the referenced document (issued after publication of the final rule), either the FAA must revise the AD to reference specific later revisions, or operators must request approval to use later revisions as an AMOC with this AD under the provisions of paragraph (k) of this AD. The AD has not been changed regarding this issue.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012. This service information describes procedures for repetitive inspections of fairing panel 194E, wheel well panel 193D, and support structure for discrepancies (including incorrect torque at the fasteners and worn and damaged nutplates and fastener holes) and corrective actions (including repair and replacement of nutplates and fasteners). This service information also describes procedures for rework of the panels and support structure, including related investigative actions (general visual inspection of the panel and support structure for damage) and repair, which together would eliminate the need for the repetitive inspections. 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 983 airplanes of U.S. registry. The agency estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	8 work-hours × $85 per hour = $680 per inspection cycle.	$0	$680 per inspection cycle	Up to $668,440 per inspection cycle.
Rework	25 work-hours × $85 per hour = $2,125.	0	$2,125	Up to $2,088,875.

The FAA has received no definitive data that would enable the agency to provide cost estimates for the on-condition repairs specified in this 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

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):

2020–03–10 The Boeing Company: Amendment 39–19835; Docket No. FAA–2019–0399; Product Identifier 2018–NM–149–AD.

(a) Effective Date

This AD is effective March 27, 2020.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to all The Boeing Company Model 737 series airplanes, certificated in any category, except for Model 737–100, –200, –200C, –300, –400, and –500 series airplanes.

(2) Installation of Supplemental Type Certificate (STC) ST00830SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST00830SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request, per 14 CFR 39.17, is not necessary to comply with the requirements of this AD.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of separation of lower aft wing-to-body fairing panel 194E (''fairing panel 194E'') during flight, due to worn or damaged nutplates on wheel well panel 193D and support structure. The FAA is issuing this AD to address separation of fairing panel 194E.

(f) Compliance

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

(g) Repetitive Inspections and Corrective Actions

(1) For airplanes with an original airworthiness certificate or an original export certificate of airworthiness dated on or before the effective date of this AD, except as specified in paragraph (g)(2) of this AD: Within 24 months after the effective date of this AD, do a general visual inspection for discrepancies of fairing panel 194E, wheel well panel 193D, and support structure, and do all applicable related investigative and corrective actions, in accordance with Part 1 and Part 2 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012. All applicable related investigative and corrective actions must be done before further flight. Repeat the inspection thereafter at intervals not to exceed 1,000 flight cycles.

(2) For airplanes having line numbers 3533 and subsequent that have not altered the type design since the issuance of an original airworthiness certificate or an original export certificate of airworthiness, an external visual inspection of fairing panel 194E and wheel

well panel 193D may be used to verify the correct panel configuration, provided it can be determined that fairing panel 194E, wheel well panel 193D, and the support structure have the number and type of attachments specified in the post-reworked configuration of Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012. If the external inspection shows that fairing panel 194E, wheel well panel 193D, and the support structure have the number and type of attachments specified in the post-reworked configuration of Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012, then the repetitive inspections required by paragraph (g)(1) of this AD are terminated.

(3) For airplanes having line numbers 3533 and subsequent with an original airworthiness certificate or an original export certificate of airworthiness dated on or before the effective date of this AD: If the initial inspection required by paragraph (g)(1) of this AD shows that fairing panel 194E, wheel well panel 193D, and the support structure have the number and type of attachments specified in the post-reworked configuration of Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012, then the repetitive inspections required by paragraph (g)(1) of this AD are terminated. The requirements of paragraph (i) of this AD continue to apply.

(4) Repairs to fairing panel 194E, wheel well panel 193D, or the support structure that do not affect the number or type of fasteners necessary for the post-reworked configuration 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 remaining requirements can be done and the airplane can be put back in an airworthy condition.

(h) Terminating Action

For airplanes with an original airworthiness certificate or an original export certificate of airworthiness dated on or before the effective date of this AD: Within 72 months after the effective date of this AD, do the actions required by paragraph (h)(1) or (2) of this AD, as applicable. Accomplishing the actions in paragraph (h)(1) or (2) of this AD terminates the repetitive inspections required by paragraph (g)(1) of this AD. The requirements of paragraph (i) of this AD continue to apply.

(1) Rework fairing panel 194E, wheel well panel 193D, and the support structure, including accomplishment of all applicable related investigative actions and repair, in accordance with Part 3 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012. All applicable related investigative actions and repairs must be done before further flight.

(2) Verify that fairing panel 194E, wheel well panel 193D, and the support structure have the number and type of attachments specified in the post-reworked configuration of Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012.

(i) Parts Installation Limitations

(1) For airplanes with an original airworthiness certificate or an original export certificate of airworthiness dated after the effective date of this AD: As of the effective date of this AD, no person may install a fairing panel 194E on any airplane identified in paragraph (c) of this AD, unless fairing panel 194E, wheel well panel 193D, and the support structure have the number and type of attachments specified in the post-reworked configuration of Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012.

(2) For airplanes with an original airworthiness certificate or an original export certificate of airworthiness dated on or before the effective date of this AD: As of the effective date of this AD, a fairing panel l94E with or without the post-reworked configuration may be installed on any airplane, provided that the repetitive inspections and all applicable related investigative and corrective actions required by paragraph (g)(1) of this AD are accomplished.

(3) For airplanes on which the terminating action required by paragraph (h) of this AD has been done: As of the effective date of this AD, no person may install a fairing panel 194E on any airplane identified in paragraph (c) of this AD unless fairing panel 194E, wheel well panel 193D and the support structure have the number and type of attachments specified in the post-reworked configuration of Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012.

(j) Exceptions to Service Information Specifications

(1) If any action(s) in Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012, cannot be accomplished as specified therein, those action(s) must be accomplished using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(2) Where figure 5 of Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012, includes note (b), but does not specify what steps that note applies to, for this AD, apply note (b) to steps 8 and 10 of figure 5 of Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012.

(3) Where note (a) to figure 5 of Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012, specifies to clean ''per abrasive cleaning method CM5'' and refers to ''SWPM 20–20–00,'' for this AD use ''cleaning procedure 3'' and refer to ''SWPM 20–20–00.''

(4) Where note (a) to figure 5 of Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012, specifies to clean ''per solvent cleaning method CM3,'' and refers to ''SWPM 20–20–00,'' for this AD use ''cleaning procedure 5'' and refer to ''SWPM 20–20–00.''

(k) 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 (l) 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.

(l) Related Information

For more information about this AD, contact Michael Bumbaugh, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3522; email: *michael.bumbaugh@faa.gov.*

(m) 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) Boeing Special Attention Service Bulletin 737–53–1307, dated January 12, 2012.

(ii) [Reserved]

(3) 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.*

(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 February 4, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–03427 Filed 2–20–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0156; Product Identifier 2019–CE–053–AD; Amendment 39–21029; AD 2020–03–16]

RIN 2120–AA64

Airworthiness Directives; Textron Aviation Inc. (Type Certificate Previously Held by Cessna Aircraft Company)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Textron Aviation Inc. (Textron) (type certificate previously held by Cessna Aircraft Company) Models 210G, T210G, 210H, T210H, 210J, T210J, 210K, T210K, 210L, T210L, 210M, and T210M airplanes. This AD requires visual and eddy current inspections of the carry-thru spar lower cap, corrective action if necessary, application of a protective coating and corrosion inhibiting compound (CIC), and reporting the inspection results to the FAA. This AD was prompted by the in-flight break-up of a Model T210M airplane in Australia, due to fatigue cracking that initiated at a corrosion pit, and subsequent reports of other Model 210-series airplanes with widespread and severe corrosion. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 9, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 9, 2020.

The FAA must receive comments on this AD by April 6, 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 Textron Aviation Inc. One Cessna Boulevard, Wichita, Kansas 67215; phone: (316) 517–6061; email: *structures@txtav.com;* internet: *https://support.cessna.com.* 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–2020–0156.

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–2020–0156; 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: Bobbie Kroetch, Aerospace Engineer, Wichita ACO Branch, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4155; fax: (316) 946–4107; email: *bobbie.kroetch@faa.gov* or *Wichita-COS@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA received a report that, on May 26, 2019, a Textron Model T210M airplane experienced an in-flight break-up while performing low-altitude aerial survey operations in Australia. The carry-thru spar failed and resulted in wing separation and loss of control of the airplane. A visual examination of the fracture surface identified fatigue cracking that initiated at a corrosion pit. The FAA issued an airworthiness concern sheet (ACS) on June 27, 2019, advising owners and operators of the accident and requesting relevant information about the fleet.

Following the ACS, the FAA received reports of widespread and severe corrosion of the carry-thru spar on Models 210G, T210G, 210H, T210H, 210J, T210J, 210K, T210K, 210L, T210L, 210M, and T210M airplanes. Further investigation identified that these early model airplanes were manufactured without corrosion protection or primer, increasing their susceptibility to corrosion. Additionally, the design of these early model airplanes, where the upper surface of the spar is exposed to the environment, allows a pathway for moisture intrusion. Model 210-series airplanes were also delivered with foam installed along the carry-thru spar lower cap. The foam traps moisture against the lower surface of the carry-thru spar cap, which can increase the development of corrosion.

Corrosion of the carry-thru spar lower cap can lead to fatigue cracking or reduced structural strength of the carry-thru spar, which could result in separation of the wing and loss of airplane control. 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 Textron Aviation Mandatory Single Engine Service Letter SEL–57–08, Revision 1, dated November 19, 2019 (SEL–57–08 R1). This service information contains instructions for visually inspecting the carry-thru spar for corrosion, damage, and cracks and for completing an eddy current inspection. This service information also specifies applying protective coating and CIC.

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 reviewed Textron Aviation Mandatory Single Engine Service Letter SEL–57–08, dated November 1, 2019, which contains the same instructions and repair criteria as SEL–57–08 R1.

The FAA also reviewed Textron Aviation Mandatory Single Engine Service Letter SEL–57–06, dated June 24, 2019, and Textron Aviation Mandatory Single Engine Service Letter SEL–57–06, Revision 1, dated November 19, 2019. This service information contains instructions for visually inspecting the carry-thru spar for corrosion and doing an eddy current inspection of the carry-thru spar regardless of whether corrosion is found and removed. This service information also contains instructions for applying CIC, but does not specify applying protective coating.

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 accomplishing the actions specified in SEL–57–08 R1 with the exception of the differences discussed in the Differences Between the AD and the Service Information section located below. This AD also requires reporting the inspection results to the FAA by email at *Wichita-COS@faa.gov.*

Differences Between the AD and the Service Information

- Although Textron SEL–57–08 R1 also applies to Models 210N, P210N, T210N, 210R, P210R, and T210R airplanes, this AD does not. Models 210N, P210N, T210N, 210R, P210R, and T210R airplanes were manufactured with corrosion protection. While the spars on these models are subject to corrosion, the reports the FAA has received indicate the corrosion is not as widespread or severe as on the earlier models manufactured without corrosion protection. Therefore, the FAA has determined to not include Models 210N, P210N, T210N, 210R, P210R, and T210R airplanes in this immediate AD action; however, the FAA may take AD action that applies to these models in the future.
- Textron SEL–57–08 R1 allows up to 12 months to comply with the actions in the service letter. Due to the widespread and severe corrosion affecting a substantial number of airplanes, this AD requires compliance no later than 60 days after the effective date of this AD.
- Textron SEL–57–08 R1 specifies inspecting all interior surfaces of the carry-thru spar, while this AD only requires inspecting the carry-thru spar lower cap, including the lower surface, edge, and upper surface of the lower cap. While the web and upper cap of the carry-thru spar may be susceptible to corrosion, evidence does not support including inspection of these areas as part of this AD. The FAA will continue to monitor reports of corrosion on all areas of the carry-thru spar for potential future action.
- Textron SEL–57–08 R1 does not require an eddy current inspection on the carry-thru spar unless the amount of material removed in the blended area exceeds 0.010 inch deep but is within limits. This AD requires eddy current inspection of all locations on the carry-thru spar where corrosion was removed. The fatigue crack on the Model T210M airplane that suffered the in-flight break-up initiated from a corrosion pit approximately 0.011 inch deep in the lower cap kick area. The less restrictive eddy current inspection requirements specified in SEL–57–08 R1 could potentially miss similar fatigue cracks on airplanes currently operating in the field.
- Textron SEL–57–08 R1 only requires an eddy current inspection of the lower cap kick of the carry-thru spar if corrosion is identified on the carry-thru spar cap. This AD requires a one-time eddy current inspection of the lower cap kick area of all affected airplanes, regardless of the results of the visual inspection. The fatigue crack on the Model T210M airplane that suffered the in-flight break-up initiated in the lower cap kick area. Cracks and corrosion damage may be difficult to identify through visual inspection alone. The FAA will use the results of the one-time eddy current inspection of the lower cap kick area, in part, to determine the necessity of future rulemaking action.
- Textron SEL–57–08 R1 specifies contacting Textron for evaluation and disposition of certain damage. Instead, this AD requires removing the carry-thru spar from service or repairing it (if possible) in accordance with the AMOC procedures identified in paragraph (o) of this AD. Operators should work with Textron to develop a repair in support of an AMOC request.
- Textron SEL–57–08 R1 provides instruction allowing airplanes that have complied with SEL–57–06 to complete the application of the protective coating and CIC within 200 flight hours or at the next annual inspection, whichever occurs first. This AD permits those airplanes that have complied with the visual and eddy current inspections in SEL–57–06, as required in paragraphs (g) and (h) of this AD, to complete the application of the protective coating and CIC within 12 months from the date of the visual and eddy current inspections.

Interim Action

The FAA considers this AD interim action. This AD requires a one-time visual inspection of specified areas on the carry-thru spar lower cap and an eddy current inspection of the lower cap kick area and any locations where corrosion was removed. This AD also requires reporting the inspection results to the FAA. The FAA will analyze the inspection results received to determine further rulemaking action.

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 of a severe and widespread corrosion issue affecting the carry-thru spar lower cap on some Textron Model 210-series airplanes. As of January 29, 2020, Textron has received 194 inspection reports on Models 210G, T210G, 210H, T210H, 210J, T210J, 210K, T210K, 210L, T210L, 210M, and T210M airplanes. Of these 194 reports, 96 airplanes have reported corrosion (49 percent) with 18 of those reports (9 percent) resulting in removing the carry-thru spar from service. The corrosion observed included several instances of exfoliation corrosion and stress corrosion cracking. The FAA has determined that the large number of corrosion reports and the severity of the corrosion identified on a critical single load path part necessitate issuance of an immediately adopted rule. If the corrosion initiates a fatigue crack or affects the carry-thru spar's ability to support the required structural loads, the airplane may suffer a catastrophic failure. 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 the Docket Number FAA–2020–0156 and Product Identifier 2019–CE–053–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 the FAA 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 the FAA receives about this final rule.

Costs of Compliance

The FAA estimates that this AD affects 1,520 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
Inspections (includes part removal for access, removal of foam, visual inspection, eddy current inspection of the cap kick area, application of primer and corrosion inhibitor and reassembly).	15.5 work-hours × $85 per hour = $1,317.50	$340	$1,657.50	$2,519,400
Report of inspection results	2 work-hours × $85 per hour = $170	Not applicable	170	258,400

The FAA estimates the following costs to do any necessary repairs based on the results of the inspection. The FAA has no way of determining the number of airplanes that might need these repairs:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Corrosion removal	2 work-hours × $85 per hour = $170	Not applicable	$170
On-condition eddy current inspection	1 work-hour × $85 per hour = $85	Not applicable	85
Spar replacement	160 work-hours × $85 per hour = $13,600	$30,000	43,600

The amount of work-hours necessary to complete the eddy current inspection and remove the corrosion will depend on the extent of the corrosion on the spar. The FAA has no way of estimating the work-hours that may be required for those procedures. The FAA's cost estimate assumes a minimum of one hour for the eddy current inspection and two hours for the corrosion removal. Replacement spars are not currently available from Textron. Textron no longer produces the current spar design, and they are working to develop a new spar design. The FAA does not have data to determine the availability of replacement spars from other sources.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

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 Flexibility Act

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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):

2020–03–16 Textron Aviation Inc. (type certificate previously held by Cessna Aircraft Company): Amendment 39–21029; Docket No. FAA–2020–0156; Product Identifier 2019–CE–053–AD.

(a) Effective Date

This AD is effective March 9, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Textron Aviation Inc. (type certificate previously held by Cessna Aircraft Company) Models 210G, T210G, 210H, T210H, 210J, T210J, 210K, T210K, 210L, T210L, 210M, and T210M airplanes, all serial numbers, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 5310, Fuselage Main, Structure.

(e) Unsafe Condition

This AD was prompted by the in-flight break-up of a Model T210M airplane due to fatigue cracking of the carry-thru spar that initiated at a corrosion pit and subsequent reports of other Model 210-series airplanes with widespread and severe corrosion. The FAA is issuing this AD to detect and correct cracks, corrosion, and other damage of the carry-thru spar lower cap, which, if not corrected, could lead to the carry-thru spar being unable to support the required structural loads and could result in separation of the wing and loss of airplane control.

(f) Compliance

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

(g) Visual Inspection

Within 60 days after March 9, 2020 (the effective date of this AD) or within the next 20 hours time-in-service (TIS) after March 9, 2020 (the effective date of this AD), whichever occurs first, prepare the carry-thru spar lower cap for inspection by following steps 4 and 5 of the Accomplishment Instructions in Textron Aviation Mandatory Single Engine Service Letter SEL–57–08, Revision 1, dated November 19, 2019 (SEL–57–08 R1). Visually inspect the carry-thru spar lower cap (including the lower surface, upper surface, and edge) with a 10X magnification lens looking for corrosion, cracks, and damage. You are not required to inspect the lower cap to web radius, spar web, or upper cap. Refer to the 'Spar Dimensions' figure on page 6 and the 'Spar Detail' figure on page 7 of SEL–57–08 R1 for the location of the specific spar features.

(1) If there is a crack, before further flight, remove the carry-thru spar from service.

(2) If there is damage or evidence of previous removal of corrosion (blending), before further flight, either remove the carry-thru spar from service or repair the area using a method approved as specified in paragraph (o) of this AD. Comply with the requirements in paragraph (h) of this AD before further flight.

(3) If there is any corrosion, before further flight, remove the corrosion in the affected area by following steps 6.B.(1) through (7) of the Accomplishment Instructions in SEL–57–08 R1 and then mechanically measure the depth of the blended area using a straight edge and feeler gauge or a depth gauge micrometer.

(i) If the material removed in the blended area exceeds the allowable blend limits specified in table 1 (including the notes) of SEL–57–08 R1, before further flight, either remove the carry-thru spar from service or repair the area using a method approved as specified in paragraph (o) of this AD. Comply with the requirements in paragraph (h) of this AD before further flight.

(ii) If the material removed in the blended area does not exceed the allowable blend limits specified in table 1 (including the notes) of SEL–57–08 R1, comply with the requirements in paragraph (h) of this AD before further flight.

(4) If the visual inspection did not detect corrosion, cracks, or damage and there is no evidence of previous removal of corrosion, comply with the requirements in paragraph (h) of this AD before further flight.

(h) Eddy Current Inspection

(1) Complete an eddy current inspection of the carry-thru spar lower cap for cracks, corrosions, and damage in the following areas in accordance with step 7 of the Accomplishment Instructions in SEL–57–08 R1.

(i) The kick area as depicted in the 'Spar Dimensions' figure on page 6 of SEL–57–08 R1. You must complete an eddy current inspection of the lower cap kick area of your airplane regardless of whether corrosion was found as a result of the visual inspection in paragraph (g) of this AD.

(ii) All areas where corrosion was found and removed as a result of the inspection in paragraph (g) of this AD.

(2) If there is a crack, before further flight, remove the carry-thru spar from service.

(3) If there is any damage, before further flight, either remove the carry-thru spar from service or repair the area using a method approved as specified in paragraph (o) of this AD. After completing the repair, repeat the eddy current inspection of the repaired area before further flight.

(4) If there is any corrosion, before further flight, remove the corrosion by following the requirements in paragraph (g)(3) of this AD. You must repeat the eddy current inspection and comply with paragraph (h) of this AD for the area where the additional material was removed, but you do not have to repeat the eddy current inspection of the kick area.

(i) Corrosion Protection

Before further flight after completing the eddy current inspection in paragraph (h) of this AD, apply protective coating and corrosion inhibiting compound (CIC) by following steps 9 and 10 of the Accomplishment Instructions in SEL–57–08 R1.

(j) Installation Prohibition

As of March 9, 2020 (the effective date of this AD), do not install on any airplane a carry-thru spar unless it has been inspected as required by paragraphs (g) and (h) of this AD and corrosion protection applied as required by paragraph (i).

(k) Reporting Requirement

Within 10 days after completing the inspections required by this AD or within 10 days after March 9, 2020 (the effective date of this AD), whichever occurs later, report to the FAA by email (*Wichita-COS@faa.gov*) all information requested in the Carry-Thru Spar Inspection Report Attachment to SEL–57–08 R1.

(l) Credit for Previous Actions

(1) You may take credit for the visual inspection required by paragraph (g) of this AD if you performed the visual inspection before March 9, 2020 (the effective date of this AD) using Textron Aviation Mandatory Single Engine Service Letter SEL–57–08, dated November 1, 2019 (SEL–57–08); Textron Aviation Mandatory Single Engine Service Letter SEL–57–06, dated June 24, 2019 (SEL–57–06); or Textron Aviation Mandatory Single Engine Service Letter SEL–57–06, Revision 1, dated November 19, 2019 (SEL–57–06 R1).

(2) You may take credit for the eddy current inspection of the lower cap kick area and all locations where corrosion was removed on the carry-thru spar lower cap as specified in paragraph (h) of this AD if you performed the eddy current inspection before March 9, 2020 (the effective date of this AD) using SEL–57–08, SEL–57–06, or SEL–57–06 R1.

(3) You may take credit for the corrosion protection required by paragraph (i) of this AD if you performed those actions before March 9, 2020 (the effective date of this AD) using SEL–57–08.

(4) If you can take credit for the visual and eddy current inspections as specified in paragraphs (l)(1) and (2) of this AD but you did not apply protective coating and CIC to the spar, you must apply protective coating and CIC by following steps 9 and 10 of the Accomplishment Instructions in Textron SEL–57–08 R1 within 12 months after the date you completed the visual and eddy current inspections.

(5) To take credit for any previous action, you must have provided a completed Carry-Thru Spar Inspection Report, an attachment to Textron SEL–57–06, Textron SEL–57–06 R1, or Textron SEL–57–08 to Textron Aviation Inc. before March 9, 2020 (the effective date of this AD), or you must comply with paragraph (k) of this AD within 10 days after March 9, 2020 (the effective date of this AD).

(m) Special Flight Permit

Special flight permits are prohibited.

(n) Paperwork Reduction Act Burden Statement

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information. All responses to this collection

of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

(o) Alternative Methods of Compliance (AMOCs)

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

(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 a Textron Aviation, Inc. Unit Member (UM) of the Textron Organization Designation Authorization (ODA), that has been authorized by the Manager, Wichita ACO Branch, to make those findings. To be approved, the repair, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(p) Related Information

For more information about this AD, contact Bobbie Kroetch, Aerospace Engineer, Wichita ACO Branch, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4155; fax: (316) 946–4107; email: *bobbie.kroetch@faa.gov* or *Wichita-COS@faa.gov.*

(q) 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) Textron Aviation Mandatory Service Letter SEL–57–08, Revision 1, dated November 19, 2019.

(ii) [Reserved]

(3) For the service information identified in this AD, contact Textron Aviation Inc., One Cessna Boulevard, Wichita, Kansas 67215, phone: (316) 517–6061; email: *structures@txtav.com;* internet: *https://support.cessna.com.*

(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 February 13, 2020.

Lance T. Gant,

Aircraft Certification Service, Director, Compliance and Airworthiness Division, AIR–700.

[FR Doc. 2020–03276 Filed 2–20–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0596; Project Identifier 2019–NE–22–AD; Amendment 39–21101; AD 2020–04–01]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Pratt & Whitney (PW) PW1519G, PW1521G, PW1521GA, PW1524G, PW1525G, PW1521G–3, PW1524G–3, PW1525G–3, PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A model turbofan engines. This AD was prompted by reports of in-flight shutdowns due to oil leaking from the connection between the LP10 oil supply tube and the fuel oil cooler (FOC). This AD requires initial and repetitive gap inspections of the LP10 oil supply tube and the FOC and, if a gap is found, replacement of these parts. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 27, 2020.

ADDRESSES: For service information identified in this final rule, contact Pratt & Whitney, 400 Main Street, East Hartford, CT 06118; phone: 800–565–0140; fax: 860–565–5442; email: *help24@pw.utc.com;* internet: *http://fleetcare.pw.utc.com.* You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0596.

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–2019–0596; 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: Kevin M. Clark, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7088; fax: 781–238–7199; email: *kevin.m.clark@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all PW PW1519G, PW1521G, PW1521GA, PW1524G, PW1525G, PW1521G–3, PW1524G–3, PW1525G–3, PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A model turbofan engines. The NPRM published in the **Federal Register** on September 10, 2019 (84 FR 47455). The NPRM was prompted by reports of in-flight shutdowns due to oil leaking from the connection between the LP10 oil supply tube and the FOC. The NPRM proposed to require initial and repetitive gap inspections of the LP10 oil supply tube and the FOC and, if a gap is found, replacement of these parts. This AD further requires removal of these parts at the next engine shop visit. The FAA is issuing this AD to address the unsafe condition on these products.

Comments

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

Request To Correct Service Bulletin (SB) References

The European Union Aviation Safety Agency (EASA) commented that the PW SBs referenced in the NPRM are missing the letter ''G'' and requested that these references be corrected. EASA added that it might be useful to specify the PW SB PW1000G–A–79–00–0011–00A–930A–D is at Issue No: 6. EASA also

requested that the FAA place copies of the referenced SBs in the docket to facilitate review of the NPRM.

The FAA agrees to revise the SB references as requested by EASA. The FAA placed the referenced SBs in the docket.

Request To Revise Compliance

Swiss International Air Lines Ltd. (Swiss Air) requested that the FAA add to paragraph (i) of this AD that inspections performed prior to the effective date of this AD and done in accordance with PW SB PW1000G–A–79–00–0012–00A–930A–D, dated January 25, 2019, are considered as initial compliance per paragraph (g) of this AD. Swiss Air explained that this change would allow operators to continue with the already ongoing inspection campaign. Otherwise, according to Swiss Air, an engine inspected the day before the AD becomes effective will require a new inspection within 300 engine flight cycles. This places an extra burden on operators with no significant benefit to safety.

The FAA disagrees with revising paragraph (i) of this AD because inspections performed in accordance with the referenced PW SB meet the requirements of paragraph (g) of this AD. In addition, per paragraph (f) of this AD, inspections completed in accordance with this AD before its effective date meet the requirement of ''already done.''

Support for the NPRM

The Air Line Pilots Association International expressed support for the NPRM as written.

Conclusion

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

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

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

Related Service Information

The FAA reviewed PW SB PW SB PW1000G–A–79–00–0004–00B–930A–D, Issue No: 6, dated March 20, 2019, and PW SB PW1000G–A–79–00–0011–00A–930A–D, Issue No: 6, dated March 20, 2019. PW SB PW1000G–A–79–00–0004–00B–930A–D describes procedures for modification or replacement of the FOC on PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A model turbofan engines. PW SB PW1000G–A–79–00–0011–00A–930A–D describes procedures for modification or replacement of the FOCs on PW1519G, PW1521G, PW1521GA, PW1521G–3, PW1524G, PW1524G–3, PW1525G, and PW1525G–3 model turbofan engines.

The FAA also reviewed PW SB PW SB PW1000G–A–79–00–0005–00B–930A–D, Issue No: 3, dated January 25, 2019; PW SB PW1000G–A–79–00–0012–00A–930A–D, Issue No: 3, dated January 25, 2019; PW SB PW1000G–A–79–00–0007–00B–930A–D, Issue No: 001, dated March 29, 2019, and PW SB PW1000G–A–79–00–0013–00A–930A–D, Issue No: 001, dated March 29, 2019. These SBs describe procedures for inspections of the FOC for gaps as well as replacement of the FOC and the LP10 oil supply tube to prevent oil leaks.

Costs of Compliance

The FAA estimates that this AD affects 18 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Perform gap inspection	2 work-hours × $85 per hour = $170	$0	$170	$3,060
Replace FOC	5 work-hours × $85 per hour = $425	69,000	69,425	1,249,650
Replace LP 10 line	2.5 work-hours × $85 per hour = $212.50	1,125	1,337.50	24,075

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

(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):

2020–04–01 Pratt & Whitney: Amendment 39–21101; Docket No. FAA–2019–0596; Project Identifier 2019–NE–22–AD.

(a) Effective Date

This AD is effective March 27, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Pratt & Whitney (PW) PW1519G, PW1521G, PW1521GA, PW1524G, PW1525G, PW1521G–3, PW1524G–3, PW1525G–3, PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A model turbofan engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7261, Turbine Engine Oil System.

(e) Unsafe Condition

This AD was prompted by reports of two in-flight shutdowns due to oil leaking from the connection between the LP10 oil supply tube and the fuel oil cooler (FOC). The FAA is issuing this AD to prevent failure of the LP10 oil supply tube, engine fire and damage to the airplane. The unsafe condition, if not addressed, could result in engine fire and damage to the airplane.

(f) Compliance

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

(g) Required Actions

(1) Within 300 engine cycles from the effective date of this AD, perform an initial gap inspection with a 0.001 inch feeler gauge between the LP10 oil supply tube, part number (P/N) 5312624–01, and the FOC, P/N 5306769.

(i) If any gap is found, remove the LP10 oil supply tube and the FOC and replace with parts eligible for installation prior to further flight.

(ii) If no gap is found, repeat this inspection every 850 engine cycles since the previous inspection.

(2) At the next shop visit after the effective date of this AD, remove the LP10 oil supply tube, P/N 5312624–01, and the FOC, P/N 5306769, and replace with parts eligible for installation.

(h) Terminating Action

Removal of the affected LP10 oil supply tube and the FOC per the requirements of paragraphs (g)(1)(i) or (g)(2) of this AD constitutes terminating action for the inspections required by paragraph (g)(1) of this AD.

(i) Definition

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

(2) For the purpose of this AD, an LP10 tube eligible for installation is any LP10 tube with a P/N other than P/N 5312624–01.

(3) For the purpose of this AD, an FOC eligible for installation is one with a P/N other than P/N 5306769 or an FOC modified per PW SB PW1000G–A–79–00–0004–00B–930A–D or PW SB PW1000G–A–79–00–0011–00A–930A–D, both Issue No: 006, and both dated March 20, 2019.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Related Information

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

(l) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on February 13, 2020.

Robert J. Ganley,

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

[FR Doc. 2020–03329 Filed 2–20–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0811; Airspace Docket No. 17–ANM–36]

RIN 2120–AA66

Establishment of Class E Airspace; Alpine, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet or more above the surface of the earth at Alpine Airport, Alpine, WY. The first area extends upward from 700 feet above the surface and a second area extends upward from 1,200 feet above the surface. The airspace is designed to accommodate new IFR area navigation (RNAV) approaches and IFR departure procedures at the airport, supporting the airport's transition from VFR to IFR operations

DATES: Effective 0901 UTC, May 21, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov//air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11D at NARA, email *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Matthew Van Der Wal, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–3695.

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 establish Class E airspace at Alpine Airport, Alpine, WY, to ensure the safety and management of Instrument Flight Rules (IFR) operations at the airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (84 FR 67383; December 10, 2019) for Docket No. FAA–2019–0811 to establish Class E airspace at Alpine Airport, Alpine, WY. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received. The commenter recommended the airport should be decommissioned. The comment is not germane to the establishment of airspace to contain IFR procedures.

Class E5 airspace designations are published in paragraph 6005 of FAA Order 7400.11D, dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order 7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11D lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 establishing Class E airspace extending upward from 700 feet or more above the surface at the Alpine Airport, Alpine, WY. The Class E airspace supports the airport's transition from VFR to IFR operations. Specifically, it will, to the extent possible, contain IFR departures until reaching 1,200 feet above the surface and IFR arrivals when descending below 1,500 feet above the surface.

The first airspace area extends upward from 700 feet above the surface within a 4.0-mile radius to the airport, and within 1 mile each side of the 179° bearing from the airport, extending from the 4.0-mile radius to 5.8 south of the airport, and within 1.8 miles each side of the 321° bearing from the airport, extending from the 4.0-mile radius to 10.5 miles northwest of the airport.

The second airspace area extends upward from 1,200 feet above the surface within a 13-mile radius of the airport.

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 regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ANM WY E5 Alpine, WY [New]

Alpine Airport, WY
(Lat. 43°10′55″ N, long. 111°02′19″ W)

That airspace extending upward from 700 feet above the surface within a 4.0-mile radius of the airport, and within 1 mile each side of the 179° bearing from the airport, extending from the 4.0-mile radius to 5.8 miles south of the airport, and 1.8 miles each side of the 321° bearing from the airport, extending from the 4.0-mile radius to 10.5 miles northwest of the airport; and that airspace extending upward from 1,200 feet above the surface within a 13-mile radius of the Alpine Airport.

Issued in Seattle, Washington, on February 12, 2020.

Shawn M. Kozica,

Group Manager, Western Service Center Operations Support Group.

[FR Doc. 2020–03471 Filed 2–20–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0908; Airspace Docket No. 19–ASW–14]

RIN 2120–AA66

Amendment of Class E Airspace; Shawnee, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace extending upward from 700

feet above the surface at Chandler Regional Airport, Chandler, OK, and Cushing Municipal Airport, Cushing, OK, which are contained within the Shawnee, OK, airspace legal description. This action is due to an airspace review caused by the decommissioning of the Tilghman and Cushing non-directional beacons (NDB), which provided navigation information for the instrument procedures at these airports.

DATES: Effective 0901 UTC, May 21, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11D at NARA, email *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the Class E airspace extending upward from 700 feet above the surface at Chandler Regional Airport, Chandler, OK, and Cushing Municipal Airport, Cushing, OK, which are contained within the Shawnee, OK, airspace legal description, to support instrument flight rule operations at these airports.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (84 FR 67880; December 12, 2019) for Docket No. FAA–2019–0908 to amend Class E airspace extending upward from 700 feet above the surface at Chandler Regional Airport, Chandler, OK, and Cushing Municipal Airport, Cushing, OK, which are contained within the Shawnee, OK, airspace legal description. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11D, dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order 7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11D lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71:

Removes the city associated with Seminole Municipal Airport, Seminole, OK, contained within the Shawnee, OK, airspace legal description, from the airspace legal description to comply with changes to FAA Order 7400.2M, Procedures for Handling Airspace Matters;

Amends the Class E airspace area extending upward from 700 feet above the surface at Chandler Regional Airport, Chandler, OK, by removing the Tilghman NDB and associated extension from the airspace legal description;

And amends the Class E airspace area extending upward from 700 feet above the surface at Cushing Municipal Airport, Cushing, OK, by removing the Cushing NDB and associated extension from the airspace legal description.

These actions are the result of airspace reviews caused by the decommissioning of the Tilghman and Cushing NDBs, which provided navigation information for the instrument procedures at these airports.

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 regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASW OK E5 Shawnee, OK [Amended]

Shawnee Regional Airport, OK
(Lat. 35°21′26″ N, long. 96°56′34″ W)
Seminole Municipal Airport, OK
(Lat. 35°16′28″ N, long. 96°40′31″ W)
Prague Municipal Airport, OK
(Lat. 35°28′51″ N, long. 96°43′08″ W)
Chandler Regional Airport, OK
(Lat. 35°43′27″ N, long. 96°49′13″ W)
Cushing Municipal Airport, OK
(Lat. 35°57′00″ N, long. 96°46′24″ W)
Cushing Regional Hospital Heliport, OK, Point In Space Coordinates
(Lat. 35°58′41″ N, long. 96°45′27″ W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Shawnee Regional Airport, and within a 6.6-mile radius of Seminole Municipal Airport, and within a 6.3-mile radius of Prague Municipal Airport, and within a 6.4-mile radius of Chandler Regional Airport, and within a 6.5-mile radius of Cushing Municipal Airport, and that airspace within a 6-mile radius of the Point In Space serving Cushing Regional Hospital Heliport.

Issued in Fort Worth, Texas, on February 12, 2020.

Steve Szukala,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2020–03284 Filed 2–20–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0799; Airspace Docket No. 19–AGL–13]

RIN 2120–AA66

Amendment of VHF Omnidirectional Range (VOR) Federal Airway V–71 and Area Navigation Route T–285 Due to the Decommissioning of the Winner, SD, VOR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends VHF Omnidirectional Range (VOR) Federal airway V–71 and area navigation (RNAV) route T–285. The FAA is taking this action due to the planned decommissioning of the Winner, SD (ISD), VOR navigation aid (NAVAID). The Winner VOR is being decommissioned in support of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Effective date 0901 UTC, May 21, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11D at NARA, email: *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the air traffic service route structure in the National Airspace System as necessary to preserve the safe and efficient flow of air traffic.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2019–0799 in the **Federal Register** (84 FR 64795; November 25, 2019) amending VOR Federal airway V–71 and RNAV route T–285. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

VOR Federal airways are published in paragraph 6010(a) and RNAV T-routes are published in paragraph 6011 of FAA Order 7400.11D dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The ATS routes listed in this document would be subsequently published in the Order.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Differences From the NPRM

In the NPRM proposal section addressing the proposed amendment to RNAV route T–285 and in the regulatory text section describing T–285, the North Platte, NE, NAVAID was identified as a VORTAC, in error. The North Platte, NE, NAVAID is a VOR/Distance Measuring Equipment (VOR/DME) facility. This rule corrects that editorial error in the rule section and regulatory text.

Also in the NPRM proposal section, one of the proposed amendments to T–285 indicated that the Rapid City VORTAC ''RAP'' identifier would be added to the first line of the route description. This too was in error and should have stated the North Platte, NE, VOR/DME ''LBF'' identifier would be added. The regulatory text for the T–285 description correctly indicated ''North Platte, NE (LBF)'' in the first line of the description as was intended. This rule corrects that editorial error in the rule section.

These editorial corrections do not change the route's structure, operational use, or charted depiction, and are consistent with the proposed amendments to T–285.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order 7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11D lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying VOR Federal airway V–71

by removing an airway segment, and RNAV route T–285 by replacing the Winner VOR route point with a newly established waypoint. The planned decommissioning of the Winner, SD, VOR has made this action necessary. The air traffic service (ATS) route actions are described below.

V–71: V–71 extends between the Fighting Tiger, LA, VORTAC and the Williston, ND, VOR/DME NAVAIDs. The airway segment between the O'Neill, NE, VORTAC and the Pierre, SD, VORTAC is removed. The unaffected portions of the existing airway remain as charted.

T–285: T–285 extends between the North Platte, NE, VOR/DME and the Huron, SD, VORTAC NAVAIDs. The Winner, SD, VOR route point is replaced with the new LESNR waypoint established overhead the Winner VOR location. Additionally, the North Platte VOR/DME ''LBF'' identifier and Huron VORTAC ''HON'' identifier are added to the first line of the route description and the geographic coordinates of each route point are updated to be expressed in degrees, minutes, seconds, and hundredths of a second. The existing route remains as charted.

The NAVAID radials listed in the V–71 airway description below are unchanged and stated in True degrees.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this airspace action of amending ATS routes V–71 and T–285 due to the planned decommissioning of the Winner, SD, VOR has no potential to cause any significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment. Therefore, this airspace action has been categorically excluded from further environmental impact review in accordance with the National Environmental Policy Act (NEPA) and its implementing regulations at 40 CFR parts 1500–1508, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, this action has been reviewed for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis, and it is determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–71 [Amended]

From Fighting Tiger, LA; Natchez, MS; Monroe, LA; El Dorado, AR; Hot Springs, AR; INT Hot Springs 358° and Harrison, AR, 176° radials; Harrison; Springfield, MO; Butler, MO; Topeka, KS; Pawnee City, NE; INT Pawnee City 334° and Lincoln, NE, 146° radials; Lincoln; Columbus, NE; to O'Neill, NE. From Pierre, SD; Bismarck, ND; to Williston, ND.

* * * * *

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–285 North Platte, NE (LBF) to Huron, SD (HON) [Amended]

North Platte, NE (LBF)	VOR/DME	(Lat. 41°02′55.34″ N, long. 100°44′49.55″ W)
Thedford, NE (TDD)	VOR/DME	(Lat. 41°58′53.99″ N, long. 100°43′08.55″ W)
MARSS, NE	Fix	(Lat. 42°27′48.92″ N, long. 100°36′15.32″ W)
Valentine, NE (VTN)	NDB	(Lat. 42°51′41.85″ N, long. 100°32′58.73″ W)
LKOTA, SD	WP	(Lat. 43°15′28.00″ N, long. 100°03′14.00″ W)
LESNR, SD	WP	(Lat. 43°29′16.06″ N, long. 99°45′41.55″ W)
Huron, SD (HON)	VORTAC	\(Lat. 44°26′24.30″ N, long. 98°18′39.89″ W)

* * * * *

Issued in Washington, DC, on February 12, 2020.

Mark Gauch,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2020–03280 Filed 2–20–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0729; Airspace Docket No. 19–AGL–12]

RIN 2120–AA66

Amendment of Air Traffic Service (ATS) Routes V–82, V–217, and T–383 in the Vicinity of Baudette, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends two VHF Omnidirectional Range (VOR) Federal airways, V–82 and V–217, and one area navigation (RNAV) route, T–383. The FAA is taking this action due to the planned decommissioning of the VOR portion of the Baudette VOR/Distance Measuring Equipment (VOR/DME) navigation aid (NAVAID). The Baudette VOR is being decommissioned in support of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Effective date 0901 UTC, May 21, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11D at NARA, email: *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the air traffic service route structure in the National Airspace System as necessary to preserve the safe and efficient flow of air traffic.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2019–0729 in the **Federal Register** (84 FR 50344; September 25, 2019), amending VOR Federal airways V–82, V–217 and RNAV route T–383 due to the planned decommissioning of the VOR portion of the Baudette, MN, VOR/DME NAVAID. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

VOR Federal airways are published in paragraph 6010(a) and RNAV T-routes are published in paragraph 6011 of FAA Order 7400.11D dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways and RNAV T-route listed in this document will be subsequently published in the Order.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order 7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11D lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying VOR Federal airways V–82 and V–217 by removing airway segments, and extending RNAV route T–383 to overlay the V–82 routing being removed. The planned decommissioning of the VOR portion of the Baudette, MN, VOR/DME has made this action necessary. The air traffic service (ATS) route actions are described below.

V–82: V–82 extends between the Baudette, MN, VOR/DME and the intersection of the Baudette VOR/DME 194° and Park Rapids, MN, VOR/DME 003° radials (BLUOX fix), and between the Gopher, MN, VORTAC and the Dells, WI, VORTAC. The airway segment between the Baudette VOR/DME and the intersection of the Baudette VOR/DME 194° and Park Rapids, MN, VOR/DME 003° radials is removed. The unaffected portions of the existing airway remain as charted.

V–217: V–217 extends between the intersection of the Madison, WI, VOR/DME 138° and Badger, WI, VOR/DME 193° radials and the Winnipeg, MB, Canada, VORTAC. The airspace within Canada is excluded and the portion of the airway that lies within the Beaver Military Operations Area (MOA) is excluded when the Beaver MOA is active. The airway segment between the Hibbing, MN, VOR/DME and the Winnipeg, MB, Canada, VORTAC is removed, as well as the exclusion language addressing the airspace within Canada and the Beaver MOA. The unaffected portions of the existing airway remain as charted.

T–383: T–383 extends between the Gopher, MN, VORTAC and the BLUOX, MN, fix. The route is extended between the BLUOX, MN, fix and the Baudette, MN, DME. The unaffected portions of the existing airway remain as charted.

The NAVAID radials listed in the V–217 airway description below are unchanged and stated in True degrees.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034;

February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this airspace action of amending ATS routes V–82, V–217, and T–383 due to the planned decommissioning of the Baudette VOR has no potential to cause any significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment. Therefore, this airspace action has been categorically excluded from further environmental impact review in accordance with the National Environmental Policy Act (NEPA) and its implementing regulations at 40 CFR parts 1500–1508, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, this action has been reviewed for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis, and it is determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–82 [Amended]

From Gopher, MN; Farmington, MN; Rochester, MN; Nodine, MN; to Dells, WI.

* * * * *

V–217 [Amended]

From INT Madison, WI, 138° and Badger, WI, 193° radials; Badger; Green Bay, WI; Rhinelander, WI; Duluth, MN; to Hibbing, MN.

* * * * *

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–383 Gopher, MN (GEP) to Baudette, MN (BDE) [Amended]

Gopher, MN (GEP)	VORTAC	(Lat. 45°08′44.47″ N, long. 093°22′23.45″ W)
BRNRD, MN	WP	(Lat. 46°20′53.81″ N, long. 094°01′33.54″ W)
BLUOX, MN	FIX	(Lat. 47°34′33.13″ N, long. 095°01′29.11″ W)
Baudette, MN (BDE)	DME	(Lat. 48°43′22.07″ N, long. 094°36′26.24″ W)

Issued in Washington, DC, on February 12, 2020.

Mark Gauch,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2020–03282 Filed 2–20–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0686; Airspace Docket No. 18–AGL–21]

RIN 2120–AA66

Amendment of VOR Federal Airway V–7 in the Vicinity of Sheboygan, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends VHF Omnidirectional Range (VOR) Federal airway V–7 in the vicinity of Sheboygan, WI. The modifications are necessary due to the planned decommissioning of the VOR portion of the Falls, WI, VOR/Distance Measuring Equipment (VOR/DME) navigation aid (NAVAID), which provides navigation guidance for portions of the affected air traffic service (ATS) route. The Falls VOR is being decommissioned as part of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Effective date 0901 UTC, May 21, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11D at NARA, email: *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is

promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2019–0686 in the **Federal Register** (84 FR 50347; September 25, 2019), amending VOR Federal airway V–7 due to the planned decommissioning of the VOR portion of the Falls, WI, VOR/DME NAVAID. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

VOR Federal airways are published in paragraph 6010(a) 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 VOR Federal airway listed in this document will be subsequently published in the Order.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order 7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11D lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying VOR Federal airway V–7. The planned decommissioning of the VOR portion of the Falls, WI, VOR/DME has made this action necessary. The VOR Federal airway change is outlined below.

V–7: V–7 extends between the Dolphin, FL, VOR/Tactical Air Navigation (VORTAC) and the Muscle Shoals, AL, VORTAC; and between the Central City, KY, VORTAC and the Sawyer, MI, VOR/DME. The airspace below 2,000 feet mean sea level (MSL) outside the United States is excluded. The portion outside the United States has no upper limit. The PETTY fix in the airway description is amended to describe it as the intersection of the Chicago Heights, IL, VORTAC 358° and Badger, WI, VOR/DME 117° radials. Additionally, the airway segment between the intersection of the Chicago Heights, IL, VORTAC 358° and Badger, WI, VOR/DME 117° radials (PETTY fix) and the Green Bay, WI, VORTAC is removed. The unaffected portions of the existing airway remain as charted.

All radials in the route description are stated in True degrees.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this airspace action of amending the PETTY fix NAVAID radial computations in VOR Federal airway V–7 and removing airway segment between the PETTY fix and the Green Bay, WI, VORTAC has no potential to cause any significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment. Therefore, this airspace action has been categorically excluded from further environmental impact review in accordance with the National Environmental Policy Act (NEPA) and its implementing regulations at 40 CFR parts 1500–1508, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–7

From Dolphin, FL; INT Dolphin 299° and Lee County, FL, 120° radials; Lee County; Lakeland, FL; Cross City, FL; Seminole, FL; Wiregrass, AL; INT Wiregrass 333° and Montgomery, AL, 129° radials; Montgomery; Vulcan, AL; to Muscle Shoals, AL. From Central City, KY; Pocket City, IN; INT Pocket City 016° and Terre Haute, IN, 191° radials; Terre Haute; Boiler, IN; Chicago Heights, IL; to INT Chicago Heights 358° and Badger, WI, 117° radials. From Green Bay, WI; Menominee, MI; to Sawyer, MI. The airspace below 2,000 feet MSL outside the United States is excluded. The portion outside the United States has no upper limit.

* * * * *

Issued in Washington, DC, on February 12, 2020.

Mark Gauch,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2020–03283 Filed 2–20–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 600

[Docket No. FDA–2018–N–2732]

RIN 0910–AH57

Definition of the Term "Biological Product"

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is issuing a final rule to amend its regulation that defines ''biological product'' to incorporate changes made by the Biologics Price Competition and Innovation Act of 2009 (BPCI Act) and the Further Consolidated Appropriations Act, 2020 (FCA Act), and to provide its interpretation of the statutory term ''protein.'' Under this final rule, the term *protein* means any alpha amino acid polymer with a specific, defined sequence that is greater than 40 amino acids in size. This final rule is intended to clarify the statutory framework under which such products are regulated.

DATES: This rule is effective March 23, 2020.

ADDRESSES: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* and insert the docket number found in brackets in the heading of this final rule into the ''Search'' box and follow the prompts, and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

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I. Executive Summary

A. Purpose of the Final Rule

This final rule amends FDA's regulation that defines ''biological product'' by making a technical revision and conforming to the statutory definition enacted in the BPCI Act, as further amended by section 605 of the FCA Act (Pub. L. 116–94). The BPCI Act amended the definition of ''biological product'' in section 351(i) of the Public Health Service Act (PHS Act) (42 U.S.C. 262(i)) to include a ''protein (except any chemically synthesized polypeptide).'' After publication of the proposed rule, section 605 of the FCA Act further amended the definition of ''biological product'' in section 351(i) of the PHS Act to remove the parenthetical ''(except any chemically synthesized polypeptide)'' from the statutory category of ''protein.'' The final rule makes conforming changes to § 600.3 (21 CFR 600.3) to add FDA's interpretation of the statutory term ''protein.''

B. Summary of the Major Provisions of the Final Rule

Under the final rule, the term *protein* means any alpha amino acid polymer with a specific defined sequence that is greater than 40 amino acids in size. This is consistent with the interpretation of this term that FDA previously described in the notice of proposed rulemaking published in the **Federal Register** on December 12, 2018 (83 FR 63817) and in a final guidance document issued on April 30, 2015 (see 80 FR 24259 (announcing the availability of a guidance for industry entitled ''Biosimilars: Questions and Answers Regarding Implementation of the Biologics Price Competition and Innovation Act of 2009,'' available at *https://www.regulations.gov* (Docket No. FDA–2011–D–0611) (2015 Biosimilars Q&A Guidance); see also ''New and Revised Draft Q&As on Biosimilar Development and the Biologics Price Competition and Innovation Act (Revision 2)'' (December 2018; 83 FR 63898)).

C. Legal Authority

This final rule amends FDA's regulations to implement certain aspects of the BPCI Act and the FCA Act. FDA's authority for this rule derives from the biological product provisions in section 351 of the PHS Act and the provisions of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 321, *et seq.*) applicable to drugs, as well as section 701 of the FD&C Act (21 U.S.C. 371). The rule is necessary to clarify the statutory authority under which biological products are regulated, to prevent inconsistent regulation of such products, and for the efficient enforcement of the FD&C Act.

D. Costs and Benefits

This final rule codifies FDA's interpretation of the statutory term ''protein'' in a manner that is consistent with the interpretation of this term that FDA previously described in guidance (see 2015 Biosimilars Q&A Guidance) and the proposed rule. Formalizing this interpretation will reduce regulatory uncertainty over whether certain products are regulated as drugs or biological products. This reduced uncertainty, under the ''bright-line'' approach described in the proposed rule, will allow both FDA and private industry to avoid spending time and resources on case-by-case determinations for each product. The primary estimate of the benefits in 2018 dollars annualized over 10 years is $394,562 using a 7 percent discount rate and $348,436 using a 3 percent discount rate. We also calculate ranges of benefits of $356,775 to $411,345 and $316,116 to $362,792, respectively. The estimated annualized costs range from $13,511 to $16,889, with a primary estimate of $15,012 using a 7 percent discount rate over a 10-year horizon. For a 3 percent discount rate, we estimate a range of $12,471 to $15,589, with a primary estimate of $13,857.

II. Table of Abbreviations/Commonly Used Acronyms in This Document

Abbreviation/acronym	What it means
BPCI Act	Biologics Price Competition and Innovation Act of 2009.
CFR	Code of Federal Regulations.
EO	Executive Order.
FCA Act	Further Consolidated Appropriations Act, 2020.
FD&C Act	Federal Food, Drug, and Cosmetic Act.
FDA	U.S. Food and Drug Administration.
PHS Act	Public Health Service Act.
U.S.	United States.
U.S.C.	United States Code.

III. Background

A. History of This Rulemaking

The BPCI Act amended the definition of ''biological product'' in section 351(i) of the PHS Act to include a ''protein (except any chemically synthesized polypeptide).'' After publication of the proposed rule, section 605 of the FCA Act further amended the definition of ''biological product'' in section 351(i) of the PHS Act to remove the parenthetical ''(except any chemically synthesized polypeptide)'' from the statutory category of ''protein.'' As amended by the BPCI Act and the FCA Act, a ''biological product'' is defined as ''a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein, or analogous product, or arsphenamine or derivative of arsphenamine (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of a disease or condition of human beings'' (see section 351(i)(1) of the PHS Act).

The BPCI Act clarified the statutory authority under which certain protein products are to be regulated. Although the majority of therapeutic biological products have been licensed under section 351 of the PHS Act, some protein products historically have been approved under section 505 of the FD&C Act (21 U.S.C. 355). The BPCI Act requires that a marketing application for a ''biological product'' (that previously would have been submitted under section 505 of the FD&C Act) must be submitted under section 351 of the PHS Act, subject to certain exceptions during a 10-year transition period ending on March 23, 2020 (see section 7002(e)(1) through (3) and (e)(5) of the BPCI Act). FDA is adding its interpretation of the term ''protein'' to the regulations to clarify the statutory framework under which such products are regulated.

The proposed rule includes a history of this rulemaking and cites several scientific resources, including textbooks and dictionaries, to illustrate the aspects of the meanings of the terms ''protein,'' ''polypeptide,'' and ''peptide'' on which there is or is not scientific consensus (see 83 FR 63817 at 63819–63820). As discussed in the proposed rule, despite the lack of precise, agreed-upon definitions, most, if not all, sources agree about certain aspects of the meanings of these terms. First, all of the terms (''protein,'' ''polypeptide,'' and ''peptide'') refer to amino acid polymers (also referred to as ''amino acid chains'') made up of alpha amino acids that are linked by peptide bonds. Second, ''protein'' refers to chains containing a specific, defined sequence of amino acids, generally provided by a corresponding DNA or RNA sequence. Finally, the term ''protein'' is distinct from and excludes the term ''peptide'' (*i.e.,* amino acid chains that are generally shorter and simpler than a protein).

In the proposed rule, FDA described its proposed interpretation of the statutory terms ''protein'' and ''chemically synthesized polypeptide,'' which appeared in the definition of ''biological product'' in section 351(i) of the PHS Act prior to the enactment of the FCA Act. FDA is now finalizing its interpretation of the statutory term ''protein'' without change. However, in light of the recently enacted FCA Act, which removed the parenthetical exception for ''any chemically synthesized polypeptide'' from the category of ''protein'' in the statutory definition of ''biological product,'' FDA is not finalizing its interpretation of ''chemically synthesized polypeptide'' because it is no longer necessary.

B. Summary of Comments on the Proposed Rule

We received four comments on the proposed rule. Two of the comments were general comments supporting FDA's proposed interpretations; one of these comments specifically supports FDA's proposal because the commenter stated that it enables insulin to be brought into the regulatory pathway for biological products, including biosimilar and interchangeable products. Two of the comments substantively addressed specific aspects of the proposed interpretations of ''protein'' and ''chemically synthesized polypeptide.''

IV. Legal Authority

We are issuing this final rule under the biological product provisions in section 351 of the PHS Act and the provisions of the FD&C Act (21 U.S.C. 321, *et seq.*) applicable to drugs. See section 351(j) of the PHS Act. Under these provisions, FDA has the authority to issue regulations designed to ensure, among other things, that biological products are safe, pure, and potent and are manufactured in accordance with current good manufacturing practices. FDA also has general authority to issue regulations for the efficient enforcement of the FD&C Act and the PHS Act under section 701 of the FD&C Act and section 351(j) of the PHS Act.

V. Comments on the Proposed Rule and FDA Response

A. Introduction

We received four comments on the proposed rule by the close of the comment period, two of which contained one or more substantive comments on one or more issues. We received comments from trade organizations, a patient advocacy group, and a State bar association.

We describe and respond to the comments in section B of this rule. We have numbered each comment to help distinguish between different comments. We have grouped similar comments together under the same number, and in some cases, we have separated different issues discussed in the same comment and designated them as distinct comments for purposes of our responses. The number assigned to each comment or comment topic is purely for organizational purposes and does not signify the comment's value or importance or the order in which comments were received.

B. Specific Comments and FDA Response

We proposed to amend § 600.3(h) to revise the definition of ''biological product'' in § 600.3(h) by replacing the phrase ''means any'' with the phrase

''means a'' to conform to the text of section 351(i)(1) of the PHS Act. This proposed technical revision to the definition of ''biological product'' was not intended to alter our interpretation of section 351(i) of the PHS Act. We also proposed to revise the definition of a ''biological product'' in § 600.3(h) to include a ''protein (except any chemically synthesized polypeptide).''

We received no comments regarding these proposed revisions. However, after publication of the proposed rule, section 605 of the FCA Act further amended the definition of ''biological product'' in section 351(i) of the PHS Act to remove the parenthetical ''(except any chemically synthesized polypeptide)'' from the statutory category of ''protein.'' Therefore, we are finalizing these revisions to the definition of ''biological product'' in § 600.3(h) with the following change: We are defining ''biological product'' in § 600.3(h) to include a ''protein'' instead of defining ''biological product'' in § 600.3(h) to include a ''protein (except any chemically synthesized polypeptide).''

We also proposed to amend § 600.3(h) to add FDA's interpretation of the statutory terms ''protein'' and ''chemically synthesized polypeptide.'' We proposed to interpret the term ''protein'' to mean any alpha amino acid polymer with a specific, defined sequence that is greater than 40 amino acids in size. We proposed to interpret the term ''chemically synthesized polypeptide'' to mean any alpha amino acid polymer that is made entirely by chemical synthesis and is greater than 40 amino acids but less than 100 amino acids in size. We explained that when two or more amino acid chains in an amino acid polymer are associated with each other in a manner that occurs in nature, the size of the amino acid polymer for purposes of our interpretations of the terms ''protein'' and ''chemically synthesized polypeptide'' will be based on the total number of amino acids in those chains, and will not be limited to the number of amino acids in a contiguous sequence.

In the following paragraphs, we discuss comments on these proposed interpretations. After considering these comments, we are finalizing our interpretation of ''protein'' without change. We are not finalizing our interpretation of ''chemically synthesized polypeptide'' as it is no longer necessary because of the change to the statutory definition of ''biological product.''

1. Scientific Support for Interpretations of ''Protein'' and ''Chemically Synthesized Polypeptide''

(Comment 1) One comment asserts that FDA's interpretations of the statutory terms ''protein'' and ''chemically synthesized polypeptide'' do not reflect current science and maintains that there is more recent evidence that amino acid polymers composed of 40 or fewer amino acids are capable of assuming secondary and tertiary structural conformations indicative of proteins. For these reasons, the commenter requested that we revise and reissue the proposed rule.

(Response 1) We disagree with the comment's suggestion that FDA's interpretation of the term ''protein'' as set forth in the proposed rule and the textbooks we cited in the proposed rule no longer reflects current science. The textbooks cited in the proposed rule have been in use for decades and continue to be in use (*e.g.,* in college biochemistry classes). Moreover, the definitions and descriptions in these textbooks and dictionaries illustrate the point that there is not a scientific consensus on certain aspects of the definitions of the terms ''peptide'' and ''protein,'' an observation that is not refuted by more recent editions of these textbooks.

This lack of consensus is also reflected in several of the articles cited by the comment. For example, the comment cites two articles to support its claim of the existence of ''proteins'' composed of as few as 11 amino acids. However, these two articles describe the 11-amino acid polymer differently. One describes it as an 11-amino-acid ''protein'' (see Ref. 1) and the other describes it as an 11-amino-acid ''peptide'' (see Ref. 2).

Given the lack of a clear scientific consensus that FDA could consider for adoption, the Agency is applying its scientific expertise to interpret the statutory term ''protein'' in a manner that establishes a scientifically reasonable, bright-line rule that provides regulatory clarity and facilitates the implementation of the BPCI Act, as further amended by the FCA Act. A clear rule facilitates efficient use of time and resources by both FDA and applicants and reduces regulatory uncertainty. In deciding where to draw this bright-line rule, one of the factors that FDA considered is the number of amino acids understood to be generally necessary for an amino acid polymer to exhibit characteristics that are generally associated with ''proteins,'' lending a higher level of complexity to these products.

FDA considered whether to include structural or functional attributes (*e.g.,* folding, provides structural support to cellular macrostructures, catalyzes a biochemical reaction, transports other molecules, aids in the folding of other proteins) in its interpretation of the term ''protein,'' but determined that this would not serve to make the line between peptides and proteins any brighter. Among other things, relying on a factor such as ''folding'' would not provide regulatory certainty because it would raise questions about how much folding is sufficient to differentiate between ''peptides'' and ''proteins,'' as many peptides can arguably be said to exhibit some folding. Therefore, adopting this approach would not provide for a bright-line rule and would result in regulatory uncertainty and inefficiency.

(Comment 2) One comment asserts that ''proteins'' are a subset of ''polypeptides,'' yet FDA's interpretation of ''chemically synthesized polypeptide'' presumes that ''polypeptides'' are a subset of ''proteins.''

(Response 2) With the FCA Act's removal of the parenthetical exception for ''any chemically synthesized polypeptide'' from the category of ''protein'' in the statutory definition of ''biological product'' in section 351(i) of the PHS Act, all amino acid polymers that meet FDA's interpretation of the term ''protein'' (including an amino acid polymer that previously would have fallen within the term ''chemically synthesized polypeptide'' as interpreted by FDA) will be considered to fall within the statutory definition of ''biological product.''

(Comment 3) Two comments assert that the proposed interpretations that we have chosen were not supported by a scientific consensus and that there is a lack of scientific consensus for distinguishing between ''protein,'' ''polypeptide,'' and ''peptide'' based on a particular number of amino acids.

(Response 3) While we agree that there may not be clear scientific consensus for a particular number of amino acids to use when distinguishing between the terms ''protein'' and ''peptide,'' there is strong support in scientific literature for distinguishing between types of amino acid polymers based on the number of amino acids they contain. Specifically, the definitions cited in the preamble to the proposed rule are clear that ''peptides'' are distinct from ''proteins'' and that the term ''peptide'' generally refers to smaller, simpler chains of amino acids, while the term ''protein'' is used to refer to longer, more complex chains (83 FR

63817 at 63819–63820). Moreover, there is scientific support for the fact that amino acid polymers greater than 40 amino acids in size exhibit at least some of the characteristics that are generally associated with proteins (83 FR 63817 at 63820).

The removal of the parenthetical exception for ''any chemically synthesized polypeptide'' from the category of ''protein'' in the statutory definition of ''biological product'' has eliminated any need to distinguish between these terms.

(Comment 4) One comment asserts that FDA's example of insulin does not support the number of amino acids in FDA's interpretation of ''chemically synthesized polypeptide'' because insulin is composed of 2 polypeptide chain subunits, one containing 21 amino acids and the other containing 30 amino acids.

(Response 4) We disagree with the comment because it confuses the terms ''polypeptide'' and ''polypeptide chain.'' Even though the need to avoid confusion between the terms ''polypeptide'' and ''polypeptide chain'' has been eliminated by the removal of the parenthetical exception for ''any chemically synthesized polypeptide'' from the category of ''protein'' in the statutory definition of ''biological product'' in section 351(i) of the PHS Act, we note in passing that our interpretation of ''protein'' uses the phrase ''amino acid chain'' instead of the phrase ''polypeptide chain.'' In other words, instead of describing the two subunits of the insulin protein as polypeptides or polypeptide chains like the comment, we describe them as amino acid chains. It therefore follows that insulin clearly is a ''protein'' as interpreted in the final rule, because the total number of amino acids exceeds 40. In particular, insulin is an alpha amino acid polymer with a specific, defined sequence consisting of 2 amino acid chain subunits with 21 amino acids and 30 amino acids, respectively. As these amino acid chain subunits are associated with each other in a manner that occurs in nature, we add the number of amino acids in each amino acid chain together to determine whether insulin is an alpha amino acid polymer with a specific, defined sequence that is greater than 40 amino acids in size. Specifically, by adding together the number of amino acids in each of the two amino acid chain subunits that comprise insulin, we conclude that insulin is an alpha amino acid polymer with a specific, defined sequence of 51 amino acids. Therefore, according to the interpretation we are finalizing, insulin is a protein because it is an alpha amino acid polymer with a specific, defined sequence that is greater than 40 amino acids in size.

2. Alternate Proposals

(Comment 5) One comment requests that FDA adopt functional definitions for ''protein'' and ''chemically synthesized polypeptides'' that are principally focused on the method of manufacture as well as the conformation of the amino acid polymer rather than the size of the amino acid polymer, reflecting the comment's view that the method of manufacture, not size, should be the determining factor.

(Response 5) We are not finalizing our interpretation of the term ''chemically synthesized polypeptide'' because of the removal, by section 605 of the FCA Act, of the parenthetical ''(except any chemically synthesized polypeptide)'' from the category of ''protein'' in the statutory definition of ''biological product.'' Also, we do not agree that we should adopt an interpretation of the statutory term ''protein'' that is principally focused on the method of manufacture for the following reasons.

First, we disagree with the comment's premise that the statutory definition of ''biological product,'' which included ''protein (except any chemically synthesized polypeptide)'' prior to the enactment of the FCA Act, was principally focused on the method of manufacture. We need not address whether the fact that the earlier version of the statute described the method of manufacture in the parenthetical clause (excluding chemically synthesized polypeptides from the scope of the term ''protein'') has any bearing on our current interpretation. However, we note in passing that, according to basic rules of statutory construction, if Congress wanted the term ''protein'' not to include any ''chemically synthesized proteins,'' then it seems unlikely that the statute would employ two different terms (''protein'' and ''polypeptide''). Accordingly, we had described the term ''polypeptide'' as it appeared in section 351(i) of the PHS Act prior to the enactment of the FCA Act as referring to a subset of ''protein.''

Second, as noted in the response to Comment 1, FDA considered whether to include structural or functional attributes in its interpretation of the term ''protein,'' but determined that doing so would not be appropriate as it would lead to regulatory uncertainty due to the lack of a bright-line rule.

Third, adopting an interpretation that focused on the method of manufacture could improperly incentivize product developers to choose a suboptimal method of manufacturing a product that may be less efficient and/or more costly, based on a perceived regulatory advantage under a particular regulatory scheme.

It is FDA's view that the optimal policy for determining which products are subject to regulation under the PHS Act is to apply a bright-line rule that provides regulatory certainty. Thus, in order to provide regulatory certainty and provide a bright-line interpretation of the term ''protein,'' we are focusing on the number of amino acids in the amino acid polymer (irrespective of the method of manufacture).

(Comment 6) One comment urges the Agency to abandon the proposed case-by-case approach for determining whether a proposed product composed of amino acid chains that are associated with each other in a manner not found in nature constitutes a ''biological product.''

(Response 6) FDA is not persuaded by this comment because there are a number of ways in which amino acid chains could be associated with each other in a novel manner that is not found in naturally occurring proteins and we cannot predict all of these iterations. Although some of these combinations may result in amino acid polymers that exhibit characteristics generally associated with proteins, some may not.

We recognize that the application of the fact-specific, case-by-case analysis for proposed products composed of amino acid chains that are associated with each other in a manner not found in nature does not provide the same level of certainty that is provided by the other criteria in § 600.3(h)(6) (see 83 FR 63817 at 63821), but it appears that case-by-case analysis is currently the best means of addressing such cases. We encourage sponsors of these proposed products to reach out to FDA early in their development program to discuss issues related to product classification and the appropriate pathway for a marketing application.

3. Relationship to Other Regulatory Provisions

(Comment 7) One comment asserts that FDA's proposed definitions are inconsistent with § 601.2(a)(4) and (c) (21 CFR 601.2(a)(4) and (c)).

(Response 7) We disagree with the comment's assertion that our proposed interpretations are inconsistent with our current regulations in § 601.2(a)(4) and (c). The comment appears to interpret § 601.2(a)(4) and (c) to mean that if a product is a therapeutic recombinant DNA-derived product, then, regardless of size, the product is a biological product subject to licensure and should

be regulated in accordance with § 601.2(c). However, that conclusion seems to be based on a misreading of these provisions. We interpret our regulation at § 601.2(a)(4) and (c) to mean that if the product meets the definition of ''biological product'' under § 600.3(h), and also is a therapeutic recombinant DNA-derived product, then the application would be regulated in accordance with § 601.2(c).

(Comment 8) One comment requests that FDA propose a regulatory definition of products that are ''analogous'' to a protein and therefore are biological products.

(Response 8) We appreciate the comment. A definition of products that are ''analogous'' to a ''protein'' for purposes of section 351(i)(1) of the PHS Act is outside the scope of this rulemaking. We note, however, that it would not be appropriate for the statutory term ''analogous product'' to be interpreted in a way that would include products that are specifically excluded by this final rule.

(Comment 9) One comment requests that FDA clarify its approach to assessing the appropriate application type for combination products, including peptide-protein combination products.

(Response 9) We appreciate the comment. The Agency's approach for determining the appropriate type of marketing application for certain combination products is outside the scope of this rulemaking. If a sponsor is unsure of the appropriate marketing application for its combination product containing a biological constituent part, we encourage the sponsor to reach out to FDA at an appropriate time in its development program to discuss issues related to product classification and the appropriate pathway for a marketing application.

VI. Effective Date

This final rule will become effective March 23, 2020.

VII. Economic Analysis of Impacts

A. Introduction

We have examined the impacts of the final rule under Executive Order (E.O.) 12866, E.O. 13563, E.O. 13771, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). E.O.s 12866 and 13563 direct us to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). E.O. 13771 requires that the costs associated with significant new regulations ''shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.'' This final rule is a significant regulatory action under sec. 3(f) of E.O. 12866. Based on the cost savings summarized below and discussed further in the regulatory impact analysis, this final rule is considered a deregulatory action under E.O. 13771.

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

The Regulatory Flexibility Act requires us to analyze regulatory options that will minimize any significant impact of a rule on small entities. Because this rule does not impose new regulatory burden on small entities other than administrative costs of reading and understanding the rule, we certify that the final rule will not have a significant economic impact on a substantial number of small entities.

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

B. Summary of Costs and Benefits

This final rule codifies FDA's interpretation of the statutory term ''protein'' that the Agency previously described in guidance (see 2015 Biosimilars Q&A Guidance). This final rule does not codify the FDA's interpretation of the statutory term ''chemically synthesized polypeptide'' because section 605 of the FCA Act removed the parenthetical ''(except any chemically synthesized polypeptide)'' from the category of ''protein'' in the definition of ''biological product'' in section 351(i) of the PHS Act. Formalizing this interpretation will reduce regulatory uncertainty introduced by the BPCI Act and section 605 of the FCA Act. Specifically, the rule clarifies the criteria for whether certain products will be regulated as drugs or biological products. The ''bright-line'' approach under the rule will reduce the amount of time spent by FDA staff and industry in support of making such determinations.

In this regulatory impact analysis, we identify the products most likely to require a case-by-case determination under the baseline scenario. Under the rule, these determinations will be made by FDA according to the bright-line standard outlined in the final rule. We calculate the cost savings from the amount of time saved by both the FDA and industry by avoiding a case-by-case determination. We also calculate the incremental costs to industry that are the result of reading and understanding the rule.

The primary estimate of the benefits in 2018 dollars annualized over 10 years is $394,562 using a 7 percent discount rate and $348,436 using a 3 percent discount rate. We also calculate ranges of benefits of $356,775 to $411,345 and $316,116 to $362,792, respectively. The estimated annualized costs range from $13,511 to $16,889, with a primary estimate of $15,012 using a 7 percent discount rate over a 10-year horizon. For a 3 percent discount rate, we estimate a range of $12,471 to $15,589, with a primary estimate of $13,857. These figures are shown in table 1.

TABLE 1—SUMMARY OF BENEFITS, COSTS AND DISTRIBUTIONAL EFFECTS OF RULE

Category	Primary estimate	Low estimate	High estimate	Units			Notes
				Year dollars	Discount rate	Period covered	
Benefits:							
Annualized Monetized $/year	$394,562 $348,436	$356,775 $316,116	$411,345 $362,792	2018 2018	7% 3	10 10	Cost savings to FDA and industry to avoid case-by-case review of applications.

TABLE 1—SUMMARY OF BENEFITS, COSTS AND DISTRIBUTIONAL EFFECTS OF RULE—Continued

Category	Primary estimate	Low estimate	High estimate	Units			Notes
				Year dollars	Discount rate	Period covered	
Annualized Quantified					7 3		
Qualitative.							
Costs:							
Annualized Monetized $/year	$15,012 $13,857	$13,511 $12,471	$16,889 $15,589	2018 2018	7 3	10 10	Costs of reading the rule.
Annualized Quantified					7 3		
Qualitative.							
Transfers:							
Federal Annualized Monetized $/year.					7 3		
From/To	From:			To:			
Other Annualized Monetized $/year.					7 3		
From/To	From:			To:			
Effects:							
State, Local, or Tribal Government:.							
Small Business:.							
Wages:.							
Growth:.							

In line with E.O. 13771, in table 2 we estimate present and annualized values of costs and cost savings over an infinite time horizon. With a 7 percent discount rate, the estimated annualized net cost-savings equal $170,903 in 2016 dollars over an infinite horizon. Based on these cost savings, this final rule is considered a deregulatory action under E.O. 13771.

TABLE 2—E.O. 13771 SUMMARY TABLE

[In 2016 dollars, over an infinite time horizon]

	Primary estimate (7%)
Present Value of Costs	$91,971
Present Value of Cost Savings	$2,533,439
Present Value of Net Costs	($2,441,468)
Annualized Costs	$6,438
Annualized Cost Savings	$177,341
Annualized Net Costs	($170,903)

C. Summary of Regulatory Flexibility Analysis

To determine the impact of the final rule on small entities, we first determined how many firms would be affected. We estimate that at least 1,615 firms classified in the Pharmaceutical and Medicine Manufacturing industry employ fewer than 1,250 employees and are therefore also classified as small businesses. Although a large number of small businesses will face costs under the final rule, the costs to these firms would be limited to the time burden of reading the final rule. We estimate that the time burden of reading the rule would be about $79 per firm, with a lower bound of $71 and upper bound of $89. This range of costs is unlikely to have a significant adverse impact on a substantial number of small entities. We have developed a comprehensive Economic Analysis of Impacts that assesses the impacts of the final rule. The full analysis of economic impacts is available in the docket for this final rule (Ref. 3) and at *https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm.*

VIII. Analysis of Environmental Impact

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

IX. Paperwork Reduction Act of 1995

This final rule has an influence on previously approved collections of information found in FDA regulations. 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 parts 601 and 610 for submission of BLAs and general biological standards have been approved under OMB control number 0910–0338; the collections of information in 21 CFR 600.80 through 600.90 for reporting of adverse experiences have been approved under OMB control number 0910–0308; and the collections of information in 21 CFR 201.56, 201.57, and 201.80 for labeling requirements of biological products have been approved under OMB control number 0910–0572.

X. Federalism

We have analyzed this final rule in accordance with the principles set forth in E.O. 13132. We have determined that the rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, we conclude that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

XI. Consultation and Coordination With Indian Tribal Governments

We have analyzed this rule in accordance with the principles set forth in E.O. 13175. We have determined that the rule does not contain policies 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.

Accordingly, we conclude that the rule does not contain policies that have tribal implications as defined in the E.O. and, consequently, a tribal summary impact statement is not required.

XII. References

The following references marked with an asterisk (*) are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they also are available electronically at *https://www.regulations.gov.* References without asterisks are not on public display at *https://www.regulations.gov* because they have copyright restriction. Some may be available at the website address, if listed. References without asterisks are available for viewing only at the Dockets Management Staff. FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. Su, M., Y. Ling, J. Yu, et al. ''Small Proteins: Untapped Area of Potential Biological Importance,'' *Frontiers in Genetics,* vol. 4, p.286, 2013.

2. Galindo, M. I., J. I. Pueyo, S. Foux, et al.''Peptides Encoded by Short ORFs Control Development and Define a New Eukaryotic Gene Family'' *PLoS Biology,* vol. 5, p. e106, 2007.

3. *FDA, Regulatory Impact Analysis, ''Definition of the Term 'Biological Product,''' available at *https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/Economic Analyses/default.htm.*

List of Subjects in 21 CFR Part 600

Biologics, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 600 is amended as follows:

PART 600—BIOLOGICAL PRODUCTS: GENERAL

■ 1. The authority citation for part 600 continues to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 356c, 356e, 360, 360i, 371, 374, 379k–1; 42 U.S.C. 216, 262, 263, 263a, 264.

■ 2. Amend § 600.3 by revising paragraph (h) introductory text and adding paragraph (h)(6) to read as follows:

§ 600.3 Definitions.

* * * * *

(h) *Biological product* means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein, or analogous product, or arsphenamine or derivative of arsphenamine (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of a disease or condition of human beings.

* * * * *

(6) A protein is any alpha amino acid polymer with a specific, defined sequence that is greater than 40 amino acids in size. When two or more amino acid chains in an amino acid polymer are associated with each other in a manner that occurs in nature, the size of the amino acid polymer for purposes of this paragraph (h)(6) will be based on the total number of amino acids in those chains, and will not be limited to the number of amino acids in a contiguous sequence.

* * * * *

Dated: February 18, 2020.

Stephen M. Hahn,

Commissioner of Food and Drugs.

[FR Doc. 2020–03505 Filed 2–20–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Office of the Secretary of the Treasury

31 CFR Parts 27 and 50

Inflation Adjustment of Civil Monetary Penalties

AGENCY: Departmental Offices Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury (''Department'' or ''Treasury'') publishes this final rule to adjust its civil monetary penalties (''CMPs'') for inflation as mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (collectively referred to herein as ''the Act''). This rule adjusts CMPs within the jurisdiction of two components of the Department to the maximum amount required by the Act.

DATES: The adjustments to the CMPs set forth in 31 CFR part 27 and 31 CFR part 50 are effective February 21, 2020.

FOR FURTHER INFORMATION CONTACT: For information regarding the Terrorism Risk Insurance Program's CMPs, contact Richard Ifft, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, Room 1410 MT, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220, at (202) 622–2922 (not a toll-free number), or Lindsey Baldwin, Senior Policy Analyst, Federal Insurance Office, at (202) 622–3220 (not a toll free number). Persons who have difficulty hearing or speaking may access these numbers via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

For information regarding the Treasury-wide CMP, contact Richard Dodson, Senior Counsel, General Law, Ethics, and Regulation, 202–622–9949.

SUPPLEMENTARY INFORMATION:

I. Background

In order to improve the effectiveness of CMPs and to maintain their deterrent effect, the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note (''the Inflation Adjustment Act''), as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114–74) (''the 2015 Act''), requires Federal agencies to adjust each CMP provided by law within the jurisdiction of the agency. The 2015 Act requires agencies to adjust the level of CMPs with an initial ''catch-up'' adjustment through an interim final rulemaking and to make subsequent annual adjustments for inflation, without needing to provide notice and the opportunity for public comment required by 5 U.S.C. 553. The Department's initial catch-up adjustment interim final rules were published on December 7, 2016 (Departmental Offices) (81 FR 88600), and for 31 CFR part 27, on February 11, 2019 (84 FR 3105). The Department's 2018 annual adjustment was published on March 19, 2018 (83 FR 11876), and the Department's 2019 annual adjustment was published on April 17, 2019 (84 FR 15955). The 2015 Act provides that any increase in a CMP shall apply to CMPs that are assessed after the date the increase takes effect, regardless of whether the underlying violation predated such increase.[1]

II. Method of Calculation

The method of calculating CMP adjustments applied in this final rule is required by the 2015 Act. Under the 2015 Act and the Office of Management and Budget guidance required by the 2015 Act, annual inflation adjustments subsequent to the initial catch-up adjustment are to be based on the percent change between the Consumer Price Index for all Urban Consumers (''CPI–U'') for the October preceding the date of the adjustment and the prior

[1] However, the increased CMPs apply only with respect to underlying violations occurring after the date of enactment of the 2015 Act, *i.e.,* after November 2, 2015.

year's October CPI–U. As set forth in Office of Management and Budget Memorandum M–20–05 of December 16, 2019, the adjustment multiplier for 2019 is 1.01764. In order to complete the 2019 annual adjustment, each current CMP is multiplied by the 2020 adjustment multiplier. Under the 2015 Act, any increase in CMP must be rounded to the nearest multiple of $1.

Procedural Matters

1. Administrative Procedure Act

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Section 701(b)) requires agencies, beginning in 2017, to make annual adjustments for inflation to CMPs, without needing to provide notice and the opportunity for public comment and a delayed effective date required by 5 U.S.C. 553. Additionally, the methodology used, effective 2017, for adjusting CMPs for inflation is provided by statute, with no discretion provided to agencies regarding the substance of the adjustments for inflation to CMPs. The Department is charged only with performing ministerial computations to determine the dollar amount of adjustments for inflation to CMPs. Accordingly, prior public notice, an opportunity for public comment, and a delayed effective date are not required for this rule.

2. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

3. Executive Order 12866

This rule is not a significant regulatory action as defined in section 3.f of Executive Order 12866.

4. Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this rule because there are no new or revised recordkeeping or reporting requirements.

List of Subjects

31 CFR Part 27

Administrative Practice and Procedure, Penalties.

31 CFR Part 50

Insurance, Terrorism.

Authority and Issuance

For the reasons set forth in the preamble, part 27 and part 50 of title 31 of the Code of Federal Regulations are amended as follows:

PART 27—CIVIL PENALTY ASSESSMENT FOR MISUSE OF DEPARTMENT OF THE TREASURY NAMES, SYMBOLS, ETC.

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

Authority: 31 U.S.C. 321, 333

■ 2. Amend § 27.3 by revising paragraph (c) to read as follows:

§ 27.3 Assessment of civil penalties.

* * * * *

(c) *Civil Penalty.* An assessing official may impose a civil penalty on any person who violates the provisions of paragraph (a) of this section. The amount of a civil monetary penalty shall not exceed $8,116 for each and every use of any material in violation of paragraph (a), except that such penalty shall not exceed $40,576 for each and every use if such use is in a broadcast or telecast.

* * * * *

PART 50—TERRORISM RISK INSURANCE PROGRAM

■ 3. The authority citation for part 50 is revised to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 321; Title I, Pub. L. 107–297, 116 Stat. 2322, as amended by Pub. L. 109–144, 119 Stat. 2660, Pub. L. 110–160, 121 Stat. 1839, Pub. L. 114–1, 129 Stat. 3, and Pub. L. 116–94, 133 Stat. 2534 (15 U.S.C. 6701 note); Pub. L. 114–74, 129 Stat. 601, Title VII (28 U.S.C. 2461 note).

■ 4. Amend § 50.83(a) to read as follows:

§ 50.83 Adjustment of civil monetary penalty amount.

(a) *Inflation Adjustment.* Any penalty under the Act and these regulations may not exceed the greater of $1,419,442 and, in the case of any failure to pay, charge, collect or remit amounts in accordance with the Act or these regulations such amount in dispute.

* * * * *

David B. Dwyer,

Executive Secretary.

[FR Doc. 2020–02712 Filed 2–20–20; 8:45 am]

BILLING CODE 4810–25–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2018–0634; FRL–10005–34–Region 5]

Air Plan Approval; Indiana; Revisions to NO_X SIP Call and CAIR Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving under the Clean Air Act (CAA) a request from the Indiana Department of Environmental Management (IDEM) to revise the Indiana State Implementation Plan (SIP) to incorporate the following: A new rule concerning nitrogen oxide (NO_X) emissions for the ozone season from Electric Generating Units (EGUs) and large non-EGUs; revisions concerning NO_X emission rate limits for specific source categories; the repeal of the NO_X Budget Trading Program; and the repeal of the Clean Air Interstate Rule (CAIR) NO_X ozone season trading program. This SIP revision will ensure continued compliance by EGUs and large non-EGUs with the requirements of the NO_X SIP Call.

DATES: This direct final rule is effective April 21, 2020, unless EPA receives adverse comments by March 23, 2020. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2018–0634 at *http://www.regulations.gov* or via email to *arra.sarah@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission

methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Eric Svingen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4489, *svingen.eric@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is the background of this SIP submission?
II. What is EPA's analysis of this SIP submission?
III. What action is EPA Taking?
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

I. What is the background of this SIP submission?

Under the ''good neighbor provision'' of CAA section 110(a)(2)(D)(i)(I), states are required to address interstate transport of air pollution. Specifically, the good neighbor provision provides that each state's SIP must contain provisions prohibiting emissions from within that state which will contribute significantly to nonattainment of the National Ambient Air Quality Standards (NAAQS), or interfere with maintenance of the NAAQS, in any other state.

On October 27, 1998, EPA published the NO_X SIP Call, which required eastern states, including Indiana, to submit SIPs that prohibit excessive emissions of ozone season NO_X by implementing statewide emissions budgets (63 FR 57356). The NO_X SIP Call addressed the good neighbor provision for the 1979 ozone NAAQS and was designed to mitigate the impact of transported NO_X emissions, one of the precursors of ozone. EPA developed the NO_X Budget Trading Program, an allowance trading program that states could adopt to meet most of their obligations under the NO_X SIP Call. This trading program allowed certain sources to participate in a regional cap and trade program: EGUs with capacity greater than 25 megawatts; and large non-EGUs, such as boilers and combustion turbines, with a rated heat input greater than 250 million British thermal units (MMBtu) per hour. The NO_X SIP Call also identified potential reductions from Portland cement kilns and stationary internal combustion engines. To meet the requirements of the NO_X SIP Call, IDEM initially promulgated two rules: 326 IAC 10–3, which established source-by-source emission rate limits and monitoring requirements for Portland cement kilns and blast furnace gas-fired boilers, and 326 IAC 10–4, which required EGUs and certain other non-EGUs in the state to participate in the NO_X Budget Trading Program. On November 8, 2001, EPA published an action approving into the SIP the original versions of 326 IAC 10–3 and 326 IAC 10–4 in fulfillment of the ''Phase I'' requirements of the NO_X SIP Call (66 FR 56465). EPA has subsequently approved revised portions of these rules into the SIP. On December 11, 2003, EPA approved Indiana rule revisions that changed the regulatory approach selected by the state for blast furnace gas-fired boilers at two sources, making such units subject to the NO_X Budget Trading Program at 326 IAC 10–4 instead of the source-by-source emission rate limits at 326 IAC 10–3 (68 FR 69025).[1] On October 1, 2007, EPA approved into the SIP 326 IAC 10–5, which addressed emissions from stationary internal combustion engines, as well as associated revisions to 326 IAC 10–3 and 326 IAC 10–4, in fulfillment of the ''Phase II'' requirements of the NO_X SIP Call (72 FR 55664).

On May 12, 2005, EPA published CAIR, which required eastern states, including Indiana, to submit SIPs that prohibited emissions consistent with annual and ozone season NO_X budgets and annual sulfur dioxide (SO_2) budgets (70 FR 25152). CAIR addressed the good neighbor provision for the 1997 ozone NAAQS and 1997 fine particulate matter ($PM_{2.5}$) NAAQS and was designed to mitigate the impact of transported NO_X emissions, a precursor of both ozone and $PM_{2.5}$, as well as transported SO_2 emissions, another precursor of $PM_{2.5}$. Like the NO_X SIP Call, CAIR also established several trading programs that states could use as mechanisms to comply with the budgets. When the CAIR trading program for ozone season NO_X was implemented beginning in 2009, EPA discontinued administration of the NO_X Budget Trading Program, but the requirements of the NO_X SIP Call continued to apply. To meet the requirements of CAIR, IDEM promulgated 326 IAC 24–1, 326 IAC 24–2, and 326 IAC 24–3, which required EGUs to participate in the CAIR annual SO_2 and annual and ozone season NO_X trading programs. Participation by EGUs in the CAIR trading program for ozone season NO_X emissions addressed the state's obligation under the NO_X SIP Call for those units. IDEM also opted to incorporate large non-EGUs previously regulated under 326 IAC 10–4 into 326 IAC 24–3, to meet the obligations of the NO_X SIP Call with respect to those units through the CAIR trading program as well. On October 22, 2007, EPA published an action approving portions of 326 IAC 24–1, 326 IAC 24–2, and 326 IAC 24–3 into the Indiana SIP (72 FR 59480). On November 29, 2010, EPA published an action approving additional sections of and revisions to 326 IAC 24–1, 326 IAC 24–2, and 326 IAC 24–3 into the Indiana SIP, fully addressing the requirements of CAIR, along with associated revisions to 326 IAC 10–3 and 326 IAC 10–4 (75 FR 72956). The approved revision to 326 IAC 10–4 ''sunsetted'' all requirements for Indiana EGUs and large non-EGUs under the NO_X Budget Trading Program in coordination with the implementation start date for the CAIR ozone season NO_X trading program.

The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded CAIR to EPA for replacement in 2008. *North Carolina* v. *EPA,* 531 F.3d 896, modified, 550 F.3d 1176 (2008). While EPA worked on developing a replacement rule, implementation of the CAIR program continued as planned with the NO_X annual and ozone season programs beginning in 2009 and the SO_2 annual program beginning in 2010.

On August 8, 2011, acting on the D.C. Circuit's remand, EPA published the Cross-State Air Pollution Rule (CSAPR) to replace CAIR and to address the good neighbor provision for the 1997 ozone NAAQS, the 1997 $PM_{2.5}$ NAAQS, and the 2006 $PM_{2.5}$ NAAQS (76 FR 48208). Through Federal Implementation Plans (FIPs), CSAPR required EGUs in eastern states, including Indiana, to meet annual and ozone season NO_X budgets and annual SO_2 budgets implemented through new trading programs. CSAPR also contained provisions that would sunset CAIR-related obligations on a schedule coordinated with the implementation of the CSAPR compliance requirements. After delays caused by litigation, EPA started implementing the CSAPR trading programs in 2015, simultaneously discontinuing administration of the CAIR trading programs. Participation by

[1] The units subject to the change were existing and new blast furnace gas-fired boilers at the ArcelorMittal Indiana Harbor East (plant code 10474) and US Steel Gary Works (plant code 50733) facilities. Blast furnace gas-fired boilers at other Indiana sources remained subject to 326 IAC 10–3 rather than 326 IAC 10–4.

a state's EGUs in the CSAPR trading program for ozone season NO_X generally addressed the state's obligations under the NO_X SIP Call for EGUs. However, CSAPR did not initially contain provisions allowing states to incorporate large non-EGUs into that trading program to meet the requirements of the NO_X SIP Call for non-EGUs.

On October 26, 2016, EPA published the CSAPR Update, which established a new ozone season NO_X trading program for EGUs in eastern states, including Indiana, to address the good neighbor provision for the 2008 ozone NAAQS (81 FR 74504). As under CSAPR, participation by a state's EGUs in the new CSAPR trading program for ozone season NO_X generally addressed the state's obligations under the NO_X SIP Call for EGUs. The CSAPR Update also expanded options available to states for meeting NO_X SIP Call requirements for large non-EGUs by allowing states to incorporate those units into the new trading program.

After evaluating the various options available following the CSAPR Update, IDEM chose to meet the ongoing NO_X SIP Call requirements for most existing and new large non-EGUs by adopting a new rule at 326 IAC 10–2 to make the portion of the state's NO_X SIP Call budget assigned to those non-EGUs enforceable without an allowance trading mechanism. With respect to the blast furnace gas-fired units formerly regulated under the NO_X Budget Trading Program (and then the CAIR ozone season NO_X program), IDEM chose instead to revise 326 IAC 10–3 to make the units subject to source-by-source emission rate limits under that rule. Finally, IDEM also repealed its CAIR trading program rules at 326 IAC 24–1, 326 IAC 24–2, and 326 IAC 24–3 and its already-sunsetted NO_X Budget Trading Program rule at 326 IAC 10–4. In its August 27, 2018 submission, IDEM requested that EPA approve these changes into the Indiana SIP.

On December 17, 2018, EPA approved a separate November 27, 2017 submission from IDEM, which modified the Indiana SIP to incorporate rules requiring EGUs to participate in the CSAPR trading programs pursuant to the SIP instead of the CSAPR FIPs (83 FR 64472). As part of this action, EPA approved the removal of 326 IAC 24–1, 326 IAC 24–2, and portions of 326 IAC 24–3 from the Indiana SIP. Following the December 17, 2018 SIP action, 326 IAC 24–3–1, 326 IAC 24–3–2, 326 IAC 24–3–4, and 326 IAC 24–3–11 are the only portions of Indiana's original CAIR rules at 326 IAC 24–1, 326 IAC 24–2, and 326 IAC 24–3 that remain in the Indiana SIP. These provisions were left in place by the December 17, 2018 SIP action because they collectively establish ozone season NO_X monitoring requirements for affected non-EGUs, and at the time of that action no other SIP-approved rules addressed monitoring requirements for these units for NO_X SIP Call purposes.

On March 8, 2019, EPA finalized updates to the NO_X SIP Call regulations to allow states to meet the NO_X SIP Call's monitoring requirements using approaches other than the monitoring requirements under 40 CFR part 75 (84 FR 8422). Indiana's August 27, 2018 submission predates EPA's updates to the NO_X SIP Call's monitoring requirements and therefore does not include changes that allow non-EGUs subject to the new rule at 326 IAC 10–2 to meet the NO_X SIP Call's monitoring requirements using approaches other than part 75 monitoring. EPA is assisting IDEM with preparing a submission that would make other monitoring approaches available to these units and will address any such submission in a future rulemaking.

II. What is EPA's analysis of this SIP submission?

Indiana's August 27, 2018 submission requests that EPA update Indiana's SIP to reflect the addition of a new rule at 326 IAC 10–2, the revision of the existing rule at 326 IAC 10–3, and the repeal of the rules at 326 IAC 10–4, 326 IAC 24–1, 326 IAC 24–2, and 326 IAC 24–3. (As noted in section I, EPA has already approved the removal of 326 IAC 24–1, 326 IAC 24–2, and portions of 326 IAC 24–3 from the SIP in response to a different SIP submission.) Additionally, Indiana's submission includes a demonstration under section 110(l) of the CAA showing that this SIP revision does not interfere with any applicable CAA requirement.

A. New, Revised, and Repealed State Rules

Given EPA's replacement of CAIR with CSAPR and EPA's previous discontinuation of administration of the NO_X Budget Trading Program, Indiana has developed rule changes to address the NO_X SIP Call's ongoing requirements with respect to existing and new large non-EGUs in a manner that does not rely on the administration of a trading program. Specifically, to address all of the affected non-EGUs formerly covered by the trading programs except the blast furnace gas-fired units, the state adopted a new rule at 326 IAC 10–2 that establishes monitoring requirements and a cap on the units' collective ozone season NO_X mass emissions. To address the blast furnace gas-fired units, the state revised the existing rule at 326 IAC 10–3 to make the units subject to source-by-source emission rate limits and monitoring requirements under that rule. Indiana also repealed its remaining CAIR rules at 326 IAC 24–3–1, 326 IAC 24–3–2, 326 IAC 24–3–4, and 326 IAC 24–3–11 and its already-sunsetted NO_X Budget Trading Program rule at 326 IAC 10–4. These rule changes have a state-effective date of August 26, 2018. Indiana's August 27, 2018, submission includes a request that EPA approve these rule changes into its SIP.

The new rule at 326 IAC 10–2 that Indiana has adopted to address the NO_X SIP Call's ongoing requirements with respect to most of the state's affected large non-EGUs is structured into nine sections: 326 IAC 10–2–1 concerning applicability, 326 IAC 10–2–2 concerning definitions, 326 IAC 10–2–3 concerning monitoring requirements, 326 IAC 10–2–4 concerning compliance dates for monitoring, 326 IAC 10–2–5 concerning certification and recertification of monitoring systems, 326 IAC 10–2–6 concerning data substitution for periods of missing data, 326 IAC 10–2–7 concerning petitions for approval of monitoring alternatives, 326 IAC 10–2–8 concerning recordkeeping and reporting, and 326 IAC 10–2–9 concerning the ozone season NO_X budget. Under the applicability provisions, the rule applies to all non-EGUs that would have been subject to the state's NO_X Budget Trading Program rule at 326 IAC 10–4 except the blast furnace gas-fired units that will become subject to 326 IAC 10–3 as revised. The remaining provisions of the rule prohibit the affected non-EGUs' collective emissions from exceeding 8,008 tons, which is the portion of Indiana's statewide budget under the NO_X SIP Call that was assigned to these types of units under the NO_X Budget Trading Program, and require monitoring of ozone season NO_X mass emissions in accordance with 40 CFR part 75. The rule also incorporates the provisions of 40 CFR part 72, subpart B, concerning designated representatives. In its SIP submittal, Indiana has committed to annually review the non-EGUs' compliance with the collective cap and, in the event of any cap exceedance, to revise its SIP within one year to compensate for the exceedance and prevent additional exceedances.

The revisions to the existing rule at 326 IAC 10–3 concerning NO_X emission rate limits for specific source categories revise the rule's applicability provisions to cover the blast furnace gas-fired units that formerly would have been covered

by the NO_X Budget Trading Program.[2] In addition, the provisions concerning the establishment of appropriate emissions factors for use by such units in determining reported emissions under this rule are modified to allow historical emissions data reported under 40 CFR part 75 to be used for this purpose, and a provision is added requiring the newly covered units to submit their plans for complying with the rule within 60 days of becoming affected under the rule. The revisions will make these units subject to essentially the same emission rate limits and monitoring requirements that the units would have been subject to under the state rules originally adopted by Indiana to address the NO_X SIP Call and approved into the SIP by EPA in 2001. Other revisions to the rule include removing references to the repealed NO_X Budget Trading Program and CAIR rules, inserting references to the new rule at 326 IAC 10–2, updating the names of two sources referenced specifically by the rule, clarifying and strengthening applicability during certain operating periods, and making minor improvements to formatting and grammar.

The rules that Indiana requested be removed from the SIP in the August 27, 2018 SIP submission are the state's NO_X Budget Trading Program rule at 326 IAC 10–4 and the state's CAIR trading program rules at 326 IAC 24–1, 326 IAC 24–2, and 326 IAC 24–3, concerning annual NO_X, SO_2, and ozone season NO_X emissions, respectively. Because EPA's December 17, 2018 SIP action already approved the removal from the SIP of 326 IAC 24–1, 326 IAC 24–2, and portions of 326 IAC 24–3, this action will remove only 326 IAC 10–4 and the remaining SIP-approved portions of 326 IAC 24–3, which were left in place by the December 17, 2018 SIP action to address ozone season NO_X monitoring requirements for affected non-EGUs for NO_X SIP Call purposes in the absence of other SIP-approved rules establishing such monitoring requirements.

B. EPA's Evaluation of the SIP Submission

Under the ongoing requirements of the NO_X SIP Call, the Indiana SIP must, among other things: (1) Include enforceable control measures for ozone season NO_X mass emissions from existing and new large EGUs and large non-EGUs that the state relied on to achieve emission reductions to meet its statewide NO_X budget and (2) require those sources to monitor and report their ozone season NO_X emissions, which may be in accordance with part 75. See 40 CFR 51.121(f)(2) and (i). For the reasons discussed below, EPA is finding that Indiana's new rule at 326 IAC 10–2, in combination with the continued participation of the state's EGUs in the CSAPR ozone season NO_X trading program, is sufficient to address the state's ongoing NO_X SIP Call obligations with respect to these EGUs and large non-EGUs, while the revisions to 326 IAC 10–3 establish reasonable requirements for the blast furnace gas-fired units formerly subject to the NO_X Budget Trading Program. Accordingly, EPA is approving these changes into the SIP.

With respect to the NO_X SIP Call requirement that the state have enforceable control measures to limit ozone season NO_X mass emissions, Indiana's EGUs are currently subject to a state CSAPR Update trading program for ozone season NO_X emissions that addresses these requirements for existing and new EGUs, but because Indiana's non-EGUs are not subject to that CSAPR trading program, the state must meet this requirement for existing and new non-EGUs through other SIP provisions. Indiana's new rule at 326 IAC 10–2 will prohibit ozone season NO_X mass emissions from existing and new large non-EGUs other than blast furnace gas-fired units from exceeding 8,008 tons, the portion of the state's NO_X SIP Call budget assigned to such large non-EGUs. Under 326 IAC 10–2, Indiana will conduct an annual review to ensure that the most recent ozone season emissions from large non-EGUs remain below the statewide budget, and in the SIP submission IDEM has committed to take action within one year as needed to address any exceedances. The new cap will replace the former enforcement mechanism of the NO_X Budget Trading Program and the CAIR ozone season NO_X trading program under which these sources were required to hold allowances equal to their emissions. The allowance holding requirements under the trading programs have been unenforceable since EPA stopped administering the trading programs in 2009 and 2015, respectively. The addition of 326 IAC 10–2 thus will remedy an existing gap in the SIP by reestablishing enforceable limits on ozone season NO_X mass emissions from these units.

Indiana has chosen a different regulatory approach for blast furnace gas-fired units that formerly would have been covered by the NO_X Budget Trading Program. Unlike the state's other large non-EGUs, the blast furnace gas-fired units have never been relied upon by Indiana to achieve emissions reductions to meet the statewide NO_X budget under the NO_X SIP Call. In the state's original rules approved into the SIP in 2001, under which all blast furnace gas-fired units were subject to source-by-source emission rate limits under 326 IAC 10–3, as well as in the rule revisions approved into the SIP in 2003, under which the blast furnace gas-fired units at two sources were instead made subject to the NO_X Budget Trading Program under 326 IAC 10–4, Indiana consistently projected no emission reductions from its blast furnace gas-fired units for purposes of meeting the state's overall NO_X budget. See 66 FR at 56469 (Table 4) and 56473; June 26, 2003 SIP submission (Attachment K), available in the docket for this rulemaking. Consequently, there is no ongoing NO_X SIP Call requirement under 40 CFR 51.121(f)(2) for the Indiana SIP to include enforceable limits on ozone season NO_X mass emissions from these units, and to meet its other NO_X SIP Call requirements, Indiana has now chosen to return to the regulatory approach in its original SIP submission (as approved into the SIP in 2001) by making all the state's blast furnace gas-fired units subject to source-by-source emission rate limits under 326 IAC 10–3. Importantly, this change of requirements will be implemented in a manner designed to maintain the overall stringency of the SIP for NO_X SIP Call purposes. First, with respect to the blast furnace gas-fired units, the source-by-source emission rate limit of 0.17 lb/MMBtu that will apply to the units under 326 IAC 10–3 is the same limit that was used to project the units' uncontrolled emissions for purposes of both of the state's previous SIP submissions concerning the NO_X SIP Call-related requirements for these units. Second, with respect to the remaining non-EGUs that will be subject to the new collective mass emissions cap under 326 IAC 10–2, Indiana has set the cap at 8,008 tons, which is the portion of the statewide NO_X budget assigned to Indiana's non-EGUs under the NO_X Budget Trading Program before the blast furnace gas-fired units at the two sources were added to the trading program. The SIP with the combined revisions included in this action therefore will remain in compliance with Indiana's statewide NO_X budget under the NO_X SIP Call.

[2] The existing blast furnace gas-fired boilers that will be affected by this change are ArcelorMittal Indiana Harbor East (plant code 10474) units 501, 502, 503, and 504 and US Steel Gary Works (plant code 50733) units 701B1, 701B2, 701B3, 701B5, 701B6, 720B1, 720B2, and 720B3. According to IDEM, the other formerly affected blast furnace gas-fired boilers at the Indiana Harbor East facility have been retired.

With respect to the ongoing NO_X SIP Call requirement for emissions monitoring, Indiana's new rule at 326 IAC 10–2 will continue to require that non-EGUs subject to that rule monitor and report their ozone season NO_X emissions under part 75, and the state's EGUs are subject to equivalent monitoring requirements under the state's CSAPR trading program for ozone season NO_X emissions. The blast furnace gas-fired units being made subject to source-by-source emission rate limits under 326 IAC 10–3 will become subject to the non-part 75 monitoring requirements under that rule, which will be slightly modified to allow the use of historical part 75 emissions data as a basis for setting the emissions factors used to determine reported emissions. If, as anticipated, IDEM submits to EPA a SIP revision that would make non-part 75 monitoring approaches available to large non-EGUs subject to 326 IAC 10–2, the monitoring requirements for these units under the NO_X SIP Call will be the subject of a future rulemaking.

EPA is finding that the new rule at 326 IAC 10–2 meets Indiana's ongoing obligations under the NO_X SIP Call with respect to existing and new large non-EGUs that the state relied on to achieve emission reductions to meet its statewide NO_X budget. Specifically, the revised rules meet the requirement under 40 CFR 51.121(f)(2) for enforceable limits on the units' collective emissions of ozone season NO_X mass emissions and the requirement under 40 CFR 51.121(i)(1) for monitoring sufficient to ensure compliance with those limits. The state's EGUs are currently complying with their analogous NO_X SIP Call requirements through participation in the state's CSAPR Update trading program for ozone season NO_X. EPA is also finding that the change in regulatory approach chosen by Indiana for the blast furnace gas-fired units is permissible under the NO_X SIP Call regulations and is reasonable because it provides for continued emissions monitoring by the units and ensures that the overall stringency of the SIP is maintained for NO_X SIP Call purposes.

Finally, EPA is also approving the removal from the SIP of Indiana's NO_X Budget Trading Program rule and the remaining portions of the state's CAIR trading program rule for ozone season NO_X emissions. With respect to the NO_X Budget Trading Program rule, because EPA already approved sunsetting of this rule in a previous action, the rule has no force and its removal from the SIP in this action will have no substantive effect. With respect to the remaining CAIR rule, which establishes emission monitoring requirements for the types of large non-EGUs formerly subject to the NO_X Budget Trading Program, the rule will generally be made redundant by the other rule changes approved in this action. Specifically, the large non-EGUs other than blast furnace gas-fired units will remain subject to equivalent part 75 monitoring requirements under 326 IAC 10–2, and the blast furnace gas-fired units will become subject to the non-part 75 monitoring requirements that EPA originally approved into the SIP for the units in 2001 as part of the state's original SIP submission addressing NO_X SIP Call requirements.

In summary, EPA is finding that IDEM's addition of the new rule at 326 IAC 10–2, revision of the existing rule at 326 IAC 10–3, and repeal of the rules at 326 IAC 10–4 and 326 IAC 24–3 are consistent with applicable requirements under the CAA and the NO_X SIP Call, and EPA is therefore approving these changes into the Indiana SIP.

C. Section 110(l) Demonstration

IDEM's submission includes a demonstration showing that CAA section 110(l) does not prohibit approval of this SIP revision; such a demonstration is sometimes called an anti-backsliding demonstration. Section 110(l) provides that EPA cannot approve a SIP revision if the revision would interfere with attainment and maintenance of the NAAQS, reasonable further progress, or any other applicable requirement of the CAA.

The majority of the rule changes approved in this action either add new requirements, remove provisions that have no impact on emissions or air quality, or replace existing requirements under one rule with identical requirements under another rule. As such, they will not interfere with any applicable CAA requirement. First, the emission limits established by revised 326 IAC 10–3 for blast furnace gas-fired units and by 326 IAC 10–2 for other non-EGUs are new requirements that will remedy a gap in the SIP that was created when EPA discontinued the administration of the CAIR trading program for ozone season NO_X emissions. Second, removal from the SIP of the state's NO_X Budget Trading Program rule will have no impact on emissions or air quality because EPA's earlier November 29, 2010 action approved sunsetting of the rule, and EPA ceased administering the program when the CAIR trading program was implemented. The state's NO_X Budget Trading Program rule can, therefore, no longer be implemented. Finally, with respect to the removal of the remaining CAIR rule for ozone season NO_X emissions, which established monitoring requirements for non-EGUs (other than blast furnace gas-fired units) for NO_X SIP Call purposes, the new rule at 326 IAC 10–2 will reestablish substantively identical part 75 monitoring requirements for these units.

The only SIP revision that we are approving in this action that will remove currently effective rule provisions without replacing them with substantively identical provisions relates to the emissions monitoring requirements for blast furnace gas-fired units at the two sources formerly subject to the NO_X Budget Trading Program. These units are currently subject to part 75 monitoring requirements under 326 IAC 24–3, which the State has requested be removed from the SIP, and will become subject to non-part 75 monitoring requirements under the revised rule at 326 IAC 10–3. EPA concludes this change in monitoring requirements will not lead to an increase in emissions for two reasons. First, the change will relate only to monitoring requirements, not to emission limits; in fact, other rule changes approved in this action will make the units subject to additional enforceable emission limits. Second, even during the period after 2014 in which the sources were not subject to enforceable emission limits under the NO_X Budget Trading Program or the CAIR trading program, the units' reported collective emissions in every year from 2015 through 2019 were well below the units' share of the previous collective emissions budget for the state's non-EGUs under 326 IAC 24–3. Specifically, the units' collective ozone season NO_X mass emissions have not exceeded 1,193 tons, compared to their budget share of 1,526 tons. *See* emissions data at *https://ampd.epa.gov;* June 26, 2003 SIP submission (Attachment K), available in the docket for this rulemaking. These data indicate that the units' emissions limits and monitoring requirements for NO_X SIP Call purposes have not been driving their historical emissions levels, with the logical consequence that the change in their monitoring requirements approved in this action will not cause a change in their emissions levels.

For these reasons, we conclude that the revisions will not interfere with attainment of the NAAQS, reasonable further progress, or any other applicable requirement of the CAA. EPA is therefore finding that CAA section 110(l) does not prohibit approval of this SIP revision.

III. What action is EPA taking?

EPA is approving IDEM's request to modify its SIP to include the new rule at 326 IAC 10–2 and the revised rule at 326 IAC 10–3 and to remove 326 IAC 10–4 and 326 IAC 24–3.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective April 21, 2020 without further notice unless we receive relevant adverse written comments by March 23, 2020. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective April 21, 2020.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Indiana Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov* and at the EPA Region 5 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 EPA for inclusion in the State implementation plan, have been incorporated by reference by 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 EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[3]

Also in this document, as described in the amendments to 40 CFR part 52 set forth below, EPA is removing provisions of the EPA-Approved Indiana Regulations from the Indiana SIP, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

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 approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications 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. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 21, 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

[3] 62 FR 27968 (May 22, 1997).

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, Sulfur oxides.

Dated: January 30, 2020.

Kurt A. Thiede,

Regional Administrator, Region 5.

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.*

■ 2. In § 52.770, the table in paragraph (c) is amended by:

■ a. Revising the section entitled ''Article 10. Nitrogen Oxides Rules''; and

■ b. Removing the heading ''Rule 3. Clean Air Interstate Rule (CAIR) NO X Ozone Season Trading Program'' and the entries for 24–3–1, 24–3–2, 24–3–4, and 24–3–11.

The revision reads as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED INDIANA REGULATIONS

Indiana citation	Subject	Indiana effective date	EPA approval date	Comments
*	*	*	*	*
Article 10. Nitrogen Oxides Rules				
10–1	Nitrogen Oxides Control in Clark and Floyd Counties.	6/12/1996	6/3/1997, 62 FR 30253.	
10–2	NO_X Emissions from Large Affected Units.	8/26/2018	2/21/2020, [Insert **Federal Register** citation].	
10–3	Nitrogen Oxide Reduction Program for Specific Source Categories.	8/26/2018	2/21/2020, [Insert **Federal Register** citation].	
10–5	Nitrogen Oxide Reduction Program for Internal Combustion Engines (ICE).	2/26/2006	10/1/2007, 72 FR 55664.	
10–6	Nitrogen Oxides Emission Limitations for Southern Indiana Gas and Electric Company.	8/30/2008	11/10/2009, 74 FR 57904.	
*	*	*	*	*

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[FR Doc. 2020–02817 Filed 2–20–20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2019–0391; FRL–10005–22–Region 4]

Air Plan Approval; MS; Revisions to the State Implementation Plan Approved by EPA Through Letter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notification of administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action on administrative changes to the Mississippi State Implementation Plan (SIP). The changes consist of recodification of Mississippi's regulations, which EPA previously approved through Letter Notices. EPA has determined that this action falls under the ''good cause'' exemption in the Administrative Procedure Act (APA). This exemption in the APA authorizes agencies to dispense with public participation and to make an action effective immediately, thereby avoiding the 30-day delayed effective date otherwise provided for in the APA.

DATES: This action is effective February 21, 2020.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2019–0391. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Bell's telephone number is (404) 562–9088. Ms. Bell can also be reached via electronic mail at *bell.tiereny@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What is being addressed in this document?

EPA is taking final action on administrative changes to the Mississippi SIP. On May 23, 2016 [1] and

[1] On May 23, 2016, MDEQ submitted a SIP revision that included the renumbering and reformatting of Mississippi's PSD regulations. On

November 21, 2016, Mississippi submitted SIP revisions that recodify the State of Mississippi's Air Pollution Control (APC) Regulations formerly known as APC–S–1, APC–S–2, APC–S–3 and APC–S–5 to 11 Mississippi Administrative Code (MAC), Part 2, Chapter 1, 11 MAC, Part 2, Chapter 2, 11 MAC, Part 2, Chapter 3 and 11 MAC, Part 2, Chapter 5, respectively. EPA has determined that the revisions are minor SIP changes without any substantive changes, and that they comply with all applicable requirements of the Clean Air Act (CAA) and EPA regulations concerning such SIP revisions. EPA approved these revisions through Letter Notices to the Mississippi Department of Environmental Quality (MDEQ) dated June 14, 2017 and July 20, 2017, consistent with the procedures outlined in both EPA's Notice of Procedural Changes on SIP processing published on January 19, 1989 at 54 FR 2214 and a memorandum dated April 6, 2011 entitled ''Regional Consistency for the Administrative Requirements of State Implementation Plan Submittals and the Use of Letter Notices'' from Janet McCabe, Former Deputy Assistant Administrator for the Office of Air and Radiation to the EPA Regional Administrators.

II. What action is EPA taking?

This action merely recodifies in 40 CFR 52.1270(c) the administrative amendments approved by EPA through its June 14, 2017 and July 20, 2017 Letter Notices to MDEQ.[2] EPA has determined that this action falls under the ''good cause'' exemption in section 553(b)(3)(B) of the APA. This exemption authorizes agencies to dispense with public participation when the agency for good cause finds that notice and public procedure would be impracticable, unnecessary, or contrary to the public interest. In addition, section 553(d)(3) allows an agency to, for good cause, make an action effective immediately, thereby avoiding the 30-day delayed effective date otherwise provided in the APA.

With respect to the SIP revision described above, this administrative action simply recodifies provisions which are already in effect as a matter of law in Federal and approved state programs. Public comment for this administrative action is ''unnecessary'' because the revisions are administrative and non-substantive in nature. Immediate notice of this action in the **Federal Register** benefits the public by providing the public notice of the updated Mississippi SIP. Approval of these revisions will ensure consistency between state and federally-approved rules. EPA has determined that these changes will not relax the SIP or adversely impact air quality.

III. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of State of Mississippi's APC Regulations formerly known as APC–S–1, APC–S–2, APC–S–3 and APC–S–5 to: 11 MAC, Part 2, Chapter 1, 11 MAC, Part 2, Chapter 2, 11 MAC, Part 2, Chapter 3 and, 11 MAC, Part 2, Chapter 5, respectively. These regulations were state effective July 25, 2013. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by 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 EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[3]

IV. Final Action

EPA is taking final action on administrative changes to the Mississippi SIP. The changes consist of recodification of Mississippi's regulations, which EPA previously approved through Letter Notices. On May 23, 2016 and November 21, 2016, Mississippi submitted SIP revisions that recodify the State of Mississippi's Air Pollution Control (APC) Regulations formerly known as APC–S–1, APC–S–2, APC–S–3 and APC–S–5 to 11 Mississippi Administrative Code (MAC), Part 2, Chapter 1, 11 MAC, Part 2, Chapter 2, 11 MAC, Part 2, Chapter 3 and 11 MAC, Part 2, Chapter 5, respectively.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. These actions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For that reason, these actions:

- Are not significant regulatory actions 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);
- Are not Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because SIP approvals are exempted under Executive Order 12866;
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having significant economic impacts on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do 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);
- Do not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are 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
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible

May 9, 2017, MDEQ submitted a supplemental letter to the May 23, 2016 SIP revision requesting EPA to recodify Mississippi's Air Pollution Control Regulation APC–S–5 to Mississippi Administrative Code (MAC), Title 11, Part 2, Chapter 5. This regulation was renamed on July 22, 2013.

[2] EPA did not act on the following rules in the State's November 21, 2016, submittal because they are not approved into the SIP: Rule 1.6, ''New Sources,'' paragraphs B and C; Rule 1.8, ''Provisions for Hazardous Air Pollutants''; and, Rule 1.12, ''Provisions for Existing Hospital/Infectious Waste Incinerators.'' In addition, EPA did not act on changes included in the submittal that the State did not request be incorporated into the SIP, specifically changes to: Rule 1.1, subparagraphs (C)(1) and (2); Rule 1.2, definition of ''Air Quality Action Day''; Rule 1.3, subparagraphs (G)(4) and (5); Rule 1.6, paragraphs (2) and (3); and the removal of language from the ''Emergency'' level for coal or oil-fired process steam generating facilities under Rule 3.5, Table 1, Section 2.

[3] 62 FR 27968 (May 22, 1997).

methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 21, 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 28, 2020.

Mary S. Walker,

Regional Administrator, Region 4.

Title 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart Z—Mississippi

■ 2. In § 52.1270, paragraph (c) is revised to read as follows:

§ 52.1270 Identification of plan.

* * * * *

(c) *EPA Approved Mississippi regulations.*

EPA-APPROVED MISSISSIPPI REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
11 MAC Part 1—Chapter 5 Mississippi Environmental Quality Permit Board: Regulations Regarding Administrative Procedures Pursuant to the Mississippi Administrative Procedures Act				
Rule 5.1	Description of Mississippi Environmental Quality Permit Board.	5/11/2018	10/4/2018, 83 FR 50014.	
11 MAC Part 2—Chapter 1 Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants				
Rule 1.1	General	6/25/2018	10/4/2018, 83 FR 50014.	Except paragraphs (C)(1) and (2), which EPA has not approved into the SIP.
Rule 1.2	Definitions	7/25/2013	2/21/2020, [Insert citation of publication].	Except the definition of ''Air Quality Action Day,'' which EPA has not approved into the SIP.
Rule 1.3	Specific Criteria for Sources of Particulate Matter.	7/25/2013	2/21/2020, [Insert citation of publication].	Except paragraph (G)(4), which is state effective February 9, 2009, and paragraph (G)(5), which is not approved into the SIP.
Rule 1.4	Specific Criteria for Sources of Sulfur Compounds.	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 1.5	Specific Criteria for Sources of Chemical Emissions.	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 1.6	New Sources	7/25/2013	2/21/2020, [Insert citation of publication].	Except paragraphs (2) and (3), which EPA has not approved into the SIP.
Rule 1.7	Exceptions	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 1.9	Stack Height Considerations..	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 1.10	Provisions for Upsets, Startups, and Shutdowns.	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 1.11	Severability	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 1.14	Provision for the Clean Air Interstate Rule.	7/25/2013	2/21/2020, [Insert citation of publication].	

EPA-APPROVED MISSISSIPPI REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
11 MAC Part 2—Chapter 2 Permit Regulations for the Construction and/or Operation of Air Emissions Equipment				
Rule 2.1	General Requirements	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 2.2	General Standards Applicable to All Permits.	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 2.3	Application For Permit To Construct and State Permit To Operate New Stationary Source.	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 2.4	Public Participation and Public Availability of Information.	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 2.5	Application Review	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 2.6	Compliance Testing	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 2.7	Emission Evaluation Report.	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 2.8	Procedures for Renewal of State Permit To Operate.	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 2.9	Reporting and Recordkeeping.	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 2.10	Emission Reduction Schedule.	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 2.11	General Permits	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 2.12	Multi-Media Permits	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 2.13	Exclusions	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 2.14	CAFOs	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 2.15	Options	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 2.16	Permit Transfer	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 2.17	Severability	7/25/2013	2/21/2020, [Insert citation of publication].	
11 MAC Part 2—Chapter 3 Regulations for the Prevention of Air Pollution Emergency Episodes				
Rule 3.1	General	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 3.2	Definitions	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 3.3	Episode Criteria	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 3.4	Emission Control Action Programs.	7/25/2013	2/21/2020, [Insert citation of publication].	
Rule 3.5	Emergency Orders	7/25/2013	2/21/2020, [Insert citation of publication].	Except the removal of language from the ''Emergency'' level for coal or oil-fired process steam generating facilities under Rule 3.5, Table 1, Section 2, which is state effective June 3, 1988.
11 MAC Part 2—Chapter 5 Regulations for Prevention of Significant Deterioration for Air Quality				
Rule 5.1	Purpose of this Regulation.	5/28/2016	8/8/17 (82 FR 37015)	The version of Rule 5.1 in the SIP does not incorporate by reference: (1) The provisions amended in the Ethanol Rule (published in the **Federal Register** May 1, 2007) to exclude facilities that produce ethanol through a natural fermentation process from the definition of ''chemical process plants'' in the major NSR source permitting program found at § 52.21(b)(1)(i)(*a*) and (b)(1)(iii)(*f*), or (2) the provisions at § 52.21(b)(2)(v) and (b)(3)(iii)(*c*) that were stayed indefinitely by the Fugitive Emissions Interim Rule (published in the **Federal Register** March 30, 2011).

EPA-APPROVED MISSISSIPPI REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
Rule 5.2	Adoption of Federal Rules by Reference.	5/28/2016	8/8/17 (82 FR 37015) ..	The version of Rule 5.2 in the SIP does not incorporate by reference: (1) The provisions amended in the Ethanol Rule (published in the **Federal Register** May 1, 2007) to exclude facilities that produce ethanol through a natural fermentation process from the definition of ''chemical process plants'' in the major NSR source permitting program found at § 52.21(b)(1)(i)(*a*) and (b)(1)(iii)(*t*), or (2) the provisions at § 52.21(b)(2)(v) and (b)(3)(iii)(*c*) that were stayed indefinitely by the Fugitive Emissions Interim Rule (published in the **Federal Register** March 30, 2011).
11 MAC Part 2–11 Regulations for Ambient Air Quality Nonattainment Areas				
Rule 11.1	General	9/26/2015	1/12/2016, 81 FR 1321	
Rule 11.2	Definitions	9/26/2015	1/12/2016, 81 FR 1321	
Rule 11.3	Emissions Statement ...	9/26/2015	1/12/2016, 81 FR 1321	
Mississippi State Constitution				
Article 4 Section 109.	Interest of Public Officers in Contracts.	9/27/2012	4/8/2013 78 FR 20795	
Mississippi Code				
Section 25–4–25.	Persons required to file statement of economic interest.	9/27/2012	4/8/2013 78 FR 20795	
Section 25–4–27.	Contents of statement of economic interest.	9/27/2012	4/8/2013 78 FR 20795	
Section 25–4–29.	Filing dates for statement.	9/27/2012	4/8/2013 78 FR 20795	
Section 25–4–101.	Declaration of public policy.	9/27/2012	4/8/2013 78 FR 20795	
Section 25–4–103.	Definitions	9/27/2012	4/8/2013 78 FR 20795	
Section 25–4–105.	Certain actions, activities and business relationships prohibited or authorized; contacts in violation of section voidable; penalties.	9/27/2012	4/8/2013 78 FR 20795	
Section 49–2–5.	Commission on Environmental Quality.	7/1/2016	10/4/2018, 83 FR 50014.	

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[FR Doc. 2020–02612 Filed 2–20–20; 8:45 am]

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CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

40 CFR Part 1604

[Agency Docket Number: CSB–2019–0004]

RIN 3301–AA00

Accidental Release Reporting

AGENCY: Chemical Safety and Hazard Investigation Board.

ACTION: Final rule.

SUMMARY: The enabling statute of the Chemical Safety and Hazard Investigation Board (CSB) provides that the CSB shall establish by regulation requirements binding on persons for reporting accidental releases into the ambient air subject to the Board's investigative jurisdiction. The final rule is intended to satisfy this statutory requirement. The rule describes when an owner or operator is required to file a report of an accidental release, and the required content of such a report. The purpose of the rule is to ensure that the CSB receives rapid, accurate reports of any accidental release that meets established statutory criteria.

DATES: This rule is effective as of March 23, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Goonan, General Counsel of the Chemical Safety and Hazard Investigation Board, by telephone at 202–261–7600, or by email at *rulemaking@csb.gov.*

SUPPLEMENTARY INFORMATION: The CSB was established by the Clean Air Act Amendments of 1990, Public Law 101–549, 104 Stat. 2399 (November 15, 1990). The statute directs the CSB, among other things, to investigate (or cause to be investigated), determine, and report to the public in writing the facts, conditions, and circumstances and the cause or probable cause of any accidental release resulting in a fatality, serious injury, or substantial property damages and recommend measures to reduce the likelihood or the consequences of accidental releases and propose corrective steps to make chemical production, processing, handling and storage as safe and free

from risk of injury as is possible. 42 U.S.C. 7412(r)(6)(C)(i) and (ii).

The CSB's enabling legislation also includes a requirement that the CSB establish by regulation requirements binding on persons for reporting accidental releases into the ambient air subject to the Board's investigatory jurisdiction. Reporting releases to the National Response Center, in lieu of the Board directly, shall satisfy such regulations. The National Response Center shall promptly notify the Board of any releases which are within the Board's jurisdiction. 42 U.S.C. 7412(r)(6)(C)(iii).

Although the CSB's enabling legislation was enacted in 1990, the CSB did not begin operations until 1998. Since 1998, the CSB has not promulgated an accidental release-reporting requirement as envisioned in the CSB enabling legislation.

In 2004, the Department of Homeland Security (DHS) Inspector General recommended that the CSB implement the statutory reporting requirement: ''The CSB needs to refine its mechanism for learning of chemical incidents, and it should publish a regulation describing how the CSB will receive the notifications it needs.'' (Department of Homeland Security, Office of Inspector General, ''A Report on the Continuing Development of the U.S. Chemical Safety and Hazard Investigation Board,'' OIG–04–04, Jan. 2004, at 14.) In 2008, the Government Accountability Office (GAO) also recommended that the CSB fulfill its statutory obligation by issuing a reporting rule. (U.S. Government Accountability Office, ''Chemical Safety Board: Improvements in Management and Oversight Are Needed,'' GAO–08–864R, Aug. 22, 2008, at 11.)

On June 25, 2009, the CSB submitted an advanced notice of proposed rulemaking (ANPRM) entitled ''Chemical Release Reporting,'' at 74 FR 30259–30263, June 25, 2009. The ANPRM outlined four potential approaches to accidental release reporting and requested additional information for developing a proposed rule. Specifically, the CSB sought comments in response to several specific questions, including but not limited to the following:

- Are there Federal, State, or local rules or programs for reporting chemical or other types of incidents that would be an appropriate model for the CSB to consider in developing a reporting requirement?
- Should an initial report be made to the CSB or the National Response Center?
- What information should be reported to the CSB?
- How soon after an accident should reporting occur?
- Should the rule be designed with distinct requirements for rapid notification of high-consequence incidents and more systematic (and slower) notification of other incidents? Id. at 30262.

In response to the ANPRM, the CSB received 27 comments from a variety of interested parties. These comments are included as part of the docket for this rulemaking and labeled for reference as CSB–ANPR0901–000001 to CSB–ANPR0901–000133.

On February 4, 2019, a U.S. District Court judge ordered the CSB to issue a rule requiring the reporting of accidental chemical releases to the CSB. See *Air Alliance of Houston, et al.* v. *U.S. Chemical Safety and Hazard Investigation Board,* 365 F. Supp. 3d 118 (D.D.C. Feb. 4, 2019). The court directed the CSB to promulgate a final rule within 12 months of the date of the court's final order.

On December 12, 2019, the CSB published a notice of proposed rulemaking and provided thirty days for public comment. 84 FR 67899, December 12, 2019.

In response to the proposed rule, the CSB received numerous comments from approximately 43 interested parties or groups. In light of these comments and additional analysis, the CSB has revised certain sections of the proposed rule which are reflected in the final rule adopted in this document.

Regulatory Requirements

Unfunded Mandates Reform Act (2 U.S.C. Ch. 25)

The Act does not apply to independent regulatory agencies, 2 U.S.C. 658(1). In any event, the rule does not contain a Federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year. Nor will it have a significant or unique effect on small governments.

Regulatory Flexibility Act (5 U.S.C. Ch. 6)

The Regulatory Flexibility Act (RFA) requires Federal agencies to assess the impact of a rule on small entities and to consider less burdensome alternatives for rules that are expected to have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603. However, an agency is not required to prepare such an analysis for a rule if the Agency head certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). For the reasons discussed below, the CSB has certified to the SBA's Chief Counsel for Advocacy of the Small Business Administration (''SBA'') that the rule will not have a significant economic impact on a substantial number of small businesses, small governmental jurisdictions, or small organizations.

Summary of Rule

As authorized by 42 U.S.C. 7412(r)(6)(C)(iii), the CSB is issuing a final rule to require an owner or operator of a stationary source to submit an accidental release report to the CSB. The d rule describes when an owner or operator is required to file a report of an accidental release, and the required content of such a report. The purpose of the rule is to ensure that the CSB receives rapid, accurate reports of any accidental release that meets established statutory criteria.

The accidental release reports will require only information that is already known or should be available to an owner/operator soon after an accidental release. To provide the owner/operator more time to gather the necessary information the final rule has increased the reporting window from four to eight hours. The required information is also limited in scope to critical information required for the CSB to make informed decisions about its jurisdiction, interagency coordination, and deployment decision-making. For example, paragraphs (a) through (e) require only minimal contact information and a basic description of the accidental release. Paragraph (g) requests the relevant Chemical Abstract Service (CAS) Registry Number associated with the chemical(s) involved in the accidental release. Paragraphs (h), (i), (j), and (l)(1)–(3) include an important qualifier, ''if known.'' This qualifier recognizes that some or all of this information may not be known within eight hours of an accidental release. (See discussion under § 1604.3, Reporting an accidental release).

Economic Impact

Small Entity Impact

Although the CSB concluded that the rule will not have a significant economic impact on businesses, regardless of size, the CSB nevertheless estimated how many small businesses would be impacted by the proposed rule by using the following methodology.

In order to estimate the percentage of reports that would likely be filed by small businesses each year, the CSB

reviewed the 1,923 accidental releases that occurred between 2009 and 2019 to determine how many releases could be matched to an NAICS code and how many distinct NAICS codes were represented. Of the 1,923 incidents, approximately 85 percent (1,625) had a NAICS code identifier. The 1,625 events were distributed among 441 distinct, six-digit NAICS codes.[1]

Because of the distribution of accidental releases among so many different NAICS codes, the CSB focused its analysis on the business types most likely to be impacted by the proposed rule: firms with NAICS codes that appeared most often in the dataset. The CSB sorted the 1,625 releases with a NAICS code into three segments: (1) NAICS codes which appeared at least 10 times in the dataset; (2) NAICS codes which appeared between 5–9 times, and (3) NAICS codes that appeared less than 5 times. The CSB concluded that a total of 19 NAICS codes appeared 10 or more times and represented 423 separate incidents, or 26% of the 1,923 events recorded in the database.

The 19 NAICS codes with at least 10 events over the pertinent time period are listed in Table 2 below. The CSB used these 19 codes as a sample to assess impact on small businesses. The CSB assumed that releases fell evenly across all businesses within each NAICS code. Based on the total number of reports for each code (column 2), the CSB calculated the percentage of accidental releases occurring within each of the 19 most frequent NAICS codes in relation to the total number of 1,923 incidents in the database. This information is summarized in Table 2, column 3.

The CSB used the U.S. Small Business Administration Table of Small Business Size Standards to determine the pertinent small business standard for each of the 19 NAICS categories.[2] Depending on the NAICS code, a firm's status as a small business is determined by the number of employees or by annual revenue.[3] The pertinent measure for each NAICS code, employment or revenue, is set out in Table 2 in the fourth and fifth columns.

The CSB determined the total number of firms in each category, and the total number of small firms in each category, by consulting the most recent census tables summarizing data for U.S. businesses. See Table 1, columns 6 and 7. The most recent data for businesses measured by employment is from 2016.[4] The most recent data for businesses measured in terms of revenue is from 2012.[5] The percentage of small businesses within each NAICS code is listed in the last column of Table 2.

TABLE 1—RELEASES BY NAICS CATEGORIES IN TERMS OF FREQUENCY OF RELEASES 2009–2019

NAICS code	NAICS industry name	Number (percent) of incidents in sample (N=1,923)	Size standards in millions of dollars of revenue (2012)	Size standards in number of employees (2016)	Total firms	Small	% Small
324110	Petroleum Refineries	54 (2.8%)	N/A	1,500	96	*51	53
213112	Support Activities for Oil and Gas Operations.	48 (2.5%)	$42	N/A	8,877	8,595	98
211111	Crude Petroleum and Natural Gas Extraction.	44 (2.3%)	N/A	1250	5,658	*5,558	98
424690	Other Chemical and Allied Products Merchant Wholesalers.	28 (1.5%)	N/A	150	5,912	5,410	92
213111	Drilling oil and gas	27 (1.4%)	N/A	1000	1,795	*1,754	98
325199	All Other Basic Organic Chemical Manufacturing.	24 (1.25%)	N/A	1,250	584	*485	83
325998	All Other Miscellaneous Chemical Product and Preparation Manufacturing.	24 (1.25%)	N/A	500	1,005	924	92
325211	Plastics Material and Resin Manufacturing.	20 (1.04%)	N/A	1,250	855	*736	86
423930	Recyclable Material Merchant Wholesalers.	20 (1.04%)	N/A	100	6,776	6569	97
331110	Iron and Steel Mills	22 (1.14%)	N/A	1,500	442	*372	84
221310	Water Supply and Irrigation Systems.	18 (.94%)	$30	N/A	3,293	3,243	98
424720	Petroleum and Petroleum Products Merchant Wholesalers.	17 (.88%)	N/A	200	1,690	1490	88
238910	Site Preparation Contractors	15 (.78%)	$17	N/A	33,806	33,324	98
311615	Poultry Processing	13 (.68%)	N/A	1,250	317	*258	81
325180	All Other Basic Inorganic	16 (.8)	N/A	1000	365	279	76
221320	Sewage Treatment Facilities	12 (.62%)	$22	N/A	398	370	93
237120	Oil and Gas Pipeline and Related Structures Construction.	12 (.62%)	$40	N/A	1,779	1592	89
811111	General Automotive Repair	11 (.57%)	$8	N/A	76,336	75,639	99

[1] The CSB determined that a total of 253 NAICS codes appeared only one time over 10 years. Thus, 57% (253 out of 441) of the codes involved only one incident.

[2] U.S. Small Business Administration, Table of Small Business Size Standards Matched to North American Industry Classification System Codes (effective August 19, 2019), available at *https://www.sba.gov/document/support-table-size-standards.*

[3] Id. The SBA does set out some alternative measures for certain codes, but the CSB review used only standard measures.

[4] Number of Firms, Number of Establishments, Employment, and Annual Payroll by Enterprise Employment Size for the United States, All Industries: 2016 (released 12/18/2018), available at *https://www.census.gov/data/tables/2016/econ/susb/2016-susb-annual.html.*

[5] Number of Firms, Number of Establishments, Employment, Annual Payroll, and Estimated Receipts by Enterprise Receipt Sizes for the United States, All Industries: 2012 (released June 22, 2015), available at *https://www.census.gov/data/tables/2012/econ/susb/2012-susb-annual.html.*

TABLE 1—RELEASES BY NAICS CATEGORIES IN TERMS OF FREQUENCY OF RELEASES 2009–2019—Continued

NAICS code	NAICS industry name	Number (percent) of incidents in sample (N=1,923)	Size standards in millions of dollars of revenue (2012)	Size standards in number of employees (2016)	Total firms	Small	% Small
713940	Fitness and Recreational Sports Centers.	10 (.52%)	$8	N/A	24,775	24,348	98
	Total	435 (23%)					

Note 1: An asterisk appears next to numbers in the table that are estimates based on a lack of sufficiently specific census data. For example, the pertinent employment size standard for iron and steel mills set by the SBA is 1,500 employees. However, census data does not provide specific information on the number of firms with more than 1,500 employees. Instead, the highest category is 500 and more employees. Thus, for purposes of analysis, the firms with less than 500 employees were counted as small firms.

* * * * *

The CSB then multiplied the percentage of small businesses within each category by the total number of reported releases in that category over the 10-year period. Table 2, column 7. This number was then divided by 10 to obtain the number of reports anticipated each year on average from small businesses within each NAICS code.[6] Table 2, column 8. Because the number of small business reports expected annually is low, (covering a range from .91 to 4.7) for the sectors with the most identifiable releases, the CSB reasons that the impact in sectors with only a few releases over 10 years would be inconsequential.

TABLE 2—EXPECTED ANNUAL REPORTS BURDEN BY SECTOR

NAICS code	NAICS industry name	Total businesses[7]	Small	% Small	Expected reports (2020–2030)	Expected reports from small businesses (2020–2030)	Expected annual reports—small business
213112	Support Activities for Oil and Gas Operations.	8,727	8,596	.98	48	47	4.7
211111	Crude Petroleum and Natural Gas Extraction.	5,658	5,558	.98	44	43	4.32
324110	Petroleum Refineries	96	51	.53	54	28.29	2.87
213111	Drilling Oil and Gas Operations.	1,795	1,754	.98	27	27	2.64
325998	Miscellaneous Chemical Product & Preparation Manufacturing.	1,005	924	.92	24	22	2.2
423930	Recyclable Material Merchant Wholesalers.	6,776	6,569	.97	20	19.4	1.94
325199	All Other Basic Organic Chemical Manufacturing.	584	485	.83	24	20	1.99
331110	Iron and Steel Mills	442	372	.84	22	18.48	1.85
325211	Plastics Material and Resin Manufacturing.	855	736	.86	20	17.2	1.7
221310	Water Supply and Irrigation Systems.	3,293	3,243	.98	18	17.6	1.76
424690	Other Chemical and Allied Products Merchant Wholesalers.	5,912	5,410	.92	17	15.64	1.56
424720	Petro. and Petro. Products Merchant Wholesalers (except Bulk Stations and Terminals).	1,690	1,487	.88	17	15	1.5
238910	Site Preparation Contractors	34,153	32,997	.98	15	14.7	1.47
325180	All Other Basic Inorganic Chemical Manufacturing.	365	279	.76	16	12.16	1.22
221320	Sewage Treatment Facilities	398	370	.93	12	11.2	1.12
811111	General Automotive Repair	76,336	75,639	.99	11	10.89	1.08
237120	Oil and Gas Pipeline and Related Structures Construction.	1,779	1,592	.89	12	11	1.1
311615	Poultry Processing	317	258	.81	13	10.5	1.0

[6] The database covered approximately 10.5 years, but the CSB used 10 in its calculation for simplicity.

TABLE 2—EXPECTED ANNUAL REPORTS BURDEN BY SECTOR—Continued

NAICS code	NAICS industry name	Total businesses [7]	Small	% Small	Expected reports (2020–2030)	Expected reports from small businesses (2020–2030)	Expected annual reports—small business
713940	Fitness and Recreational Sports Centers.	24,775	24,348	.98	10	10	.98

[7] In order to calculate the number of small businesses, the CSB had to use two different census tables. If the size standard was based on revenue, the CSB relied on a 2012 table. If the size standard was based on employment, the CSB used the 2016 table.

Estimated Reports per Year

The CSB identified 1,923 chemical accidents in its database that occurred between January 1, 2009, and July 15, 2019. Each of these incidents involved either a fatality or hospitalization. A copy of the CSB's database information regarding the 1,923 accidental releases is included in the docket for reference.[8] The total number of annual incidents ranged from a low of 113 in 2017 to a high of 291 in 2012. Over 10.5 years, the average annual number of accidents was approximately 183. The median number of accidents per year was 169.

Because the database tracked hospitalizations (as opposed to the broader definition of serious injuries as defined in the proposed rule), it is possible that certain incidents where there was no death or hospitalization are not included in the database. In addition, it is possible that the CSB's data does not include a small number of accidental releases that resulted in a fatality. A release resulting in a fatality might have been missed if it was not reported to the National Response Center (NRC) pursuant to other law or not reported in the media.[9] For these reasons, the CSB recognizes that the annual average of 183 incidents may undercount a certain number of accidental releases which meet the CSB's statutory criteria. On the other hand, the past annual average does not take into account that a certain number of full reports will not be required under the proposed rule if a party has already reported the release to the NRC as required by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). In light of all factors, the CSB increased its annual estimate of reports from the historic average of 183 to 200.

Burden Estimate-Time

The CSB considered two areas of burden: Familiarization costs and reporting costs. The CSB estimated that it would take approximately 45 minutes for each firm to learn about the rule and when to report. The CSB considers this a one-time cost, which will be borne by all entities that might experience an accidental release, whether or not such a release occurs. The CSB also estimated that it would take each firm approximately 15 minutes to submit a report to the CSB following an accidental release.

The CSB compared forms the NRC uses to guide its operators in taking release information with questions similar to those included in the CSB's proposed form. The main difference is that the proposed CSB form had fewer data queries. The CSB asked NRC how long it typically took its operators to collect information from a caller reporting an accidental release. NRC explained it does have specific information concerning how the length of calls differ based on the type of report being made,[10] but that it had more general information to share. NRC informed the CSB that it receives approximately 30,000 telephone reports each year, and the average time required for each operator to complete the call was approximately eight minutes. The CSB conducted two simulated accidental release phone calls in which the caller was asked for the same information as is required under the proposed rule. These simulated calls also took approximately 8 minutes. Thus, the available information indicated that a phone submission would take approximately 8 minutes. In its judgment, the CSB estimated that it would take 2–3 additional minutes to complete a screen-fillable pdf form and email it to the CSB. To allow for some margin of error in its analysis, the CSB estimates that it will take approximately 15 minutes to submit a report, either by telephone or by emailing a form.

Burden Estimate-Cost

The CSB then estimated an hourly labor cost to translate the time requirement into a cost figure. In order to determine an appropriate hourly rate, the CSB identified six relevant occupation codes, the annual mean wage, and the mean hourly wage for each, based on the Bureau of Labor Statistics' May 2018 National Occupational Employment and Wage Estimates United States.[11] The CSB next combined the average hourly rate for each of the six classifications and divided that total by six. This calculation produced an average hourly rate of $37.20. This information is summarized in Table 3 below.

The CSB then multiplied the average hourly wage ($37.20) by the total time requirement for the first year of one (1) hour (45 minutes to learn about the rule and 15 minutes to submit a report). This calculation resulted in an estimated per-business compliance cost during the first year of $37.20. However, not all businesses will need to file a report during the first year or each year thereafter. Further, some businesses who need to file a report each year will not have to submit a full report to the CSB if the firm has already reported the event to the NRC under CERCLA.

Based on the minimal per business cost, the CSB has concluded that the proposed rule will not have a significant economic impact on any business, regardless of size.

[8] Because of the CSB's limited resources and lack of available information, there are certain limitations to the information contained in the CSB database. The database was not designed to comprehensively collect statistically valid data concerning all accidental releases. Much of the information in the database comes from the first day of incident media reports. The CSB could only follow up on a limited number of events per year to verify information contained in the media reports.

[9] During the relevant time period, the CSB relied on NRC reports and media surveillance search engines to identify releases of interest.

[10] The NRC receives reports under many different laws. When NRC receives a call, it does not ask questions based on the specific law. Rather, it asks for information based on the type of ''event.'' For example, there is an offshore release event category and an onshore facility release category. The NRC does not compare how long it takes to obtain information based on the nature of each event category.

[11] *https://www.bls.gov/oes/current/oes_nat.htm.*

TABLE 3—OCCUPATIONAL CLASSIFICATIONS AND WAGES

Occupational code	Occupation title	Mean annual wage	Mean hourly
13–1041	Compliance Officer	$72,520	$34.86
17–2081	Environmental Engineers	92,640	44.54
17–2110	Industrial Engineers [12]	91,800	44.14
17–1111	Health and Safety Engineers [13]	93,630	45.01
17–3025	Environmental Engineering Technicians	54,800	26.34
17–3026	Industrial Engineering Technicians	58,860	28.30
Composite Average Hourly.			37.20

[12] Includes health and safety engineers.
[13] Except Mining Safety Engineers and Inspectors.

The CSB also requested comments on the threshold economic analysis, presented above, and its underlying assumptions. The CSB received a number of comments concerning the CSB's estimate of annual reports and the related burden of compliance. The CSB discusses these issues in more detail the preamble and has made revisions to the rule that address such concerns.

After reviewing the comments and making certain revisions to the final rule to address concerns, the CSB has concluded that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act (44 U.S.C. Ch. 35)

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA) provides that an agency generally cannot conduct or sponsor a collection of information, and no person is required to respond to, nor be subject to a penalty for, failure to comply with a collection of information unless that collection has obtained Office of Management and Budget (OMB) approval and displays a currently valid OMB Control Number.

The proposed rule also included the notice required under 5 CFR 1320.5(a)(1)(iv), which is reprinted below.

Type of Information Collection: New Collection.

Title of the Collection: Accidental release report.

Summary of the Collection: The proposed collection requires an owner/operator of a stationary source to report information concerning an accidental release. Specific detail is provided in the proposed information collection request.

Need for the information and proposed use of the information: The CSB is required by law to issue an accidental release reporting rule. The CSB intends to use the information to learn of any accidental release within its jurisdiction and to plan how to respond to that particular accidental release.

A description of the likely respondents: The vast majority of respondents will be private sector businesses involved in the production, storage or handling of regulated substances or extremely hazardous substances.

Estimated number of likely respondents per year: 200.

Proposed frequency of response to the collection of information: Most respondents will only submit a response if an accidental release within the scope of the rule occurs during a given year. For the vast majority of potential respondents, the frequency of responses will likely be ''none'' in a given year.

An estimate of the total annual reporting and recordkeeping burden:

Reporting: The CSB estimates that approximately 200 reports will be submitted each year, and that each report will take approximately 15 minutes for each respondent to complete and submit to the CSB. Thus, the CSB estimates the total annual labor burden each year for reporting parties will be approximately 50 hours.[14]

The CSB then estimated an hourly labor cost to translate the time requirement into an annual cost figure. In order to determine an appropriate hourly rate, the CSB identified six relevant occupational classifications, and the annual salary for each position, based on the Bureau of Labor Statistics' May 2018 National Occupational Employment and Wage Estimates. A full discussion of this calculation is included in the discussion above concerning the Regulatory Flexibility Act. Based on its analysis, the CSB estimated an hourly rate of $37.20 was appropriate for purposes of estimated labor cost. The CSB then multiplied the average hourly wage rate of $37.20 by the total annual time estimate of 50 hours to determine its total annual cost estimate of $1,860.00.

Recordkeeping: There is no recordkeeping requirement.

* * *

When the proposed rule was published, the CSB submitted its PRA package to OMB in accordance with 5 CFR 1320.5(a)(3). The proposed rule also provided notice that comments could be provided to OMB's Office of Information and Regulatory Affairs via email to *oira_submission@omb.eop.gov,* Attention: Desk Officer for the CSB. The notice also indicated the deadline for submitting such comments to OMB.

The notice explained that any interested person could also submit comments directly to the CSB regarding the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden directly. Specifically, the notice asked commenters to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Address the potential to enhance the quality, utility, and clarity of the information to be collected; and
- Discuss options to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

As of this date, the CSB has received one set of comments in response to the

[14] This estimate does not include first-year familiarization costs for potentially impacted firms to learn about the rule and its requirements. However, the first year familiarization cost calculation is addressed in the regulatory flexibility section of the preamble.

notice which it has attempted to address in the preamble. As of this date, the CSB is still awaiting OMB's response to the CSB's PRA submission.

Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. Ch. 6)

The rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (as amended), 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

National Environmental Policy Act of 1969 (5 U.S.C. 804)

The rule will not have a significant effect on the human environment. Accordingly, this rule is categorically excluded from environmental analysis under 43 CFR 46.210(i).

E-Government Act of 2002 (44 U.S.C. 3504)

Section 206 of the E-Government Act requires agencies, to the extent practicable, to ensure that all information about that agency required to be published in the **Federal Register** is also published on a publicly accessible website. All information about the CSB required to be published in the **Federal Register** may be accessed at *www.regulations.gov.*

The E-Government Act requires, to the extent practicable, that agencies ensure that a publicly accessible Federal Government website contains electronic dockets for rulemakings under the Administrative Procedure Act of 1946 (5 U.S.C. 551, *et seq.*). Under this Act, an electronic docket consists of all submissions under section 553(c) of title 5, United States Code; and all other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically. The electronic docket for this rulemaking is available at *www.regulations.gov.*

Plain Writing Act of 2010 (5 U.S.C. 301)

Under this Act, the term ''plain writing'' means writing that is clear, concise, well-organized, and follows other best practices appropriate to the subject or field and intended audience. To ensure that this rulemaking has been written in plain and clear language so that it can be used and understood by the public, the CSB has modeled the language of this rule on the Federal Plain Language Guidelines.

National Technology Transfer and Advancement Act of 1995 Section 12(d) (NTTAA) (15 U.S.C. 272 Note)

The NTTAA requires agencies to ''use technical standards that are developed or adopted by voluntary consensus standards bodies'' to carry out policy objectives determined by the agencies, unless they are ''inconsistent with applicable law or otherwise impractical.'' The CSB has determined that there are no voluntary consensus standards that are appropriate for use in the development of this rule.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the CSB will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Discussion

This rule adds a new part to title 40 of the Code of Federal Regulations, which will appear as a new part 1604. The new part consists of six sections. Section 1604.1 states the purpose of the rule. Section 1604.2 sets forth key definitions. Section 1604.3 sets forth who must file a report and when. Section 1604.4 describes the information required in each report. Section 1604.5 implements the enforcement provisions authorized by 42 U.S.C. 7412(r)(6)(O). Section 1604.6 confirms that the procedure for seeking records obtained pursuant to the rule is governed by the Freedom of Information Act (FOIA), 5 U.S.C. 552, the CSB's procedural regulations for disclosure of records under the FOIA, 40 CFR part 1601, and other pertinent Federal disclosure laws. Before addressing comments and revisions in the final rule to these specific provisions, the CSB will address areas of general concern reflected in the comments.

The CSB's Rule Is Duplicative and Unnecessary

The CSB received a number of comments which complained that the proposed rule was unnecessary, duplicated existing reporting requirements under other laws, would result in a flood of data the CSB could not handle,[15] and divert resources from the CSB's core mission of investigating and reporting on accidental releases.[16] The CSB also received a number of comments that suggested that the CSB rely on information already submitted to the National Response Center (NRC). Other comments suggested that the CSB satisfy its requirements by relying on data collected by other Federal agencies—such as Occupational Safety and Health Administration (OSHA) and Environmental Protection Agency (EPA).

As a threshold matter, the CSB's response to comments concerning the necessity of the rule is simple. The CSB has a statutory duty, confirmed by court order, to issue a reporting rule despite concerns about its necessity or the duplication of existing requirements. At the same time, the CSB has considered comments and explored options for minimizing any burden that might be imposed by adding its own reporting requirement in addition to existing Federal requirements.

In 2013, President Obama issued Executive Order 13650, which established the Chemical Facility Safety and Security Working Group (Working Group). The goal of the Working Group was to improve coordination of Federal chemical safety and security efforts. In its 2014 report, ''Actions to Improve Chemical Facility Safety and Security—A Shared Commitment,'' the Working Group reported that stakeholders were concerned by duplicative Federal reporting and data requirements. The report (at p. viii.) noted that ''this duplication stems in part from multiple regulatory programs that developed and evolved over decades, with each incorporating technologies and data collection requirements independent of one another (often due to differing statutory requirements).'' The Working Group found ''there is no chemical security and safety data clearinghouse that contains all of the data points germane to all Federal agency regulations.'' Id.

In this rulemaking, the AFL–CIO submitted a comment which echoed the Working Group's report:

> A number of agencies require some form of chemical accident reporting, including the National Response Center, OSHA, the EPA Risk Management Program, and the Coast Guard. Each has its own reporting procedures and deadlines, its own definition of a reportable accident, and its own lists of

[15] A comment from the ''CSB Coalition'' observed that the CSB only deployed to a small fraction of the accidental releases the CSB identified from January 1, 2009 to July 15, 2019.

[16] One commenter worried that processing data from the rule would divert far too many of the CSB's limited resources to gathering and screening such information, rather than investigating and developing critical safety recommendations.

covered facilities and chemicals. Much of the required information overlaps. This is an inefficient use of government resources, and it creates unnecessary burdens for owners/operators, researchers, emergency responders and interested members of the public.

Accordingly, the CSB carefully considered various suggestions to avoid duplication of existing reporting requirements while ensuring that the CSB appropriately meets its statutory responsibility to issue a new Federal reporting requirement.

Many comments urged the CSB to rely on the NRC for information. For most of its existence, the CSB has received and reviewed NRC reports. Various parties file reports with NRC according to a number of laws, and the CSB reviews this information to determine if there has been an accidental release within the CSB's jurisdiction. In proposing this rule, the CSB considered whether accidents reported to the NRC under other laws [17] could reliably satisfy the CSB's notification requirements. The CSB concluded that reliance on information already reported to NRC would not satisfy its statutory obligation.

The CSB screened 1,923 incidents from 2010 to July 15, 2019 which resulted in an injury or fatality. The CSB compared NRC reports it received during that time period with the information it had collected through other means. The CSB found that it had matching NRC reports for only 13.16 percent (253) of the incidents the CSB had identified through other means. Moreover, of those matching reports, the CSB received notification of the incident from the media prior to receiving an NRC report 61% of the time.[18] During the 10-year review period, the CSB concluded that the primary source of accidental release information was not NRC reports. Prior to proposing this rule, the CSB and NRC have consulted on ways to better utilize NRC information. While improvements can be made, some releases within the CSB's jurisdiction inevitably will not be reported to the NRC. One reason for this difference is that some laws do not require a report unless a threshold quantity of a regulated substance is released. Releases of less than a threshold quantity will not be reported to the NRC pursuant to those laws. However, the same release may have caused a death or serious injury within the jurisdiction of the CSB.[19] This analysis supports a comment from the AFL–CIO that suggested the CSB rule should require that a report be filed with the CSB whether or not the accident was also reported to the National Response Center.

Commenters also suggested that the CSB rely on information from other agencies that collect similar information pursuant to other laws. For example, the U.S. Sugar Beet Association argued that the CSB should rely on reports that OSHA obtains under 29 CFR 1904.39 and that a separate report to the CSB should not be required. However, OSHA's reporting rule under 29 CFR 1904.39 does not capture all the accidental releases within the CSB's jurisdiction. For example, an accidental release may result in the death of a member of the general public but no death or injury to an OSHA covered employee. In that instance, there would be no report to OSHA. In addition, OSHA's reporting rule does not require information on serious injuries within the time frame required by the CSB.[20]

The CSB's Estimate of Burden Is Unrealistically Low

Several commenters argued that the CSB's estimate of approximately 200 reports per year was unrealistically low. The reason for the low estimate, according to these comments, was that the CSB relied on one definition of ''serious injury'' for its estimate but proposed a different, broader definition of ''serious injury'' in the proposed rule. Specifically, the CSB based its estimate on accidental releases resulting in a death or hospitalization but proposed a definition of ''serious injury'' in its proposed rule that would require reports even if an accidental release did not result in a death or hospitalization. Because of this discrepancy, commenters argued that the definition of ''serious injury'' should be limited to fatalities and hospitalizations.

For example, the Coalition for Responsible Waste Incineration commented:

> [T]he 200 reports per year used in the economic impact/burden assessment for the rule and other discussions is based on the OSHA reportable definition (fatality and hospitalization). The proposed definition falls more in line with recordable injuries. If this definition is used, there will be thousands of reports per year, not 200.

Based in large part on these concerns, the CSB has revised the definition of serious injury in the final rule to read as follows: ''Serious injury means any injury or illness that results in death or in patient hospitalization.'' [21] The proposed definition of ''serious injury'' in the rule is now the same as the criteria used in developing the CSB's estimate in its RFA analysis.

This revision does not mean that the CSB agrees with comments that argued the original definition of ''serious injury'' would have resulted in thousands of additional accidental release reports each year. Those comments relied on either anecdotal information or on ''lost workday'' data from the Bureau of Labor Statistics (BLS). The CSB believes that estimates based on the BLS information greatly exaggerated the potential burden of a broader definition of serious injury.

For example, the American Forest and Paper Association based its estimate on 17,000 lost workday cases recorded in 2018 BLS data which was due to exposure to harmful substances. Based on this information, the Association concluded that the proposed definition of ''serious injury'' would generate thousands of accidental release reports every year. The CSB disagrees with that conclusion. The BLS data does not indicate the nature of the substance involved, or whether the exposure was the result of an accidental release or some other cause. Even if the CSB had retained its proposed definition of ''serious injury,'' the CSB believes that the estimates based on the BLS lost days cases are exaggerated.

In the past, the CSB has relied on broader injury criteria to help identify accidental releases within its jurisdiction. When the CSB employed this criteria, it did not identify thousands of events within its jurisdiction each year. Thus, the CSB will monitor information received under this rule and culled from public sources to further refine its criteria. For now, however, the CSB is confident that its revised definition of serious injury will capture all serious events which merit consideration for a possible agency deployment.

In addition to the concerns described above, the CSB received numerous comments on each section of the proposed rule. These comments and the CSB's responses are discussed below.

§ 1604.1 Purpose

The purpose of the rule remains unchanged—to ensure that the CSB receives prompt notice of any accidental release within the CSB's investigatory jurisdiction. The purpose of the rule is

[17] A number of laws require that a report be sent to the NRC if a given event occurs.

[18] The CSB has added its analysis to the docket for this rulemaking.

[19] There may also be other factors that explain the CSBs findings.

[20] OSHA's rule does set an eight-hour deadline for reporting fatalities, but allows 24 hours for employers to submit reports related to inpatient hospitalizations. Compare 29 CFR 1904.39(a)(1) and (2).

[21] The CSB has also added a definition of ''in patient hospitalization'' to the final rule.

to collect information useful to the CSB in assessing its jurisdiction and making deployment decisions. Some comments urged the CSB to employ its authority to obtain more detailed information on each accidental release in order to establish and maintain a comprehensive database that might be useful for several purposes. Other comments expressed concern that such an undertaking would divert the CSB's limited resource from its unique mission of conducting in depth safety investigations and making preventive recommendations. [22]

As noted in the proposed rule, the CSB interprets its rulemaking authority as plainly focused on serving its investigative function—that is, to ensure that the CSB receives prompt notice of accidental releases within its jurisdiction. A broader interpretation is inconsistent with the plain meaning of 42 U.S.C. 7412(r)(6)(C)(iii).[23]

In addition, there are already a variety of statutes designed to support broader data collection and analysis initiatives. There are also others laws, such as The Emergency Planning and Community Right to Know Act (EPCRA), are more tailored to making the public aware of information to mitigate risks and to enhance emergency preparedness.[24] Thus, the final rule remains focused on ensuring that an owner/operator promptly reports an accidental release to the CSB.

§ 1604.2 Definitions

Section 1604.2 establishes definitions for the final rule. As explained in the proposed rule, the CSB incorporated the following definitions that are established at 42 U.S.C. 7412(r)(2)(A)–(C): ''accidental release,'' ''stationary source,'' and ''regulated substance.'' The CSB exercised its rulemaking authority to define certain other terms important to rule implementation.

Accidental release is defined as an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

This proposed definition is adopted verbatim from 42 U.S.C. 7412(r)(2)(A). The CSB uses the statutory term ''accidental release'' throughout the rule to refer to an event meeting the specific statutory criteria under 42 U.S.C. 7412(r)(2)(A). To the extent there are references, in this or other related documents, to a ''chemical accident'' or ''incident,'' the context and specific facts will determine whether the event meets the statutory definition of an ''accidental release,'' or is instead employed generically to describe an event that may or may not satisfy the statutory definition of an accidental release.

One commenter suggested the CSB clarify that an explosion is not a per se accidental release. The rule does not indicate that an explosion is a per se accidental release. To the extent the commenter has a question or seeks clarification, the CSB may address the issue in guidance documents once the rule is final.

Another commenter wrote:

> A literal reading of the definition of ''accidental release'' would indicate that the proposal only covers unanticipated releases. Consequently, if a person sustains a serious injury that results from an intentional release, such as an approved and controlled discharge, then it is not a CSB-reportable incident. The Board should clarify as to how those injuries would be addressed for reporting purposes.

Again, the CSB cannot revise the statutory definition of ''accidental release.'' In addition, the commenter's hypothetical appears to be a compliance question, not a comment on the substance of the proposed rule. The CSB may address the hypothetical in a future guidance document.

Another commenter complained that the statutory definition of accidental release incorporated into the rule contains no explanation of how the term as defined relates to various exemptions under other law such as CERCLA and EPCRA. The comment is not a proposal to revise the definition, which the CSB, of course, cannot do. Instead, the comment is a question for implementation guidance. In any event, if there is an accidental release as defined here which results in a death, serious injury, or substantial property damage, then the CSB expects that the release will be reported as required under this rule.

Ambient air is defined as any portion of the atmosphere inside, adjacent to, or outside a stationary source. The CSB based this definition on the plain meaning of the words ''ambient'' and ''air.'' [25] The proposed definition also took into account the specific purpose of the CSB and how this purpose differs from other programs established under the Clean Air Act Amendments of 1990.

In proposing this definition, the CSB distinguished its proposed definition from one adopted by the EPA in its rule implementing the National Primary and Secondary Ambient Air Quality Standards. The EPA defines ''ambient air'' as that portion of the atmosphere, external to buildings, to which the general public has access. 40 CFR 50.1(e). As the CSB explained, EPA's definition at 40 CFR 50.1(e) may work well for implementation of the National Primary and Secondary Ambient Air Quality Standards. However, use of the EPA's definition of ambient air in the CSB's rule would undercut a primary purpose of section 112 of the Clean Air Act Amendments of 1990—to protect workers inside structures at a stationary source.

Despite its explanation in the proposed rule, the CSB received several negative comments that argued the CSB's rule should use the EPA definition of ''ambient air'' at 40 CFR 50.1(e). One commenter asserted that both state and Federal courts have consistently understood, along with EPA, that ''ambient air'' refers to, at most, the unconfined portion of atmosphere or outdoor air. Another commenter observed that ''[e]ven if CSB's purpose is broader than the purpose of the National Ambient Air Quality Standards, as CSB asserts, that purpose cannot justify rewriting a statutory term, as CSB's interpretation accomplishes by including air inside stationary source.'' Another argued that ''[w]hen Congress has determined an agency should exercise jurisdiction over indoor air (inside a stationary source), it has clearly expressed that intent (see, *e.g.,* Radon Gas and Indoor Air Quality Research Act of 1986).''

The CSB disagrees with these comments. First, the CSB is not rewriting a ''statutory'' term as one comment suggested. While the term ''ambient air'' is used many times in the Clean Air Act, there is no statutory definition of ''ambient air'' under the Act. The CSB possesses the independent

[22] On a related note, a comment submitted by the American Chemistry Council raised a number of issues for further analysis, including the practical impact of the rule on board operations. ACC suggested that CSB conduct an analysis to determine whether the reporting regulation will, in fact, significantly improve the Board's investigation response time and is justified by the associated costs. Such an analysis is a useful suggestion but, must await implementation of the rule. The ACC had other comments concerning the CSB's historical database in comparison to other sources of chemical incident information. In its discussion of other comments, the CSB generally addressed this issue.

[23] In contrast, when Congress wants an agency to collect information for safety trend analysis and early warning of issues, it employs specific language to carry out such a purpose. *E.g.,* 49 U.S.C. 30166 (establishing clear authority for Secretary of Transportation to collect and analyze motor vehicle defect, accident and other information for purposes of trend analysis and prevention.)

[24] See section 303 of EPCRA.

[25] The plain meaning of the phrase ''ambient air'' is defined by two words—ambient, meaning ''existing or present on all sides'' and ''air,'' meaning ''the mixture of invisible odorless tasteless gases (as nitrogen and oxygen) that surrounds the earth'' (see, *e.g., https://www.merriam-webster.com/dictionary/ambient; https://www.merriam-webster.com/dictionary/air*).

authority to define the term as appropriate for purposes of implementing a reporting rule.

Moreover, the EPA's definition is not applicable to the implementation of the CSB's statute. Adopting EPA's definition would divest the CSB of jurisdiction if an accidental release were not ''exterior to buildings'' or into some areas ''to which the general public has access.'' Contrary to one comment, neither restriction is mandated by state or Federal courts. Thus, there is no legal requirement or rationale to use the EPA definition. Even the EPA has successfully argued that the 40 CFR 50.1(e) definition does not apply to other parts of the CAA. *United States* v. *O' Connell*, 2017 WL 4675775 (E. D. Wis. 2017).

The ''general public'' element of the EPA definition of ''ambient air'' would also add an additional jurisdictional hurdle not found in the CSB's enabling legislation.[26] In *U.S.* v. *Transocean Deepwater Drilling, Inc.,* 936 F. Supp. 818, 832 (S. D. Texas, March 30, 2013), Transocean argued that the EPA definition divested the CSB of jurisdiction by reading into 40 CFR 50.1(e) a requirement that air be promptly accessible to the general public. The Court rejected this interpretation, noting that Transocean lacked any authority for the argument. Id.

The purpose of the CSB's enabling legislation is to serve the safety interests of members of the general public *and* workers. If some form of ''general public'' requirement was read into the definition of ''ambient air,'' the CSB's statutory language concerning recommendations to OSHA would be meaningless. See, *e.g.,* 42 U.S.C. 7412(r)(6)(J).

Extremely hazardous substance is defined as any substance that may cause death, serious injury, or substantial property damages, including but not limited to any ''regulated substance'' at or below any threshold quantity set by the EPA Administrator under 42 U.S.C. 7412(r)(5).

The term ''extremely hazardous substance'' is not defined in the CSB's enabling legislation. However, the relevant legislative history provides: ''The release of any substance which causes death or serious injury because of its acute toxic effect or as the result of explosion or fire or which causes substantial property damage by blast, fire, corrosion or other reaction would create a presumption that such substance is extremely hazardous.'' Sen. R. 101–228 at 139 (1989), reprinted in 1990 U.S.C.C.A.N. 3385, 3596. Although it is an important element, the specific property of a substance, such as flammability, toxicity, corrosivity, etc., does not always determine whether a substance is extremely hazardous. For example, a substance on its own may not be considered hazardous. When combined with other substances, however, the consequences may be lethal.

The CSB's proposed definition of ''extremely hazardous substance'' focused on the consequences of a substance when it is accidentally released. Thus, an ''extremely hazardous substance,'' by CSB's definition, includes any substance that alone, or in combination with other substances or factors, causes death, serious injury, or substantial property damages. The manner in which it inflicts such consequences may vary (fire, explosion, etc.) but what defines the substance as hazardous is its impact on people and the environment.

CSB's proposed rule explained that other laws or rules that define or list ''hazardous substance(s)'' provide useful guidance as to what is an ''extremely hazardous substance'' for purposes of the CSB's definition, but such lists or associated threshold quantities do not control the CSB's definition. Again, the pertinent legislative history supports an expansive definition:

> Extremely hazardous substances would also include other agents which may or may not be listed or otherwise identified by any Government agency currently which may as the result short-term exposures associated with releases to the air cause death, injury or property damage due to their toxicity, reactivity, flammability, volatility or corrosivity.

S. Rep. 101–228 at 212 (1989), reprinted in 1990 U.S.C.C.A.N. 3385, 3596.

For example, the CSB asserted that its definition is not limited to substances listed as a ''regulated substance'' defined as such under 42 U.S.C 7412(r)(3).

> The accidents which the Board is to investigate are those which result from the production, processing, handling or storage of a chemical substance (not limited to the extremely hazardous substances listed under subsection (c)) which result in a death, serious injury, or substantial property damage.

S. Rep. 101–228 at 231 (1989), reprinted in 1990 U.S.C.C.A.N. 3385, 3615. Thus, ''[e]xtremely hazardous substances would include, but are not limited to, those substances which are specifically listed by the Administrator under subsection (c).'' S. Rep.101–228 at 212 (1989), reprinted in 1990 U.S.C.C.A.N. 3385, 3596.

Nor should the CSB definition be limited by threshold quantity limits set by other laws. A ''regulated substance'' includes a ''threshold quantity'' set by the Administrator under 42 U.S.C. 7412(r)(5). Limiting the CSB definition to threshold limits set by other laws would potentially lead to results inconsistent with the CSB's statutory purpose. For example, the accidental release of a ''regulated substance'' that does not meet a threshold quantity can still cause serious injuries and death. There is nothing in the statutory scheme to suggest that a death or serious injury caused by less than a threshold quantity of a ''regulated substance'' or other hazardous substance falls outside the CSB's investigatory jurisdiction.

To emphasize its broad definition and the inapplicability of a threshold limit, the CSB proposed definition of ''extremely hazardous substance'' includes the phrase ''including but not limited to any 'regulated substance' at or below any threshold quantity set by the EPA Administrator under 42 U.S.C. 7412(r)(5).'' EPA's list of regulated substances is a regulation that applies only to owners or operators of stationary sources (see 40 CFR 68.10), not to an independent Federal agency. The EPA lists threshold amounts to determine when a facility owner must develop a Risk Management Plan. 40 CFR 68.150–68.185. Whether a substance is, by definition, a ''regulated substance'' does not turn on the presence of a threshold amount of that substance. By the same token, whether a substance is, by definition, an extremely hazardous substance, does not turn on the amount of that substance involved in the accidental release.

Thus, the CSB's definition of extremely hazardous substance remains unchanged. The AFL–CIO expressed strong support for the CBS's proposed definition:

> We strongly support the proposed definition of Extremely Hazardous Substance as any substance that may cause death, serious injury, or substantial property damage. We urge the CSB to resist pressure to tie the definition of one or more lists of regulated substances. For example, the lists contained in the OSHA Process Safety Management Standard and the EPA Risk

[26] On December 2, 2019, the EPA announced a revised interpretation of the term ''ambient air'' which excludes the atmosphere over land controlled by the source ''where the source employs measures, which may include physical barriers that are effective in precluding access to the land by the general public.'' The CSB is aware that the EPA has longstanding policy interpretations of ''general public'' for purposes of implementing other sections of the Clean Air Act. However, these policy interpretations are neither binding nor pertinent to the CSB's implementation of an accidental release-reporting rule under its statutory authority.

Management Program regulations do not include most reactive substances. Neither includes ammonium nitrate, the chemical responsible for the April 17, 2013 explosion and fire at the West, Texas fertilizer storage and distribution facility, which took 14 lives. The CSB is not a regulatory agency. If a chemical accident has caused death, serious injury or substantial property damage it should be reported irrespective of whether the chemical is on some regulatory list.

Some comments suggest that the CSB tie its definition to existing lists of hazardous substances. This approach would frustrate a major purpose of the statute. A key function of the CSB is to make recommendations to the EPA about improving the rules designed to prevent chemical accidents. See 42 U.S.C. 7412(r)(6)(C)(ii), (H), (I), and (K); S. Rep. No. 101–228, at 229 (1989), 1990 U.S.C.C.A.N. 3385, 3613 (explaining the intent that the CSB serve as an ''organizational stimulus'' to EPA regulatory activity through the CSB's investigations and resulting recommendations.''). Such recommendations would include CSB suggestions to the Administrator to list new substances. Thus, the CSB was established specifically to look past established statutory criteria and already understood hazards. Rather, the hazard investigation function of the CSB includes identifying new, previously unknown hazards, even those caused by substances not yet discovered or in widespread use. A narrow definition of ''extremely hazardous substance'' based on previously established lists or narrow criteria would completely frustrate a key objective of the statute.

Other commenters expressed concern that the proposed definition of extremely hazardous substance could cause confusion. However, a number of factors persuade the CSB that owner/operators will be able to readily apply the definition. The plain meaning of the term ''extremely hazardous'' provides clear direction. The various established regulatory lists and definitions provide extensive detail concerning known hazards. Finally, the CSB discussion here should provide ample guidance.

The CSB's consequence-based definition provides a bright line test. When there is an accidental release which results in a death or serious injury, there should rarely be confusion as to whether the substance involved was hazardous.[27] Moreover, the CSB will provide a grace period. The CSB can use such a grace period to establish additional explanatory guidance to owner/operators if that proves necessary.

Inpatient hospitalization is defined as a formal admission to the inpatient service of a hospital or clinic for care.

Owner or operator is defined as any person who owns, leases, operates, controls, or supervises a stationary source.

This proposed regulatory definition is adopted verbatim from 42 U.S.C. 7412(a)(9). As the enabling legislation recognizes, a stationary source may be under the ''common control'' of different entities. See 42 U.S.C. 7412(r)(2)(C). Multiple owners, leaseholders, or operators can exist alongside each other in complex business relationships such that a stationary source may be considered under the common control of two or more entities. Therefore, this definition applies to any person or entity who owns, leases, operates, controls, or supervises a stationary source, and can include parties with a joint interest, partnership interest, partial ownership interest, co-ownership interest, or any otherwise co-responsible parties who, in some manner, share in the ownership, leasing, operation, control or supervision of a stationary source.

These parties are in the best position to coordinate among themselves to determine which entity should file an accidental release report under this rule for an accidental release. For the purpose of efficiency, multiple owner/operators may agree in advance or at the time of release to a single, consolidated report on behalf of one or more parties who are responsible for reporting an accidental release from a stationary source. Under the definition provided, the owner(s) and operator(s) decide for themselves how best to meet the requirements of the rule, as long as an accidental release report is submitted by one of the parties following an accidental release.

One commenter suggested that the CSB should be clear that only one report is required. If the owner/operators cannot agree on who should file the consolidated report, all owner/operators are required to file individual reports. In response to this comment, the CSB has added a new paragraph (d) to § 1604.3 to clarify reporting options when there are multiple owner/operators.[28]

Accordingly, the final rule adds new § 1604.3(d), while moving the existing paragraph (d) to (e).

Property damage is defined as damage to, or the destruction of, tangible public or private property, including loss of use of that property.

This definition is well-established for purposes of commercial liability insurance policies, and therefore most owner/operators should be familiar with its meaning and have no difficulty in determining whether there has been any property damage. In addition, the proposed definition confirms that pertinent property damage is not limited to the stationary source, but also includes damage to private property (*e.g.,* homes) and public property outside the stationary source.

Several comments suggested changes to the proposed definition of ''property damage.'' Several commenters disagreed that ''loss of use'' of property should be considered property damage. Another commenter suggested that only permanent loss of use should be within the definition. Another suggested that the CSB include a definition of ''loss of use.''

The CSB declines to adopt these comments. If property sustains enough damage so that it cannot be properly used, that clearly amounts to damages—just as the complete destruction amounts to damages. Obviously, if the property can be repaired and returned to service, the damage would be lessened. But all of these types of damage should be estimated and figured into whether the damage amounted to ''substantial'' property damage, *i.e.,* over $1,000,000.

Another commenter urged the CSB to count only property damage ''directly resulting from the incident'' for purposes of the $1 million threshold for ''substantial'' property damage. The CSB declines to adopt this suggestion, because it would create serious definitional issues in determining whether the damage ''directly resulted from'' the incident. Moreover, indirect damage can be just as costly or disruptive as direct damage, however defined.

Finally, another commenter urged the CSB to exclude ''business interruption costs'' as a criterion for accident reporting. The CSB did not explicitly make business interruption costs a reportable item, but if property damage leads to business interruption, that should be factored into calculating the overall costs of such damage.

Regulated substance is defined as any substance listed by the EPA Administrator pursuant to the authority of 42 U.S.C. 7412(r)(3).

[27] Some commenters suggested hypotheticals which could result from a broad definition of ''extremely hazardous substances.'' However, upon scrutiny, these hypotheticals are tied mostly to concerns about the definition of ''serious injury.'' When the revised, narrower definition of ''serious injury'' is taken into consideration, these hypotheticals are no longer problematic.

[28] Because this new paragraph has been added, the final rule re-designates paragraph (d) in the proposed rule as paragraph (e).

This definition is based on the definition at 42 U.S.C. 7412(r)(2)(B). That definition simply refers to ''substances listed under paragraph (3).'' For clarity, the definition here refers to the full citation at 42 U.S.C. 7412(r)(3). The definition as set out in the rule is no different in substance than the one provided for under 42 U.S.C. 7412(r)(2)(B).

Nonetheless, one commenter expressed concern that the CSB's definition of ''regulated substance'' was an attempt to circumvent or supplant the EPA's authority to list a substance under 42 U.S.C. 7412(r)(3). The CSB definition does not alter EPA's authority to list substances under 42 U.S.C. 7412(r)(3) in any manner. The CSB may make recommendations to EPA concerning which substances should be listed. 42 U.S.C. 7412(r)(6)(H). However, the EPA Administrator decides what substances get listed.

Another commenter wrote that ''[f]or these regulations, the CSB needs to define 'regulated substance' as identical to each substance listed at 40 CFR 68.130.'' [29] There is no need for the CSB to replace the statutory definition with the proposed definition suggested by the commenter. For practical purposes, the definition of regulated substance in the rule refers to the same list that the Administrator maintains pursuant to the authority of 42 U.S.C. 7412(r)(3).

Serious injury is defined as any injury or illness if it results in death or inpatient hospitalization.

The definition of serious injury in the proposed rule was based on OSHA's regulations pertaining to Recording and Reporting Occupational Injuries and Illness, found at 29 CFR 1904.7.

As discussed above, many commenters criticized the proposed definition as overbroad and inconsistent with the CSB's burden estimate. The revised definition (''any injury or illness if it results in death or inpatient hospitalization'') addresses this criticism.

Stationary source is defined as any buildings, structures, equipment, installations or substance emitting stationary activities (i) which belong to the same industrial group, (ii) which are located on one or more contiguous properties, (iii) which are under the control of the same person (or persons under common control), and (iv) from which an accidental release may occur.

This definition is taken verbatim from 42 U.S.C. 7412(r)(2)(C). While this definition reiterates longstanding statutory language, the CSB notes that the phrase ''same industrial group'' requires some additional clarification. The CSB interprets this phrase as referring to ''industry group'' under the Standard Industrial Classification (SIC) system, which was in common use when the Clean Air Act Amendments of 1990 were signed into law. SIC employed a four-digit classification system; the first three digits in the four-digit sequence indicated the ''industry group.''

In 1997, the SIC system was replaced by the North American Industry Classification System (NAICS). NAICS employs a six-digit classification system. Under NAICS, the fourth digit in the six-digit sequence indicates industrial group. *www.census.gov/eos/www/naics/faqs/faqs.html#q5.*

The USWAG had a concern about the scope of the definition:

> While this definition might be acceptable to a discrete industrial facility with fixed and defined property lines, fences, etc., electric and gas distribution and transmission systems necessarily have thousands of stationary sources which include utility poles, vaults and manholes. It would be incredibly challenging to monitor all of these ''stationary sources'' for potential accidental discharges and to require reporting of these discharges within four hours of the release, especially if property damage is the only impact of the discharge.

The comment further suggested that the CSB ''limit the scope of the proposal to significant stationary sources or sources that are regularly staffed.'' The CSB disagrees with the comment. The definition of ''stationary source'' specifically applies to the subsection of the Clean Air Act that established the CSB. In addition, for a report to be required, there would need to be an ''accidental release'' which resulted in a ''death, serious injury, or substantial property damages.'' Such consequences should be a relatively rare occurrence at manholes.

The CSB believes that if an accidental release occurs in a spread-out facility or even in a part of a source that is not regularly staffed, it still should be reported as soon as the owner/operator learns about it. With the increase in the reporting time to eight hours, the owner/operator should have ample time to learn about such a release even in a remote part of the source. Furthermore, the CSB retains discretion whether to refer violations to the EPA for enforcement actions; challenges presented by the nature of different types of sources can be factored into such referral decisions. Consequently the CSB decided not to revise this definition.

The same commenter incorrectly asserted that the CSB's definition of ''stationary source'' is based on 40 U.S.C. 7411(a)(3). The definition of stationary source under 40 U.S.C. 7411(a)(3) is applicable to a section of the CAA governing performance standards for new stationary sources. Under this subsection of the CAA, the EPA Administrator is required to identify new stationary sources that are significant air pollution sources and then establish requirements that would cover only those sources. See 40 U.S.C. 7411(b)(1). Based on this language, the commenter argued that the CSB's authorities are limited to stationary sources identified by the EPA as new ''stationary sources'' under 40 U.S.C. 7411(b)(1). The comment concluded that the CSB is not authorized to ''identify all those sources that could or should be subject to regulation.'' However, the comment lacks merit because the CSB's definition of stationary source is taken verbatim from 42 U.S.C. 7412(r)(2)(C)—an entirely different section of the CAA with a different purpose.

The Environment Alliance of New York (EANY) commented that CSB should clarify its definition of stationary source to describe ''significant, large emitting sources of air emissions as described in the CAA (42 U.S.C. 7602(j) and 42 U.S.C. 7411(b)(1)(A)). EANY's proposal incorrectly rests on sections of the CAA that are not pertinent to the CSB's authority. In addition, the CSB cannot issue a rule to restrict or limit application of the statutory definition of stationary source. 42 U.S.C. 7412(r)(2)(C).

The CSB is simply applying the definition of ''stationary source'' applicable to the subsection of the Clean Air Act which established the CSB. The CSB is not required (or authorized) to incorporate a definition of stationary source that is applicable to a different section of the CAA to serve another statutory purpose.

The proposed rule defined substantial property damages as ''property damage, at or outside the stationary source, estimated to be equal to or greater than $1,000,000.''

In developing its definition, the CSB began with the plain meaning of the statute.[30] The CSB determined that the word ''substantial'' must be accorded some significance. Merriam Webster defines substantial as ''considerable in

[29] If the comment meant to suggest that the CSB's authority to require a report is limited to releases involving a ''regulated substance,'' the CSB rejects that interpretation. The statutory definition of ''accidental release'' is clearly not limited to ''regulated substances.''

[30] The CSB separately defined the term ''property damage.'' See discussion above.

quantity: significantly great. . . .'' Clearly, property damage in a minimal amount (*i.e.,* $100) should not be considered ''substantial.'' This interpretation is consistent with the available legislative history:

> The Board is authorized to investigate accidental releases which cause substantial property damage. Substantial damage would include fires, explosions, and other events which cause damages that are very costly to repair or correct, and would not include incidental damage to equipment or controls.

H.R. Conf. Rep. No. 952, 101st Cong., 2d Sess. 340(1990), reprinted in 1990 U.S.C.C.A.N. 3867, 3872.

At the same time, the CSB determined that a very high dollar threshold, *i.e.,* $10,000,000, would not be consistent with the statutory intent because there are amounts far below that level that any reasonable person would consider substantial. The difficulty is where to draw the line between substantial and non-substantial damage. The CSB looked at different sources for guidance.

In reviewing its own work, the CSB concluded that nearly all of its published investigation reports involved a fatality or serious injury. This is noteworthy because the CSB has not relied heavily on the substantial property damage factor in selecting accidental releases for investigation. A low-dollar, property-damage-only criterion could result in many accidental release reports that would be unlikely candidates for CSB investigation.

The CSB considered other Government definitions of substantial property damage. For example, FEMA has defined the phrase ''substantial damage'' as damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. 44 CFR 209.2. However, the CSB determined that this definition was too narrow (property damage limited to structure) and would be less easy to apply than an estimate of monetary damage. In addition, due to the wide variety of structures and businesses within CSB's jurisdiction, a percentage of market value definition would be far too complicated.[31]

In response to its ANPRM, the CSB received few comments regarding this definition. The American Chemistry Council's (ACC's) comment suggested that the CSB adopt the DOT regulatory limit of $50,000. CSB–ANPR0901–000115. The CSB also considered API 754 (2016). API 754 suggests recording ''fire or explosion damage greater than or equal to $100,000 of direct cost'' under its Tier 1 category. Under API 754 Table D.1-Tier 1 Process Safety Event Severity Weighting, $100,000 in property damage would score one point. $1,000,000 would score three points, $10,000,000 would score 9 points, and $100,000,000 would score 27 points.

The CSB also considered EPA's ''Summary of Quantified Damages'' in the EPA's proposed amendments to its risk management plan (RMP) rule. 81 FR 13637 at 13642–43, (March 14, 2016). In looking at EPA RMP-covered facilities over a 10-year period, the EPA estimated an average of $1,354,578 in onsite property damage for each accident. Id. However, this figure is only an average, not a median, and is limited to only a subset of facilities within the scope of the CSB's final rule.

After reviewing the relevant factors, the CSB proposed $1,000,000 as a threshold for purposes of defining ''substantial property damages.'' The CSB believes this amount will likely capture accidental releases of significance when there is no other basis for jurisdiction (*i.e.,* no deaths or serious injuries.) At the same time, this threshold should reduce the number of reports required when there is very little likelihood of serious scrutiny or follow-up investigation by the CSB because the accidental release did not cause any deaths or serious injuries.

The CSB notes, however, that any threshold, even a much lower one, may exclude a small number of very significant accidental releases. This might occur if an accidental release fortuitously did not result in death, serious injury, or substantial property damage, but nevertheless involved the release of a significant amount of an extremely hazardous substance such as hydrofluoric acid. Despite the potential significance of such an accidental release, the CSB is concerned that its statutory language—''death, serious injury, or substantial property damages''—does not authorize it to require reports when all three consequences are absent.

The CSB received a number of comments on its proposed $1,000,000 threshold for substantial property damages. One comment argued that the figure was ''far too high,'' that the CSB had investigated incidents with less than that amount of property damage (and no deaths or serious injuries), and recommended the amount be lowered to $50,000. Another comment described $1 million as a ''good starting point,'' but that it should be phased down to $50,000 in four years.

On the other hand, several commenters urged a higher threshold (one suggested $3–5 million) because minor damage to costly specialized equipment could easily exceed $1 million in repair and replacement costs. Others suggested that the $1 million threshold may be sensible for damages outside the facility, but that it was too low for damage inside, suggesting a $2 million threshold for inside damage.

In the middle of the spectrum were a group of commenters who supported the $1 million threshold. One supported the $1 million threshold as ''a clear, bright-line rule'' that is ''appropriate.'' Another urged ''that CSB not lower the threshold'' and agreed that it ''should likely capture major releases in rare cases where there are no deaths of serious injuries.'' Several others simply agreed that it was ''appropriate.''

After reviewing all comments, the CSB has determined to keep the $1 million threshold in its final rule. The CSB believes that a bright-line rule is necessary, and that this figure is a middle-ground marker that best conforms to the Board's past practice and the legislative history for the provision. It may be true that expensive machinery can sustain seemingly minor damage that might meet this threshold. However, that does not make the damage any less substantial. Moreover, companies with such expensive machinery should have the wherewithal to make such estimates expeditiously. The CSB also rejects a bifurcated damage threshold for damage inside or outside the plant as impractical and unwarranted.

A few other issues regarding this definition were also addressed in the comments. One commenter urged that the CSB set no threshold dollar amount, but should simply use its established tracking mechanisms to identify where substantial property damage has occurred. The CSB believes a bright-line rule is helpful as a guide to owner/operators when they do their estimates and that inclusion of this factor is necessary to assist the agency in receiving the information it needs to prioritize its investigations. Several commenters suggested that the $1 million threshold for meeting the criterion of ''substantial property damages'' should be indexed for inflation. The CSB has decided not to add this complicating factor to what is intended to be a bright-line standard. Instead, the CSB will revisit the standard periodically to make necessary adjustments, if appropriate.

[31] The NTSB's definition of ''substantial property damage'' is based on the specific types of damage to airplanes. 49 CFR 830.2. A specific, narrow definition such as this could not work for the CSB due to the variety of damage and businesses involved.

Finally, one commenter made the editorial suggestion to replace the term ''damages'' with ''damage'' throughout the rule. Although ''damages'' is the statutory term, (42 U.S.C. 7412(r)(6)(C)(i)), the CSB agrees that ''damage'' is the more normal usage in this context and has revised the final rule accordingly.

§ 1604.3 Reporting an Accidental Release

Section 1604.3(a) through (d) of the proposed rule set out the basic requirements for reporting an accidental release and as proposed, provided as follows:

- The owner or operator of a stationary source must report in accordance with § 1604.3(b) or (c), any accidental release resulting in a fatality, serious injury or substantial property damages.
- If the owner or operator has submitted a report to the National Response Center (NRC) pursuant to 40 CFR 302.6, the CSB reporting requirement may be satisfied by submitting the NRC identification number to the CSB immediately following submission of the report to the NRC.
- If the owner or operator has not submitted a report to the NRC and notified the CSB under § 1604.3(b), the owner/operator must submit a report directly to the CSB within four hours of the accidental release and must include the required information listed in § 1604.4. A report may be made by email to: *report@csb.gov,* or by telephone at 202–261–7600.
- Notwithstanding the foregoing, an owner or operator of a stationary source, without penalty, may revise and/or update information reported to the NRC or CSB by sending a notification with revisions by email to: *report@csb.gov,* or by correspondence to: Chemical Safety Board (CSB) 1750 Pennsylvania Ave. NW, Suite 910, Washington, DC 20006, within 30 days following the submission of a report to the NRC or CSB. If applicable, the notification must reference the original NRC identification number. No update or revisions should be sent to the NRC.

Four-Hour Deadline

The CSB received a number of negative comments regarding the proposed four- hour deadline for submitting a report. Based on the CSB's consideration of these comments, the proposed deadline of four hours has been extended to eight hours in the final rule.

Some commenters understood that the proposed deadline was driven by the CSB's need to be on-scene promptly to commence its investigation and noted that a four hour deadline was consistent with other reporting deadlines, some of which require ''immediate'' notification. The CSB has learned over its history that prompt deployment (within 24 hours following an accidental release) helps satisfy several legitimate objectives: Preservation of key physical evidence and obtaining witness testimony while the information regarding the release is fresh.[32] Prompt arrival of CSB investigators also allows them to gain an understanding of what changes may have been made to an accident scene during emergency response (*e.g.,* what valves were turned, or what equipment was moved). Prompt deployment also facilitates quicker implementation of an appropriate evidence and site control agreement among the parties to an investigation. These activities are only a few of many critical CSB investigation-related tasks that can only be accomplished at the very earliest stages of an investigation. If the CSB cannot get to the site to preserve and otherwise obtain the information it needs to initiate an investigation, the CSB's investigation can be significantly hampered.

Despite the importance of prompt notification, twenty-four commenters were generally critical of the four-hour reporting requirement and suggested that CSB allow additional time. These commenters found the four-hour reporting requirement to be inappropriate for a number of reasons which are discussed below:

The four-hour deadline is impractical and the CSB has no documented basis for it. The CSB explained the basis for the four-hour requirement in its proposed rule. As explained above, some comments were supportive. One commenter noted that four hours was ''very generous.'' Indeed, other reporting laws require ''immediate'' notification. The CSB also believes, as explained above, that there are several important factors which support a four-hour deadline, even though it has increased the deadline to eight hours.

A four-hour reporting requirement will detract from the reporting entity's emergency response activities following an accidental release. As the CSB acknowledged in its proposed rule, the ''CSB understands that the first several hours following an accidental release require a focus on emergency response actions.'' 84 FR 67908 at 67908. ''The CSB has also considered the need of an owner/operator to focus on numerous matters in the immediate aftermath of accidental release.'' Id. Thus, the rule requires information that is limited in scope to critical information required for the CSB to make an informed decision about deployment.

In response to the CSB's 2009 ANPRM, the American Society of Safety Professionals commented, ''a minimum of three hours is needed for a site's emergency response priorities and any extenuating circumstances to be handled.'' The CSB's proposal was designed to avoid conflict with emergency response activities. Still, some commenters requested that the reporting rule be amended to allow 24 hours, 48 hours, or even 72 hours to file an accidental release report. Such delayed notice would defeat the purpose of the rule. However, the final rule does increase the deadline for reporting from four to eight hours. The CSB believes this extension will provide an additional safeguard to avoid any potential conflict with urgent emergency response activities.

Reports to the CSB should generally comport with similar deadlines already imposed by the Occupational Safety and Health Administration for fatalities and serious injuries. The revised eight-hour limit matches OSHA's eight-hour requirement for reporting fatalities.

Owners/operators should be granted more time to gather all of the necessary information needed to ascertain whether the accidental release is required for reporting, to perform an internal investigation and to inform leadership before completing the report. The CSB originally believed four hours to be sufficient to meet the reporting requirement under this rule when it was published for notice and comment. The CSB is now convinced that expanding the time to report an accidental release to eight hours is ample time to make an assessment of whether a fatality, serious injuries or substantial property damage has occurred, while still being timely enough for CSB purposes. Within eight hours, an owner/operator should have sufficient information at hand to make a report. The rule requires basic information, and notes that certain information need only be reported ''if known.'' In addition, the final rule allows for updating an initial report.

A longer reporting deadline will promote the CSB's ability to coordinate with other agencies. One commenter thought it would be helpful to get recordable and reportable information

[32] Often, key evidence is maintained in electronic form as distributed control system (DCS) data. In simplest terms, a DCS is an electronic system which provides for control and monitoring of a process within a facility. This information is often critical in determining the cause of an accidental release. Unfortunately, DCS data may be overwritten by new DCS data every 24–48 hours.

about injuries from OSHA. The CSB does obtain information from OSHA and other agencies during an investigation. However, such information is typically not readily available during the brief window when the CSB needs to make a deployment determination. In addition, OSHA may not obtain information on all accidental releases important to the CSB. For example, OSHA does not collect information on property damages under its reporting provision. See generally 29 CFR 1904.39. Thus, information from OSHA, even if it could be obtained promptly, would omit certain accidental releases that require a report under the CSB's criteria.

A four-hour reporting requirement will yield little information to understand the incident or determine root causes, or even whether the incident is reportable. The report requires basic information necessary to inform the CSB of the accidental release and preliminary information regarding the release. The report is not intended to support ''root cause'' analysis. If the CSB requires additional information following notification, it has broad investigative authority to do so. Where the CSB's reporting authority ends, the CSB's investigative authority begins.

The number and nature of fatalities and serious injuries, and the fullness of significant property damage, will often not be fully known or understood within four hours of an accidental release. While complete information may not be available, sufficient information should be known to facilitate CSB deployment decision-making. The CSB has considerable experience monitoring incidents in real time through internet-based news sources and traditional media. This information is also supplemented in many cases by other governmental sources of information. While this early information can be incomplete, the CSB has observed that an owner/operator may have important information concerning fatalities, serious injuries, or significant property damage—often within hours after an accidental release. The CSB is satisfied that an eight-hour deadline provides an owner/operator with sufficient time to gather important information that can be conveyed to the CSB.

A four-hour reporting requirement may preempt prompt notifications to other Federal and state agencies.

To be clear, the proposed rule does not legally preempt any other law. The CSB did not interpret this comment from Consumer Union to be making a legal preemption argument, but the CSB wishes to avoid any confusion. The CSB hopes that the extension of its deadline to eight hours lessens any practical concern about competing reporting obligations Moreover, with a revised definition of ''serious injury'' in the final rule, the CSB believes that only a very small fraction of owner/operators will ever need to file a report with the CSB.

§ 1604.3(a): One commenter argued that § 1604.3(a) should require reports from owner/operators if there is a ''near miss.'' Such a situation arises, the comment suggested, when an accidental release does not cause death, serious injury, or substantial property damage, but where it nonetheless poses a threat to the general public. The comment relied on 42 U.S.C. 7412(r)(6)(E), which provides that in no event shall the Board forego an investigation where an accidental release causes a fatality or serious injury among the general public, or had the potential to cause substantial property damage or a number of deaths or injuries among the general public.

Another commenter interpreted 42 U.S.C. 7412(r)(6)(E) in a similar manner but was concerned that a requirement to report near misses could have negative consequences: ''the flow of information would quickly overwhelm the CSB's meager resources.'' For the reasons discussed below, the CSB has not revised the proposed rule to require the reporting of near miss events as suggested by the comment.

Both comments are based on an incorrect interpretation of three key statutory provisions. 42 U.S.C. 7412(r)(6)(C)(i), 42 U.S.C. 7412(r)(6)(C)(iii), and 42 U.S.C. 7412(r)(6)(E).

Investigatory Jurisdiction

The Board's investigatory jurisdiction is set out in subsection C(i) and provides that the Board shall investigate (or cause to be investigated), determine and report to the public in writing the facts, conditions, and circumstances and the cause or probable cause of any accidental release resulting in a fatality, serious injury or substantial property damages.

Reporting Requirement

Subsection C(iii) sets out the CSB's authority to issue a reporting rule and provides that the CSB may require reports when there is an accidental release ''subject to the Board's investigatory jurisdiction'' as defined in subsection C(i). Thus, the final rule requires a report whenever there is an accidental release fitting one of the three criteria in subsection (C)(i)—a death, serious injury, or substantial property damages.

Subsection E is not relevant unless there is an ''accidental release resulting in a fatality, serious injury or substantial property damages.'' 42 U.S.C. 7412(r)(6)(C)(i). If that condition precedent is not met, the Board does not have the authority to investigate or to require a report. If it is met, the Board requires a report and may investigate. If the accidental release ''causes a fatality or serious injury among the general public, or had the potential to cause substantial property damage or a number of deaths or injuries among the general public,'' then subsection E becomes relevant.

Interagency Coordination

Subsection E sets out the CSB's responsibilities with respect to interagency coordination. While that section stresses coordination, it also provides that the CSB shall not ''forego an investigation where an accidental release causes a fatality or serious injury among the general public, or had the potential to cause substantial property damage or a number of deaths or injuries among the general public.''

§ 1604.3(b): The proposed rule provided if the owner or operator has submitted a report to the National Response Center (NRC) pursuant to 40 CFR 302.6, the CSB reporting requirement may be satisfied by submitting the NRC identification number to the CSB immediately following submission of the report to the NRC.

Some commenters argued that § 1604.3(b) is inconsistent with the CSB's rulemaking authority at 42 U.S.C. 7412(r)(6)(C)(iii), which provides that the CSB shall ''establish by regulation requirements binding on persons for reporting accidental releases into the ambient air subject to the Board's investigatory jurisdiction.'' Subsection C(iii) also provides as follows:

1. Reporting releases to the National Response Center, in lieu of the Board directly, shall satisfy such regulations; and

2. The National Response Center shall promptly notify the Board of any releases which are within the Board's jurisdiction.

Some commenters interpreted the authority provided in no. 1 to mean one or more of the following: (1) That the CSB's rule must provide for submission of accidental release reports to the NRC only; (2) that submission of any report to the NRC under any statutory scheme satisfies any CSB requirement, and/or (3) the CSB is not authorized to require an owner/operator to submit an NRC number to the CSB if it has already filed a report with the NRC pursuant 40 CFR

302.6. The CSB disagrees with all of these interpretations.

The CSB's enabling legislation does not mandate that all reports be filed with NRC.

The language in 42 U.S.C. 7412(r)(6)(C)(iii) does not require CSB reports to be filed with NRC. Rather, the language simply provides the CSB with the option of having reports submitted to the NRC instead of to the CSB directly. The statutory language does not confer a right to owner/operators. The CSB's interpretation is confirmed by the legislative history, which provides, in pertinent part:

> The regulations of the Board for accident reporting *may provide* that any person directed to make a report contact the National Response Center rather than the Board directly. . . . *If the National Response Center is to be the initial point of contact* under such rules, then the Board shall assure that officials at the National Response Center promptly notify the Board or its officers whenever an accidental release requiring an investigation has occurred.

S. Rep. No. 101–228 at 236 (1989), reprinted in 1990 U.S.C.C.A.N. 3385, 3620. (Emphasis added.)

The use of the word ''may'' in the first sentence plainly indicates that the CSB has the option of requiring that reports be filed with the NRC. The phrase ''If the National Response Center is to be the initial point of contact,'' demonstrates that the use of the NRC in that role is an option, not a requirement.

The submission of a report to the NRC under other laws does not satisfy the CSB's reporting requirement.

The CSB does not interpret section C(iii) to mean that any report filed with NRC automatically satisfies any reporting obligation to the CSB. As explained above, the information provided to NRC under other laws may not include all accidental releases within the CSB's particularized jurisdiction.

Moreover, when the CSB receives information from the NRC, the NRC reports do not indicate whether or not the report was submitted pursuant to a specific law. Without this information, the CSB cannot quickly determine why the particular release was reported to the NRC and, the CSB has no way of determining whether a report relates to an accidental release within the CSB's jurisdiction. In addition, not all reporting laws require the same information or have the same deadline for reporting as the CSB rule. Thus, the CSB cannot simply rely on NRC reports to learn of accidental releases within its jurisdiction.

The CSB was able to identify one exception to the above problem. If an owner/operator reports an ''event'' to the NRC based on 40 CFR 302.6(a) and notifies the CSB with the pertinent NRC identification number, the CSB can quickly identify the pertinent NRC report and use that information to satisfy its own requirements. The reporting requirement at 40 CFR 302.6(a) provides, in pertinent part, that any person in charge of a vessel or an offshore or an onshore facility shall, as soon as he or she has knowledge of any release (other than a federally permitted release or application of a pesticide) of a hazardous substance from such vessel or facility in a quantity equal to or exceeding the reportable quantity determined by this part in any 24–hour period, immediately notify the National Response Center (1–800–424–8802; in Washington, DC 202–267–2675; the facsimile number is 202–267–1322).

When a person contacts the NRC to report under the above provision, an NRC operator asks a set of questions according to the type of ''event'' that is being reported. For example, if the report is based on a release from an onshore facility, the caller will be asked a set of standard questions used when there is a release from an onshore facility. Prior to completing the call, the NRC operator will provide the caller with an identification number. The NRC will subsequently provide information submitted by the caller to various Federal agencies, including the CSB.

When the CSB reviewed the data that would be transmitted by the NRC based upon this type of report, it determined that the caller would be asked for information substantially similar to the information required under § 1604.4 of this rule. If the person who submitted the report to the NRC knows that the same information should be reported to the CSB, then there is no requirement that the caller file a separate report to the CSB with the same information. If the caller supplies the CSB promptly with the NRC identification number, the CSB will have sufficient time to locate the pertinent NRC report and review the information in the time frame required under this rule. If the owner/operator does not supply the NRC number to CSB, the CSB will not know that the owner/operator has submitted a report to the NRC.[33]

[33] Although not required, this approach is also consistent with 42 U.S.C. 7412(r)(6)(C)(iii) and the CSB's legislative history. The pertinent legislative history provides, in pertinent part, that the CSB's ''reporting requirements may be coordinated with other reporting requirements established by the Agency [EPA] (for instance, under section 103 of CERCLA).'' S. Rep. No. 101–228 at 236 (1989), reprinted in 1990 U.S.C.C.A.N. 3385, 3620.

NRC Identification Number

The CSB received several comments which argued that the CSB lacked authority to compel an owner/operator to provide the CSB with the NRC identification number associated with a report filed with NRC under 40 CFR 302.6. The CSB also received comments that the CSB lacked authority to compel an owner/operator to provide the CSB an NRC identification number.

As explained above, the CSB included the option of providing a NRC ID number in an effort to avoid duplicative reporting. Moreover, the rule does not require an owner/operator to file a report to NRC and supply the NRC identification number with the CSB. Rather, the rule provides an owner/operator with an option to avoid dual reporting. Under the CSB rule, the owner/operator has the option to (a) file a separate report to CSB for the same event under the authority of this rule, or (b) inform the CSB that it has filed a report with NRC pursuant to 40 CFR 302.6.

Some commenters interpreted a sentence in 42 U.S.C. 7412(r)(6)(C)(iii) to mean that CSB could not require an owner/operator to supply the CSB with an NRC identification number because it was the NRC's duty to do that. The pertinent sentence reads: ''The National Response Center shall promptly notify the Board of any releases which are within the Board's jurisdiction.'' As explained above, the CSB rule does not require an owner/operator to file an NRC identification number with CSB. That approach is merely a simpler alternative to filing a complete, separate report with CSB.

''*Immediately*''

A commenter argued that the term ''immediately'' in § 1604.3(b) should be revised so it is self-defining, or replaced with a specific time deadline, preferably the same as the one in § 1604.3(c). In an effort to avoid confusion, the CSB has replaced the word ''immediately'' with a specific time limit of 30 minutes.

SERCs and LEPCs

A commenter suggested that the CSB should revise § 1604.3(b) and (c) to encourage State Emergency Response Commissions (SERCs) and Local Emergency Planning Committees (LEPCs) to notify the CSB of any releases that are within the CSB's jurisdiction. The CSB appreciates the suggestion and plans to do more to encourage reports from such state and local bodies. However, the CSB lacks authority to mandate a SERC or LEPC to promptly notify the CSB.

§ 1604.3(d): In response to the 2009 ANPRM, the American Chemistry Council suggested that the CSB's reporting rule include a provision for a reporting party to correct unintentionally incorrect information within a reasonable period of time following an accidental release. The CSB agreed with this comment and § 1604.3(d) of the proposed rule included language providing that an owner or operator of a stationary source, without penalty, may revise and/or update information reported to the NRC or CSB by sending a notification with revisions by email to: *report@csb.gov,* or by correspondence to: Chemical Safety Board (CSB) 1750 Pennsylvania Ave. NW, Suite 910, Washington, DC 20006, within 30 days following the submission of a report to the NRC or CSB. If applicable, the notification must reference the original NRC identification number. No update or revisions should be sent to the NRC.

Many commenters supported this provision but several suggested modifications. For example, ACC suggested a revision to clarify that updates under § 1604.3(d) are voluntary, not mandatory. The CSB believes that the use of the word ''may'' § 1604.3(d) clearly indicates that an update is not mandatory. However, the CSB hopes that an owner/operator will revise and update incorrect information as a matter of course.

Another commenter urged the CSB to clarify that an owner/operator can ''pull back'' a report where it turns out the incident did not warrant reporting, with a subsequent written response by the CSB. In the event an owner/operator believes that the incident did not warrant reporting, the owner/operator may contact the CSB to explain its position.

Another commenter suggested that an owner/operator be required to correct an initial report within 24 hours of learning that the initial report was faulty. The CSB does not agree that this is required. As the preamble to the proposed rule states, this reporting requirement ''is not intended to create a trap for any owner/operator submitting a report on short notice.'' Of course, the CSB will monitor compliance with the rule. If necessary, the CSB will amend the rule in the future to address problem areas.

One commentator suggested that the CSB allow for corrected reports even after 30 days, and another agreed on the ground that 30 days may not be enough and provides insufficient safe harbor from penalties. The CSB believes that the 30-day period would be most useful for it, because after 30 days, the Board would likely have made its determination as to whether to pursue an investigation. However, the Board does recognize that in some circumstances an owner/operator might in good faith have learned about a qualifying serious injury or substantial property damage (especially damage outside the facility) after the 30-day period. In other instances, an owner/operator may wish to supplement its initial reports. Therefore the Board has added a provision to paragraph (d) that allows owner/operators to submit revised or updated reports to the Board within 90 days if the submitter explains why the revised report could not have been submitted within 30 days.

Another commenter suggested that the CSB develop a web-based form to allow easier and quicker reporting. The CSB agrees and has prepared a screen-fillable pdf form for reporting purposes.

§ 1604.4 Information Required in an Accidental Release Report

Section 1604.4 of the proposed rule details the information that must be submitted by an owner/operator in a report. The information required is consistent with information that the CSB has collected for years from various public sources, and has attempted to verify, through phone calls or email exchanges with the representatives of an owner/operator in the immediate aftermath of an accidental release. This approach has not always been ideal for either the CSB or an owner/operator because the CSB must make multiple phone calls or send multiple emails to an owner/operator over a period of hours and days.

In this section, the CSB has attempted to balance its need for prompt information with the desirable goal of obtaining as much pertinent information as reasonable. As reflected in the purpose of the rule (§ 1604.1), the CSB has determined that the prompt reporting of basic information is its highest priority. While additional, detailed information is desirable, the CSB concluded that it would need to further extend the reporting deadline if it added additional information requirements beyond those set out in the proposed rule. Some additional requirements would arguably require additional hours, or even days, for compliance. At some point, the primary purpose of the rule—prompt notification of an accidental release—would be undermined by the quest for more information.

The CSB also considered the need of an owner/operator to focus on numerous matters in the immediate aftermath of an accidental release. Accordingly, the proposed accidental release reports will require only information that is already known or should be available to an owner/operator soon after an accidental release. The required information is also limited in scope to critical information required for the CSB to make informed decisions about its jurisdiction, interagency coordination, and deployment decision-making. For example, paragraphs (a) through (e) require only minimal contact information and a basic description of the accidental release. Paragraph (g) requests the relevant CAS Registry Number associated with the chemical(s) involved in the accidental release.[34] The CAS information will help the CSB in making informed decisions about deploying investigators and initiating an investigation. Paragraphs (h), (i), (j), and (l)(1) through (3) include an important qualifier, ''if known.'' This qualifier recognizes that some or all of this information may not be known within eight hours of an accidental release.

The CSB received a number of comments suggesting revisions to the proposed language. Other comments opined that this section of the proposed rule failed to require certain information deemed important by the commenters. The CSB addresses both types of comments below.

§ 1604.4(a) Pertaining to Ownership Information

A commenter suggested that the CSB require an owner/operator to provide information concerning a parent company. The CSB agrees that that information would be helpful. However, the information is typically not going to be needed in the hours following notification. If it is, the CSB can generally obtain sufficient information about it on its own.

§ 1604.4(c) Pertaining to Location Information

A commenter suggested the need for clarification on what is meant by ''facility identifier.'' At this time, compliance with the rule can be met by supplying the EPA facility identification number. Over time, terminology can change or new government identification systems may develop. Using the generic description of facility identifier provides flexibility to adapt the rule to changing circumstances

[34] A CAS Registry Number is assigned by an organization called CAS (a division of the American Chemical Society). See *https://www.cas.org/support/documentation/chemical-substances/faqs#2.* It is a unique numeric identifier that is well known to the companies who produce, handle, or ship chemicals and will require minimal effort to include in a report.

without an amendment. If needed, the CSB can issue guidance information to ensure that there is no confusion.

Another comment suggested that the CSB require the owner/operator to report the latitude and longitude of its facility. The CSB declines to add this requirement to the rule because the CSB is confident that an owner/operator can provide an accurate location description, or if necessary, the CSB can pinpoint a location using other sources.

§ 1604.4(f)(3) & (4) Pertaining to Deaths and Serious Injuries

One commenter suggested that fatalities or serious injuries occurring more than 30 days after the release should be excluded from coverage. The CSB disagrees that there is a need to categorically exclude such occurrences. The rule already makes clear that owner/operators may revise or update reports ''within 30 days following the submission of a report (and even 90 days in some circumstances).''

§ 1604.4(g) Pertaining to the Name of the Materials Involved in the Release

One commenter opined that the names of chemicals involved may not be known within four hours if the cause of the event is unknown, and that the CSB should add an ''if known'' qualifier for this item as it has for some of the others. First, the CSB has now increased the reporting window to eight hours. Moreover, in the experience of CSB investigators, facilities are very aware of the chemicals and other materials used in their processes and can readily identify the ones potentially involved in an accidental release. In addition, there is an opportunity to file a corrected or updated report.

§ 1604.4(h) Pertaining to the Amount of the Release

A commenter suggested that ''the amount of the release'' may not be known even within 24 hours. The same commenter suggested that the information is not really necessary for CSB initial screening decision but can be better addressed later. The CSB respectfully disagrees that the information would not be useful for its decision as to whether to deploy resources to the site. CSB understands the concern that the information might not be readily available at the time the report is due. That is why paragraph (h) includes the qualifier, ''if known.'' The rule also allows supplementing the report up to 30 days after initial submission (and 90 days in some circumstances), by which time that information should be available in most cases.

That commenter also suggested that it would be better to frame the request as whether the release exceeds an RQ or reportable quantity rather than requiring a release amount. The CSB agrees that it would be generally helpful to know whether a release exceeds an applicable threshold quantity. If an owner/operator has that information, it would be helpful for the owner/operator to supply that information as part of its response to this question. However, the CSB has not revised the rule to require that information within eight hours.

§ 1604.4(k) Pertaining to the Estimate of the Property Damage at or Outside the Stationary Source

One commenter opined that the value of the property damage, especially outside the plant may not be known within four hours if the cause of event is unknown, and that the CSB should add an ''if known'' qualifier for this item as it has for some of the others. First, the CSB has now increased the reporting window to eight hours. Secondly, the requested information is an estimate. As the preamble to the proposed rule explained: ''The owner is required to make an estimate only, not report an exact figure, or to state whether or not the amount of property damage meets or exceeds the definition for 'substantial property damages.' '' There will be certain instances when an owner or operator may need to assess whether a report is required at all by reference to the definition of ''substantial property damages.'' However, for purposes of including a number in the report, the owner/operator may simply include the best available estimate, regardless of whether the amount falls above or below the threshold for reporting. Moreover, there is an opportunity to file a corrected or updated report.

Another commenter suggested that this reporting item would be better framed as ''estimated property damage exceeds $X threshold.'' The CSB disagrees that such a check-box approach would be better; it can be beneficial for the agency to have an estimated figure even if it is below some sort of threshold to help it decide whether to investigate a particular accidental release.

§ 1604.4(l) Pertaining to Evacuation Orders

Section 1604.4(l), as proposed, asks an owner/operator whether the accidental release has resulted in an evacuation order impacting members of the general public and others, and, if known: (1) The number of people evacuated; (2) approximate radius of the evacuation zone; and (3) the type of individuals subject to the evacuation order (*i.e.,* employees, members of the general public, or both).

A comment suggested that a definition of ''evacuation order'' be added. The CSB has not adopted the proposed change because it believes that the term ''evacuation order'' is easily understood without detailed elaboration.

Another commenter pointed out that § 1604.4(l)(1) through (3) used three overlapping terms, ''general public,'' ''people,'' and ''individuals.'' For clarity, the words ''people'' and ''individuals'' have both been replaced by the word ''persons.'' The commenter also suggested there was a potential for confusion and double counting because the definition of ''general public'' in § 1604.2 excludes employees and contractors. For purpose of counting people under § 1604.4(l)(1), the owner/operator should include all people impacted by an evacuation order—employees, contractors, members of the public and anyone else subject to the order.

Another commenter said that the report on evacuation orders should not be a required item, because evacuation of employees may be ordered by owner/operators simply as a precaution and that owner/operators would not likely know the number of persons affected by a public evacuation. The CSB disagrees; this information is important and should be reported.

Another comment suggested that all of paragraph *l* should be preceded by an ''if known'' qualifier. The CSB disagrees. The components of the evacuation order are preceded by such a qualifier, and the agency believes that the vast majority of evacuation orders are well enough known to be reportable. And in any event, there is an opportunity to file a corrected or updated report.

Union Information

A comment prepared by a group of labor organizations recommended that the rule require an owner/operator to report the names and contact information of any union representing workers at the facility where the accidental release has occurred.

The CSB already collects this information pursuant to its own investigative procedures:

> Promptly after a facility is notified of a CSB investigation deployment, the Executive Director of Investigations and Recommendations (''Executive Director''), or his designee, shall determine if the employees at the facility are represented by one or more unions, and shall identify relevant local and national union health and

safety officials. Notice of deployment shall be provided to appropriate local and national union health and safety officials. If there is no union representation, the Executive Director should determine whether the facility has a health and safety committee with employee members, and, if so, should ask management to provide the CSB with a committee member contact.

Worker Participation in Investigations-Board Order Addendum 40a (October 24, 2018) section 7.4.

CSB Board Order 40a also largely addresses a related comment which urged that the rule require CSB to notify the representative of any union representing employees of the facility as soon as any initial or follow-up report of an accidental release is received by the CSB.[35] Under the order, the CSB's Executive Director of Investigations and Recommendations is required to provide notice of any deployment to appropriate local and national union health and safety officials.

Finally, the same commenter proposed that the rule require that every appropriate union supply to the CSB the contact information for the person to be notified within 30 days of the effective date of this regulation. Presumably, this proposed requirement would help ensure that the CSB had someone at the appropriate union to notify in a timely manner. The CSB appreciates the suggestion, but the statute and this rule establish reporting requirements for owner/operators, not unions. The suggested revision is outside the CSB's authority. In any event, the CSB has not typically encountered any issue with identifying appropriate union officials.

Collection of Other Reports

A comment by Air Alliance argued that the proposed rule was deficient because it failed to require facilities to submit accident investigation reports ''already generated'' as required by the Process Safety Management (PSM) rule (29 CFR 1910.119) or RMP (40 CFR part 68). According to the comment, ''such reports contain a wealth of detailed information on accident risks and causes—already prepared at significant expense to industry—but currently not collected together by any federal agency.'' Id. The CSB appreciates the comment, but it has declined to revise the rule because accident information generated by an owner/operator under PSM (or RMP) that pertains to a reported release will not be available during the deployment window. If needed, CSB can use its investigative authority to obtain information generated by the owner/operator or seek such information from the EPA and OSHA, if required.

§ 1604.5 Failure to Report an Accidental Release

As stated in the proposed rule, paragraphs (a) and (b) of § 1604.5 implement the enforcement provisions authorized by 42 U.S.C. 7412(r)(6)(O), which provides, in pertinent part, that after the effective date of any reporting requirement promulgated pursuant to subparagraph (C)(iii), it shall be unlawful for any person to fail to report any release of any extremely hazardous substance as required by such subparagraph. The Administrator is authorized to enforce any regulation or requirements established by the Board pursuant to subparagraph (C)(iii) using the authorities of sections 7413 and 7414 of the title.

The CSB is confident that most matters will come to its attention through its ongoing surveillance of accident activity. During the period of one year following the effective date of the rule, the CSB will contact any owner/operator who the agency believes has failed to file a required a report. If a report is filed immediately following notification, the CSB will not refer the failure to report under § 1604.5.

A significant number of accidental releases are concentrated within certain industries. The CSB anticipates that firms within these sectors will be the focus of CSB's compliance and educational outreach efforts during the first year following the issuance of the rule. The remainder of accidental releases occur in a range of other sectors. The CSB anticipates that additional time may be required to adequately educate all sectors. If appropriate, the CSB will extend the grace period for such sectors. Similarly, the CSB may extend the grace period for all facilities with very few employees.

The CSB intends to issue compliance guidance periodically and welcomes comments that address unusual circumstances. For example, the CSB is interested in comments on what exceptions should be made for owner/operators with small operations and few employees.

Several commenters were concerned about complying with the four-hour deadline set out in the proposed rule. The CSB has revised the deadline from four to eight hours. The grace period described above will resolve such issues in a reasonable fashion for at least one year following the date of adoption. The CSB will consider a longer-term approach to any unique situations and propose appropriate compliance guidance and/or amendments to the final rule before the grace period has expired.

Another comment suggested that CSB memorialize, in the rule itself, the statement from the preamble concerning a one-year grace period. The CSB disagrees with this comment. The preamble to this final rule clearly states the following: ''For one year following the effective date of the rule, the CSB will refrain from referring violations for enforcement, unless there is a knowing failure to report. This policy is required to allow adequate time for compliance education.'' The CSB stands by its stated intention, and believes it would be inefficient to include an automatically expiring provision in the rule itself.

The CSB has no interest in seeing owners/operators referred to the Administrator for enforcement unnecessarily, and the agency would much rather focus its resources in the year after promulgation of this final rule on education and outreach.

Another comment suggested that a final rule should include a provision penalizing ''false reporting.'' The CSB has not added such a provision to the final rule. The CSB is not an enforcement agency, and the statute already provides an enforcement provision for any violation of the reporting requirement. See 42 U.S.C. 42 U.S.C. 7412(r)(6)(O). In addition, Federal law already addresses the issue of false statements. *See e.g.,* 18 U.S.C. 1001(a).

Finally, a comment requested that the CSB rule ''prohibit the agency from forwarding suspected violations to the EPA for enforcement.'' The CSB disagrees with this comment. Such a provision would be contradicted by the plain language of 42 U.S.C. 7412(r)(6)(O), which provides that after the effective date of any reporting requirement promulgated pursuant to subparagraph (C)(iii), it shall be unlawful for any person to fail to report any release of any extremely hazardous substance as required by such subparagraph. The Administrator is authorized to enforce any regulation or requirements established by the Board pursuant to subparagraph (C)(iii) using the authorities of sections 7413 and 7414 of the title.

The CSB understands that its independence from criminal and civil enforcement authorities is important to its ability to accomplish its safety mission. As noted in the preamble, the CSB's focus will be on education and compliance, not on creating traps for the unwary. Accordingly, the final language of § 1604.5 should pose no threat to the special place the CSB has historically held with industry and other

[35] *https://www.csb.gov/assets/record/bo40a.pdf.*

stakeholders as a non-regulatory and non-enforcement agency. The CSB looks forward to working with owner/operators and other stakeholders to help ensure compliance.

§ 1604.6 Public Availability of Accidental Release Records

This section was included to clarify that the procedure for seeking records obtained pursuant to the rule is governed by the Freedom of Information Act, 5 U.S.C. 552, (FOIA); the CSB's procedural regulations for disclosure of records under the FOIA, 40 CFR part 1601; and other pertinent Federal laws governing the disclosure of Federal records information.

As noted in the proposed rule, neither 42 U.S.C. 7612(r)(6)(C)(iii) nor 42 U.S.C. 7612(r)(6)(Q),[36] alone or in combination, authorize the immediate disclosure of accidental release record information apart from the requirements of the FOIA. Importantly, neither of these provisions, alone or in combination, authorize the immediate disclosure of accidental release report information in order to support emergency response and public safety operations. Such a reading would potentially conflict with the implementation of other existing public information and safety laws, such as EPCRA (see section 303), which are directly focused on emergency response, the protection of public health and safety, and the public release of information. The interpretation is also inconsistent with the National Response Framework (NRF) and the National Incident Management System (NIMS) [37] The CSB must respect pertinent principles of the NRF and NIMS regarding public communications during the early stages of an emergency response to a disaster.

Similarly, the CSB is not an alerting authority that participates in the Integrated Public Alert and Warning System (IPAWS), the nation's public alert and warning infrastructure.[38] During an emergency, certain agencies and officials need to provide the public with lifesaving information quickly through established channels.

Finally, the immediate release of initial, uncorroborated accidental release information would be inconsistent with OMB and CSB's Data Quality Guidelines. The interest in the transparency of the CSB's data and methods shall not override other compelling interests such as national security, privacy, trade secrets, intellectual property, and other confidentiality protections. OMB Guidelines, para. V.b.3.ii.B.i.'' *https://www.csb.gov/investigations/data-quality-/.*

One comment supported this proposed section saying that ''[s]uch report information is by nature both (i) sensitive and (ii) subject to error, due to the confusion associated with significant releases and the short reporting window. Disclosure via FOIA request should help minimize the propagation of erroneous reports through the news or social media and promote more accurate accounts of developments.'' Another commenter expressed concerns about data security even under a FOIA-based disclosure policy.

On the other hand, two commenters criticized the proposed rule for not making the reports available proactively. One suggested that ''making reporting information available to the public only through FOIA requests severely undermines the utility of the rule to inform workers, unions, affected communities and other interested parties of the existence and nature of accidental releases in a timely fashion.'' The commenter argued that some interested parties would lack enough information to make a FOIA request, and that the FOIA review process takes too long, citing the CSB's own statistics on the backlog of FOIA requests. It urged that all ''accidental release records collected by the CSB under this rule shall immediately be placed in a publicly-available, searchable database'' on the CSB's website. Another commenter similarly argued that the CSB should ''put at least the initial reports, and any corrections, in a searchable, publically [sic.] available database.'' It also suggested that ''making the records available on-line would also be easier and cheaper for agency.'' In support of its argument, one of the commenters relies on 42 U.S.C. 7412(r)(6)(Q) (''Subsection Q''), which provides that any records, reports or information obtained by the Board shall be available to the Administrator, the Secretary of Labor, the Congress and the public, except that upon a showing satisfactory to the Board by any person that records, reports, or information, or particular part thereof (other than release or emissions data) to which the Board has access, if made public, is likely to cause substantial harm to the person's competitive position.

According to this comment, Subsection Q requires immediate disclosure of any accidental release report.

However, the comment misinterprets the basic purposes of this regulation and of Subsection Q. This is a reporting rule, not a disclosure rule. The CSB has been delegated specific authority to issue this reporting rule by 42 U.S.C. 7412(r)(6)(C)(iii). That provision authorizes the CSB to ''establish by regulation requirements binding on persons for reporting accidental releases into the ambient air subject to the Board's investigatory jurisdiction.'' The provision does not authorize the CSB to disclose accidental release reports notwithstanding other laws governing the disclosure of Federal records. That is why the CSB final rule reiterates the applicability of its normal FOIA-based disclosure process for these records.

The commenter's reliance on Subsection Q is mistaken for several reasons. First, Subsection Q is not linked to the rulemaking authorization. Second, while the subsection indicates that reports and other information are ''available'' to the public unless they cause substantial harm to a person's competitive position, it does not require or authorize the CSB to publicly disclose any information, let alone incident notifications to be obtained via a reporting rule mandated by a separate subsection. Indeed, one purpose of this provision is to describe when documents *cannot* be released. Third, Subsection Q does not by its terms supersede the FOIA or exempt the CSB from other statutes governing sensitive information, such as the Privacy Act. This point is reinforced by 5 U.S.C 559, which provides that ''Subsequent statute [sic] may not be held to supersede or modify this subchapter . . . . except to the extent that it does so expressly.'' Because the FOIA, 5 U.S.C. 552 is in the same subchapter of Title 5 as section 559, and was enacted in 1966, this provision means that a subsequent statute like Subsection Q may not supersede or modify the FOIA unless it does so expressly—which it clearly does not.

Another flaw in the commenter's reasoning is that interpreting Subsection Q as a mandatory disclosure provision would also require the CSB to immediately disclose other types of sensitive documents it may have in its possession, such as those that contain (a) classified national security information shared by sister agencies,

[36] The CSB does not interpret subsection Q as in any manner amending the FOIA.

[37] *https://www.fema.gov/media-library-data/1572366339630-0e9278a0ede9ee129025182b4d0f818e/National_Response_Framework_4th_20191028.pdf.*

[38] *https://www.fema.gov/integrated-public-alert-warning-system* IPAWS provides public safety officials with an effective way to alert and warn the public about serious emergencies using the Emergency Alert System (EAS), Wireless Emergency Alerts (WEA), the National Oceanic and Atmospheric Administration (NOAA) Weather Radio, and other public alerting systems from a single interface.

(b) confidential business information, or (c) information that might invade privacy interests.

Finally, the commenter's interpretation of Subsection Q contradicts a recent decision of the DC District Court that denied access to plaintiffs who had filed a FOIA action which turned on the interpretation of the same key language that is in Subsection Q, *Environmental Integrity Project* v. *EPA,* 177 F. Supp. 3d. 36 (D.D.C. 2016). In that case, plaintiffs argued that a provision of the Clean Water Act (CWA), which includes the phrase ''shall be available to the public,'' entitled them to full disclosure of certain information collected by the EPA pursuant to the CWA, and that pertinent FOIA exemptions were inapplicable. The court disagreed, holding that the provision is not a comprehensive, freestanding scheme that replaces the FOIA exemption of confidential business information from release to the public. For all of the above reasons, the CSB disagrees with the commenter's interpretation of Subsection Q, and has not made revision to the final rule.

As discussed above, the CSB is obligated to comply with a number of Federal information disclosure laws. At the same time, the CSB has opposed efforts to use such laws to improperly shield such information from public disclosure. For example, the CSB successfully resisted such an attempt during the course of its investigation at Bayer Crop Sciences.[39] The CSB's efforts led to a congressional oversight hearing, and soon thereafter, Congress passed the ''American Communities' Right to Public Information Act,'' which amended the disclosure law that had been at issue during the Bayer investigation.[40]

In 2010, the CSB successfully opposed Excel Energy's effort to delay publication of the CSB's Investigation Report into the Cabin Creek disaster in Georgetown, Colorado, in which a fire claimed five lives. *U.S.* v. *Excel Energy, Inc.,* 2010 WL 2650460 (D. Colo. 2010).[41] More recently, a panel of the Ninth Circuit Court of Appeals ruled in favor of the CSB in its lengthy effort to obtain information from Exxon regarding the use of Hydrofluoric Acid at a refinery formerly owned by Exxon in Torrance, California. *U.S.* v. *Exxon Mobil Corp.,* 943 F.3d 1283 (9th Cir. 2019).[42]

Thus, the CSB's commitment to seek the facts and to report on them remains strong. The CSB's primary methods of sharing information with the public will remain investigation reports, videos, and safety recommendations. In particular, the CSB has often made recommendations to improve emergency preparedness and to promote the welfare of those living near facilities. However, the CSB recognizes the public interest in learning from initial accidental release information. The CSB occasionally receives FOIA requests for incident screening information. After appropriate review, the CSB has disclosed this information and will continue to do so. Moreover, as part of this rulemaking process, the CSB disclosed 10 years of information on 1,923 incidents.[43]

The CSB understands commenters' concerns about FOIA processing delays. The CSB's Chief FOIA Officer has acknowledged the backlog of FOIA requests, and the CSB is improving its response process, including by devoting additional personnel to the task. With the adoption of this final rule, the CSB will also devote additional resources to the collection and processing of initial accidental release information. In light of this, the CSB will proactively disclose, subject to any Federal statutory prohibitions on such disclosure, initial incident information, as defined in this rule at § 1604.4, at least once per year.

Effective Date

Two commenters suggested that the CSB delay the effective date of the rule to allow compliance education to take place. One suggested a delay of six months and the other of one year. The CSB understands and agrees with the intent of the comment. However, the CSB is concerned that a delayed effective date could be viewed as inconsistent with the court-ordered deadline for the rule. For this reason, the CSB has determined that it will not delay the effective date beyond the 30 days required by the Administrative Procedure Act. Instead, as discussed in the preamble to the proposed rule, to allow adequate time for compliance education and to address any other compliance issues raised in the comments, the CSB will provide a one-year grace period.

List of Subjects in 40 CFR Part 1604

Hazardous substances, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, the Chemical Safety and Hazard Investigation Board adds part 1604 to title 40 of the Code of Federal Regulations to read as follows:

PART 1604—REPORTING OF ACCIDENTAL RELEASES

Sec.
1604.1 Purpose.
1604.2 Definitions.
1604.3 Reporting an accidental release.
1604.4 Information required in an accidental release report.
1604.5 Failure to report an accidental release.
1604.6 Public availability of accidental release records.

Authority: 42 U.S.C. 7412(r)(6)(C)(iii); 42 U.S.C. 7412(r)(6)(N).

§ 1604.1 Purpose.

The enabling legislation of the Chemical Safety and Hazard Investigation Board (CSB) provides that the CSB shall establish by regulation requirements binding on persons for reporting accidental releases into the ambient air subject to the Board's investigative jurisdiction. 42 U.S.C. 7412(r)(6)(C)(iii). This part establishes the rule required by the enabling legislation. The purpose of this part is to require prompt notification of any accidental release within the CSB's investigatory jurisdiction.

§ 1604.2 Definitions.

As used in this part, the following definitions apply:

Accidental release means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

Ambient air means any portion of the atmosphere inside or outside a stationary source.

Extremely hazardous substance means any substance which may cause death, serious injury, or substantial property damage, including but not limited to, any ''regulated substance'' at or below any threshold quantity set by the Environmental Protection Agency (EPA) Administrator under 42 U.S.C. 7412(r)(5).

General public means any person except for:

(1) Workers, employees, or contractors working for (or on behalf of) the owner or operator of a stationary source from which an accidental release has occurred; and

[39] CSB Investigation Report: Pesticide Chemical Runaway Reaction Pressure Vessel Explosion (2011) at pp. 11–13. *https://www.csb.gov/bayer-cropscience-pesticide-waste-tank-explosion/.*

[40] The Act amended title 46 Section 70103(d).

[41] *https://www.csb.gov/xcel-energy-company-hydroelectric-tunnel-fire/.*

[42] CSB Investigation Report: ExxonMobil Torrance Refinery Electrostatic Precipitator Explosion Torrance, California (2015) at pp. *https://www.csb.gov/exxonmobil-refinery-explosion-/.*

[43] The CSB has also collected and published information on laboratory accidents spanning the years 2001 to 2018, which is available at *www.csb.gov.*

(2) Any person acting in the capacity of an emergency responder to an accidental release from a stationary source.

Inpatient hospitalization means a formal admission to the inpatient service of a hospital or clinic for care.

Owner or operator means any person or entity who owns, leases, operates, controls, or supervises a stationary source.

Property damage means damage to or the destruction of tangible public or private property, including loss of use of that property.

Regulated substance means any substance listed pursuant to the authority of 42 U.S.C. 7412(r)(3).

Serious injury means any injury or illness that results in death or inpatient hospitalization.

Stationary source means any buildings, structures, equipment, installations, or substance-emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur.

Substantial property damage means estimated property damage at or outside the stationary source equal to or greater than $1,000,000.

§ 1604.3 Reporting an accidental release.

(a) The owner or operator of a stationary source must report in accordance with paragraph (b) or (c) of this section, any accidental release resulting in a fatality, serious injury, or substantial property damage.

(b) If the owner or operator has submitted a report to the National Response Center (NRC) pursuant to 40 CFR 302.6, the CSB reporting requirement may be satisfied by submitting the NRC identification number to the CSB within 30 minutes of submitting a report to the NRC.

(c) If the owner or operator has not submitted a report to the NRC and notified the CSB under paragraph (b) of this section, the owner/operator must submit a report directly to the CSB within eight hours of the accidental release and must include the required information listed in § 1604.4. A report may be made by email to: *report@csb.gov,* or by telephone at 202–261–7600.

(d) For the purpose of efficiency, multiple owner/operators may agree in advance or at the time of release to a single, consolidated report on behalf of one or more parties who are responsible for reporting an accidental release from a stationary source. However, any consolidated report must include all pertinent information required under § 1604.4.

(e) Notwithstanding paragraphs (a) through (d) of this section, an owner or operator of a stationary source, without penalty, may revise and/or update information reported to the NRC or CSB by sending a notification with revisions by email to: *report@csb.gov,* or by correspondence to: Chemical Safety Board (CSB) 1750 Pennsylvania Ave. NW, Suite 910, Washington, DC 20006, within 30 days following the submission of a report to the NRC or CSB. If applicable, the notification must reference the original NRC identification number. No update or revisions should be sent to the NRC. In addition to the opportunity to revise and/or update information within 30 days, an owner or operator may also submit a revised report to the Board within 60 additional days if the submitter explains why the revised report could not have been submitted within the first 30 days.

§ 1604.4 Information required in an accidental release report.

The report required under § 1604.3(c) must include the following information regarding an accidental release as applicable:

(a) The name of, and contact information for, the owner/operator;

(b) The name of, and contact information for, the person making the report;

(c) The location information and facility identifier;

(d) The approximate time of the accidental release;

(e) A brief description of the accidental release;

(f) An indication whether one or more of the following has occurred:

(1) Fire;

(2) Explosion;

(3) Death;

(4) Serious injury; or

(5) Property damage;

(g) The name of the material(s) involved in the accidental release, the Chemical Abstract Service (CAS) number(s), or other appropriate identifiers;

(h) If known, the amount of the release;

(i) If known, the number of fatalities;

(j) If known, the number of serious injuries;

(k) Estimated property damage at or outside the stationary source; and

(l) Whether the accidental release has resulted in an evacuation order impacting members of the general public and others, and, if known:

(1) The number of persons evacuated;

(2) Approximate radius of the evacuation zone; and

(3) The type of person subject to the evacuation order (*i.e.,* employees, members of the general public, or both).

§ 1604.5 Failure to report an accidental release.

(a) It is unlawful for any person to fail to make reports required under this part, and suspected violations of this part will be forwarded to the Administrator of the EPA for appropriate enforcement action.

(b) Violation of this part is subject to enforcement pursuant to the authorities of 42 U.S.C. 7413 and 42 U.S.C. 7414, which may include—

(1) Administrative penalties;

(2) Civil action; or

(3) Criminal action.

§ 1604.6 Public availability of accidental release records.

Accidental release records collected by the CSB under this part may be obtained by making a request in accordance with 40 CFR part 1601, the CSB's procedures for the disclosure of records under the Freedom of Information Act. The CSB will process requests, and if appropriate, disclose such records, in accordance with 40 CFR part 1601 and relevant Federal information disclosure laws.

Dated: February 3, 2020.

Kristen Kulinowski,

Interim Executive Authority, Chemical Safety and Hazard Investigation Board.

[FR Doc. 2020–02418 Filed 2–20–20; 8:45 am]

BILLING CODE 6350–01–P

Proposed Rules

Federal Register
Vol. 85, No. 35
Friday, February 21, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

[Doc. No.: AMS–SC–19–0068; SC19–966–3]

Tomatoes Grown in Florida; Proposed Amendments to the Marketing Order No. 966 and Referendum Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and referendum order.

SUMMARY: This rulemaking proposes amendments to Marketing Order No. 966, which regulates the handling of tomatoes grown in Florida. The proposed amendments would change the Florida Tomato Committee's (Committee) size, length of the terms of office, and quorum requirements.

DATES: The referendum will be conducted from May 11, 2020, through June 1, 2020. The representative period for the referendum is October 1, 2018, through September 30, 2019.

ADDRESSES: Interested persons with questions may send comments to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938.

FOR FURTHER INFORMATION CONTACT: Geronimo Quinones, Marketing Specialist, or Andrew Hatch, Rulemaking Services Branch Chief, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Geronimo.Quinones@usda.gov* or *Andrew.Hatch@usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Richard.Lower@usda.gov.*

SUPPLEMENTARY INFORMATION: This proposal, pursuant to 5 U.S.C. 553, proposes amendments to regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposal is issued under Marketing Order No. 966, as amended (7 CFR part 966), regulating the handling of tomatoes grown in Florida. Part 966 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee locally administers the Order and is comprised of tomato producers and handlers operating within the area of production.

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 13563 and 13175. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this proposed rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is not intended to have retroactive effect. This proposed rule shall not be deemed to preclude, preempt, or supersede any State program covering tomatoes grown in Florida.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed no later than 20 days after the date of entry of the ruling.

Section 1504 of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) (Pub. L. 110–246) amended section 8c(17) of the Act, which in turn required the addition of supplemental rules of practice to 7 CFR part 900 (73 FR 49307; August 21, 2008). The amendment of section 8c(17) of the Act and additional supplemental rules of practice authorize the use of informal rulemaking (5 U.S.C. 553) to amend Federal fruit, vegetable, and nut marketing agreements and orders. USDA may use informal rulemaking to amend marketing orders based on the nature and complexity of the proposed amendment, the potential regulatory and economic impacts on affected entities, and any other relevant matters.

AMS has considered these factors and has determined that the amendments proposed are not unduly complex and the nature of the proposed amendments is appropriate for utilizing the informal rulemaking process to amend the Order.

The proposed amendments were unanimously recommended by the Committee following deliberations at two public meetings held on November 1, 2018, and February 27, 2019. The proposals would amend the Order by changing the Committee's size, the length of term of office, and quorum requirements.

A proposed rule soliciting comments on the proposed amendments was issued on September 23, 2019 and published in the **Federal Register** on October 1, 2019 (84 FR 52044). No comments were received. AMS will conduct a producer referendum to determine support for the proposed amendments. If appropriate, a final rule will then be issued to effectuate the amendments if they are favored by producers in the referendum.

The Committee's proposals would amend the Order by changing the Committee's size, the length of term of office, and quorum requirements.

Proposal 1—Reduce Committee Size

Section 966.22 provides that the Committee consists of 12 members and, for each member of the Committee,

there must be an alternate who has the same qualifications as the member. This proposal would amend § 966.22 by reducing the size of the Committee from 12 to 10 members. The requirement that each member have an alternate with the same qualifications as the member would remain unchanged.

Since promulgation of the Order in 1995, the Florida tomato industry has seen reductions of about 80% in the number of tomato producers and 33% of registered handlers. Industry consolidation and land development pressure have also contributed to this decline. Decreasing the Committee's size from 12 members to 10 members would make Committee membership more reflective of today's industry and enable it to fulfill quorum requirements.

Proposal 2—Revise Term of Office

Section 966.23 requires Committee members and their alternates to serve for one year.

This proposal would change § 966.23 by revising the term of office for producer members from one year to two years beginning on August 1 and ending as of July 31. Currently, the nominating process for the 12 members and alternate members is conducted annually. This proposed change would reduce the annual turnover on the Committee and provide time for new members and alternates to learn the details of Committee operations and business.

Proposal 3—Revise Quorum Requirements

Currently, § 966.32 states that eight members of the Committee shall constitute a quorum, and the same number of concurring votes shall be required to pass any motion or approve any Committee action.

The proposed change would modify § 966.32 to allow six members to constitute a quorum. The requirement that the same number of concurring votes (six) shall be required to pass any motion or approve any Committee action would remain unchanged. The Committee is experiencing difficulties filling all seats and obtaining a quorum at meetings since several seats have been vacant. Adjusting the current requirements would enable the Committee to operate fully and increase the chance of reaching a quorum during scheduled meetings. These changes would help to streamline the Committee's operations and increase its effectiveness.

Final Regulatory Flexibility Analysis

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 75 producers of Florida tomatoes in the production area and 37 handlers subject to regulation under the Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than $1,000,000, and small agricultural service firms are defined as those whose annual receipts are less than $30,000,000 (13 CFR 121.201).

According to industry and Committee data, the average annual price for fresh Florida tomatoes during the 2017–18 season was approximately $12.56 per 25-pound container, and total fresh shipments were 25.9 million containers. Using the average price and shipment information, the number of handlers, and assuming a normal distribution, the majority of handlers have average annual receipts less than $30,000,000 ($12.56 times 25.9 million containers equals $325,304,000 divided by 37 handlers equals $8,792,000 per handler) and may be classified as small entities.

With an estimated producer price of $6.00 per 25-pound container, the number of Florida tomato producers, and assuming a normal distribution, the average annual producer revenue is above $1,000,000 ($6.00 times 25.9 million containers equals $155,400,000 divided by 75 producers equals $2,072,000 per producer). Thus, the majority of producers of Florida tomatoes may be classified as large entities.

The proposed amendments would change the Committee's size, the length of term of office, and quorum requirements.

The Committee unanimously recommended the proposed amendments at public meetings on November 1, 2018 and February 27, 2019. If these proposals are approved in a referendum, there would be no direct financial effects on producers or handlers. However, these proposed changes would decrease administrative costs to producers and Committee staff. This action would save time and work for producers and Committee staff, by avoiding the annual requirement to prepare multiple nomination notices and meetings, and the administrative and travel expenses that are required to carry out these annual duties.

Since 1995, the number of producers and handlers operating in the industry has decreased, which makes it difficult to find enough members to fill positions on the Committee. Decreasing the Committee's size would make it more reflective of today's industry. No economic impact is expected if the proposed amendments are approved because they would not establish any new regulatory requirements on handlers, nor would they have any assessment or funding implications. There would be no change in financial costs, reporting, or recordkeeping requirements if this proposal is approved.

Alternatives to this proposal, including making no changes at this time, were considered by the Committee. Due to changes in the industry, AMS believes the proposals are justified and necessary to ensure the Committee's ability to locally administer the program. Reducing the size of the Committee would enable it to satisfy membership and quorum requirements fully, thereby ensuring a more efficient and orderly flow of business.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0178 (Vegetable and Specialty Crops). No changes in those requirements are necessary because of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large Florida tomato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public-sector agencies.

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

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this action.

The Committee's meeting was widely publicized throughout the Florida tomato production area. All interested persons were invited to attend the meeting and encouraged to participate in Committee deliberations on all issues. Like all Committee meetings, the November 1, 2018, and February 27, 2019, meetings were public, and all entities, both large and small, were encouraged to express their views on the proposals.

A proposed rule concerning this action was published in the **Federal Register** on October 1, 2019 (84 FR 52044). Copies of the rule were mailed or sent via facsimile to all Committee members and Florida tomato handlers. Finally, the proposed rule was made available through the internet by USDA and the Office of the Federal Register. A 60-day comment period ending December 2, 2019, was provided to allow interested persons to respond to the proposal. No comments were received, so no changes will be made to the amendments as proposed.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses*. Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

Findings and Conclusions

The findings and conclusions and general findings and determinations included in the proposed rule set forth in the October 1, 2019, issue of the **Federal Register** are hereby approved and adopted.

Marketing Order

Annexed hereto and made a part hereof is the document entitled ''Order Amending the Order Regulating the Handling of Tomatoes Grown in Florida.'' This document has been decided upon as the detailed and appropriate means of effectuating the foregoing findings and conclusions. It is hereby ordered, that this entire proposed rule be published in the **Federal Register**.

Referendum Order

It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR part 900.400–407) to determine whether the annexed order amending the Order regulating the handling of tomatoes grown in Florida is approved by growers, as defined under the terms of the Order, who during the representative period were engaged in the production of tomatoes in the production area. The representative period for the conduct of such referendum is hereby determined to be October 1, 2018, through September 30, 2019.

The agents designated by the Secretary to conduct the referendum are Steven Kauffman and Christian D. Nissen, Southeast Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 325–8793, or Email: *Steven.Kauffman@usda.gov* or *Christian.Nissen@usda.gov,* respectively.

Order Amending the Order Regulating the Handling of Tomatoes Grown in Florida [1]

Findings and Determinations

The findings hereinafter set forth are supplementary to the findings and determinations which were previously made in connection with the issuance of the Order; and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

1. The Order, as amended, and as hereby proposed to be further amended, and all the terms and conditions thereof, would tend to effectuate the declared policy of the Act;

2. The Order, as amended, and as hereby proposed to be further amended, regulates the handling of tomatoes grown in Florida in the same manner as, and is applicable only to, persons in the respective classes of commercial and industrial activity specified in the Order;

3. The Order, as amended, and as hereby proposed to be further amended, is limited in application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

4. The Order, as amended, and as hereby proposed to be further amended, prescribes, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of tomatoes produced in the production area; and

5. All handling of tomatoes produced or packed in the production area as defined in the Order is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, all handling of tomatoes grown in Florida shall be in conformity to, and in compliance with, the terms and conditions of the said Order as hereby proposed to be amended as follows:

The provisions of the proposed marketing order amending the Order contained in the proposed rule issued by the Administrator on September 23, 2019 and published in the **Federal Register** (84 FR 52044) on October 1, 2019, will be and are the terms and provisions of this order amending the Order and are set forth in full herein.

List of Subjects in 7 CFR Part 966

Tomatoes, Marketing agreements, Reporting and recordkeeping requirements.

Dated: February 14, 2020.

Bruce Summers,

Administrator, Agricultural Marketing Service.

For the reasons set forth in the preamble, the Agricultural Marketing Service proposes to amend 7 CFR part 966 as follows:

PART 966—TOMATOES GROWN IN FLORIDA

■ 1. The authority citation for 7 CFR part 966 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. In § 966.22 revise paragraph (a) to read as follows:

§ 966.22 Establishment and membership.

(a) The Florida Tomato Committee, consisting of 10 producer members, is hereby established. For each member of the committee there shall be an alternate who shall have the same qualifications as the member.

* * * * *

■ 3. In § 966.23 revise paragraph (a) as follows:

§ 966.23 Term of office.

(a) The term of office of committee members, and their respective alternates, shall be for 2 years and shall begin as of August 1 and end as of July 31.

* * * * *

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

■ 4. In § 966.32 revise paragraph (a) as follows:

§ 966.32 Procedure.

(a) Six members of the committee shall be necessary to constitute a quorum and the same number of concurring votes shall be required to pass any motion or approve any committee action.

* * * * *

[FR Doc. 2020–03369 Filed 2–20–20; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–1021; Project Identifier MCAI–2019–00120–E]

RIN 2120–AA64

Airworthiness Directives; GE Aviation Czech s.r.o. Turboprop Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede airworthiness directive (AD) 2016–07–13 and AD 2018–03–22 which apply to certain GE Aviation Czech s.r.o. M601D–11, M601E–11, M601E–11A, M601E–11AS, M601E–11S, and M601F turboprop engines. AD 2016–07–13 requires inspection of the engine power turbine (PT) disk and, if found damaged, its replacement with a part eligible for installation. AD 2018–03–22 requires the removal of certain engine PT disks identified by part number (P/N) installed on the affected engines. Since the FAA issued AD 2016–07–13 and AD 2018–03–22, the manufacturer identified additional P/Ns and serial numbers (S/Ns) of engine PT disks affected by damage or non-conformity. This proposed AD would require an inspection of the engine PT disk and, if found damaged, its replacement with a part eligible for installation. This proposed AD would also require the removal of certain engine PT disks identified by P/N installed on the affected engines. 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 April 6, 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 GE Aviation Czech s.r.o., Beranových 65, 199 02 Praha 9—Letňany, Czech Republic; phone: +420 222 538 111; fax +420 222 538 222; email: *tp.ops@ge.com*. You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759.

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–2019–1021; 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 mandatory continuing airworthiness information (MCAI), 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: Mehdi Lamnyi, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7743; fax: 781–238–7199; email: *Mehdi.Lamnyi@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2019–1021; Project Identifier MCAI–2019–00120–E'' 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.

Except for Confidential Business Information as described in the following paragraph, and other information as described in 14 CFR 11.35, 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 NPRM.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Mehdi Lamnyi, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The FAA issued AD 2016–07–13, Amendment 39–18458 (81 FR 20222, April 7, 2016), (''AD 2016–07–13''), and AD 2018–03–22, Amendment 39–19195 (83 FR 6455, February 14, 2018), (''AD 2018–03–22'') for certain GE Aviation Czech s.r.o. M601D–11, M601E–11, M601E–11A, M601E–11AS, M601E–11S, and M601F turboprop engines. AD 2016–07–13 requires inspection of the engine PT disk and, if found damaged, its replacement with a part eligible for installation. AD 2016–07–13 resulted from the discovery of damage to certain engine PT disks during engine shop visits. AD 2018–03–22 requires the removal of certain engine PT disks installed on the affected engines. AD 2018–03–22 resulted from a design review by the manufacturer that determined engine PT rotors with certain engine PT disks have less overspeed margin than originally stated during product certification.

The FAA issued AD 2016–07–13 to prevent failure of the engine PT disk, which could result in release of high-energy debris, damage to the engine,

and reduced control of the airplane. The FAA issued AD 2018–03–22 to prevent failure of the engine PT rotor, which could result in uncontained release of the engine PT disk, damage to the engine, and damage to the airplane.

Actions Since AD 2016–07–13 and 2018–03–22 Were Issued

Since the FAA issued AD 2016–07–13 and AD 2018–03–22, The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2019–0143, dated June 13, 2019 (referred to after this as ''the MCAI''), to address the unsafe condition on these products. The MCAI states:

During engine shop visits or overhauls, certain PT discs may have been damaged in the area of the balance weights. Additional PT discs with non-conforming geometry of the slot radius may also have been released to service as a result of incorrect machining of the PT disc slot.

This condition, if not detected and corrected, could lead to PT disc failure, with subsequent release of high-energy debris, possibly resulting in damage to, and/or reduced control of, the aeroplane. To address this potential unsafe condition, GEAC published a Service Bulletin (SB) to provide instructions to inspect and, depending on findings, replace certain PT discs, and EASA issued AD 2016–0025–E accordingly.

After that AD was issued, it was identified that PT rotors with certain P/N discs have a reduction in the declared theoretical PT rotor overspeed limit. Consequently, GEAC issued a new ASB, providing PT disc replacement instructions, and EASA issued AD 2017–0100, to require replacement of the affected PT discs, and to prohibit their further installation.

After those ADs were issued, GEAC identified additional P/N and s/n of PT discs affected by damage or non-conformity. For those, as well as for the PT discs affected by the reduction of the declared theoretical PT rotor overspeed limit, an update of the risk assessment was performed, and GEAC issued the original issue of the ASB, later revised, providing applicable instructions.

Consequently, EASA issued AD 2019–0061, retaining the requirements of EASA AD 2016–0025–E and EASA AD 2017–0100, which were superseded, and requiring a one-time inspection and, depending on findings, replacement of certain PT discs identified by P/N and s/n. That [EASA] AD also required replacement of certain PT discs identified by P/N, and prohibited (re)installation of affected parts.

Since that [EASA] AD was issued, it has been determined that the compliance time for replacement of affected part on Group 2 engines has to be amended, and GEAC published the ASB (now at Revision 02).

For the reason stated above, this [EASA] AD retains the requirements of EASA AD 2019–0061, which is superseded, introducing amended compliance times for Group 2 engines.

You may obtain further information by examining the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1021.

Related Service Information Under 1 CFR Part 51

The FAA reviewed GE Aviation Czech s.r.o Alert Service Bulletin (ASB) ASB–M601E–72–50–00–0069[02], ASB–M601D–72–50–00–0052[02], ASB–M601T–72–50–00–0028[02], ASB–M601F–72–50–00–0035[02] and ASB–M601Z–72–50–00–0038[02] (single document), dated June 11, 2019. The ASB provides procedures for replacing the engine PT disk. 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

This product has been approved by EASA, and is approved for operation in the United States. Pursuant to our bilateral agreement with the European Community, EASA has notified us of the unsafe condition described in the MCAI and service information referenced above. The FAA is proposing this AD because it evaluated all the relevant information provided by EASA 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 retain certain requirements of AD 2016–07–13 and AD 2018–03–22. This proposed AD would require an inspection of the engine PT disk and, if found damaged, its replacement with a part eligible for installation. This proposed AD would also require the removal of certain engine PT disks identified by P/N installed on the affected engines. In addition, this proposed AD expands the applicability to additional engine PT disk P/Ns and S/Ns affected by the damage or non-conformity.

Differences Between This Proposed AD and the MCAI

EASA AD 2019–0143, dated June 13, 2019, identifies the applicability as GE Aviation Czech s.r.o. M601D, M601D–1, M601D–2, M601D–11, M601D–11NZ, M601E, M601E–11, M601E–11A, M601E–11AS, M601E–11S, M601E–21, M601F, M601FS, M601F–11, M601F–22, M601F–32, M601T, and M601Z turboprop engines. This proposed AD is applicable to only GE Aviation Czech s.r.o. M601D–11, M601E–11, M601E–11A, M601E–11AS, M601E–11S, and M601F turboprop engines. The GE Aviation Czech s.r.o. turboprop engines not listed in this proposed AD have not been type validated for operation in the United States.

Costs of Compliance

The FAA estimates that this proposed AD affects 24 GE Aviation Czech s.r.o. M601 turboprop engines installed on airplanes of U.S. registry. The FAA estimates that 12 affected turboprop engines are ''Group 1'' engines and 12 are ''Group 2'' engines.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect the engine PT disk (Group 1 engines).	52 work-hours × $85 per hour = $4,420	$0	$4,420	$53,040
Replace the engine PT disk (Group 2 and 3 engines).	56 work-hours × $85 per hour = $4,760	6,989	11,749	140,988

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace the engine PT disk (Group 1 engines)	8 work-hours × $85 per hour = $680	$6,989	$7,669

According to the manufacturer, some of the costs of this proposed 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 costs in its cost estimate.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing airworthiness directive (AD) 2016–07–13, Amendment 39–18458 (81 FR 20222, April 7, 2016), and AD 2018–03–22, Amendment 39–19195 (83 FR 6455, February 14, 2018), and

■ b. Adding the following new AD:

GE Aviation Czech s.r.o.: Docket No. FAA–2019–1021; Project Identifier MCAI–2019–00120–E.

(a) Comments Due Date

The FAA must receive comments by April 6, 2020.

(b) Affected ADs

This AD replaces AD 2016–07–13, Amendment 39 18458 (81 FR 20222, April 7, 2016), and AD 2018–03–22, Amendment 39–19195 (83 FR 6455, February 14, 2018).

(c) Applicability

This AD applies to all GE Aviation Czech s.r.o. M601D–11, M601E–11, M601E–11A, M601E–11AS, M601E–11S, and M601F turboprop engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by the discovery of damage to certain engine power turbine (PT) disks and a review by the manufacturer that determined that certain engine PT rotors have less overspeed margin than originally declared during product certification. This AD was also prompted by the manufacturer identifying additional P/Ns and serial numbers of engine PT disks affected by damage or non-conformity since publishing AD 2016–07–13 and AD 2018–03–22. The FAA is issuing this AD to prevent failure of the engine PT disk and rotor. The unsafe condition, if not addressed, could result in uncontained release of the engine PT disk and rotor, damage to the engine, and damage to the airplane.

(f) Compliance

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

(g) Required Actions

(1) For Group 1 engines: Before the engine PT disk accumulates the number of cycles since new as specified in Attachment B of GE Aviation Czech s.r.o Alert Service Bulletin (ASB) ASB–M601E–72–50–00–0069[02], ASB–M601D–72–50–00–0052[02], ASB–M601T–72–50–00–0028[02], ASB–M601F–72–50–00–0035[02] and ASB–M601Z–72–50–00–0038[02] (single document), dated June 11, 2019 (''the ASB''), or at the next engine shop visit, whichever occurs first after the effective date of this AD, perform a visual inspection, dimensional inspection, and fluorescent penetrant inspection on the engine PT disk in accordance with Attachment G, Inspection Instruction, of the ASB.

(2) If, during the inspections required by paragraph (g)(1) of this AD, any damage is detected, or a non-conforming slot radius is found that exceeds the acceptability criteria as defined in Table 1—PT Disc P/N M601–3220.5 inspection limits of the ASB, before further flight, remove the affected engine PT disk from service and replace it with a part eligible for installation in accordance with Attachment F, Replacement Instruction, of the ASB.

(3) For Group 2 engines: Within the compliance time identified in Table 1 to paragraph (g)(3) of this AD, modify the engine by removing the affected engine PT disk from service and replacing it with a part eligible for installation in accordance Attachment F, Replacement Instruction, of the ASB.

Table 1 to Paragraph (g)(3) – Compliance Time Requirements for Group 2 Engines

Compliance Time (A, B, C, D, or E, whichever occurs first after the effective date of this AD)	
A	Before the engine exceeds the Time Between Overhaul (TBO) cycle limit specified in the Applicable Engine Maintenance Manual (EMM).
B	Before the engine PT disk accumulates the number of cycles since overhaul as specified in Attachment D of the ASB.
C	Before the engine PT disk accumulates the number of cycles since new as specified in Attachment D of the ASB.
D	Within 180 days.
E	During the next shop visit (engine overhaul or rebuild), or within five years after March 21, 2018 (the effective date of AD 2018-03-22), whichever occurs first.

(4) For Group 3 engines: Within five years after March 21, 2018 (the effective date of AD 2018–03–22), or during the next engine shop visit after the effective date of this AD, whichever occurs first, remove the affected engine PT disk from service and replace it with a part eligible for installation in accordance with Attachment F, Replacement Instruction, of the ASB.

(h) Definitions

(1) For the purpose of this AD, a Group 1 engine is a GE Aviation Czech s.r.o. turboprop engine that has an engine PT disk having P/N M601–3220.5 and S/N 407560–158, 407560–164, 406380–196 or 407560–190, installed.

(2) For the purpose of this AD, a Group 2 engine is a GE Aviation Czech s.r.o. turboprop engine that has an engine PT disk having P/N M601–3220.6 or P/N M601–3220.7, and a S/N listed in Attachment C of the ASB, installed.

(3) For the purpose of this AD, a Group 3 engine is a GE Aviation Czech s.r.o. turboprop engine that has an engine PT disk having P/N M601–3220.6 or P/N M601–3220.7, and any S/N not listed in Attachment C of the ASB, installed.

(4) For the purpose of this AD, an ''affected part'' is an engine PT disk having P/N M601–3220.5 and S/N 407560–158, 407560–164, 406380–196 or 407560–190, except those that passed an inspection (no defects detected) in accordance with Attachment G, Inspection Instruction, of the ASB. An ''affected part'' is also an engine PT disk having P/N M601–3220.6 or M601–3220.7.

(i) Credit for Previous Actions

You may take credit for the inspections and engine PT disk replacements that are required by paragraph (g) of this AD if you performed the inspections and replacement before the effective date of this AD using the ASB, Revision 01 or the original issue.

(j) No Reporting Requirement

The reporting requirements in the Attachment G, Inspection Instruction, of the ASB, are not required by this AD.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ECO Branch, send it to the attention of the person identified in paragraph (l)(1) of this AD. You may email your request to: *ANE-AD-AMOC@faa.gov.*

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

(l) Related Information

(1) For more information about this AD, contact Mehdi Lamnyi, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7743; fax: 781–238–7199; email: *Mehdi.Lamnyi@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2019–0143, dated June 13, 2019, for more information. You may examine the EASA AD in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating it in Docket No. FAA–2019–1021.

(3) For service information identified in this AD, contact GE Aviation Czech s.r.o., Beranových 65, 199 02 Praha 9—Letňany, Czech Republic; phone: +420 222 538 111; fax +420 222 538 222; email: *tp.ops@ge.com.* You may view this referenced service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759.

Issued in Burlington, Massachusetts, on February 13, 2020.

Robert J. Ganley,

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

[FR Doc. 2020–03248 Filed 2–20–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–1042; Airspace Docket No. 19–AGL–28]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Siren, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class E airspace extending upward from 700 feet above the surface at Burnett County Airport, Siren, WI. The FAA is proposing these actions as the result of an airspace review caused by the decommissioning of the Siren VHF omnidirectional range (VOR) navigation aid, which provided navigation information for the instrument procedures at this airport, as part of the VOR Minimum Operational Network (MON) Program. The geographic coordinates of the airport

would also be updated to coincide with the FAA's aeronautical database. Airspace redesign is necessary for the safety and management of instrument flight rules (IFR) operations at this airport.

DATES: Comments must be received on or before April 6, 2020.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2019–1042/Airspace Docket No. 19–AGL–28 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11D at NARA, email *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

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 the Class E airspace extending upward from 700 feet above the surface at Burnett County Airport, Siren, WI, to support IFR operations at this airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2019–1042/Airspace Docket No. 19–AGL–28.'' 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 notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order 7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11D lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by amending the Class E airspace extending upward from 700 feet above the surface to within a 6.5-mile radius (increased from a 6.4-mile radius) of the Burnett County Airport, Siren, WI; removing the city associated with the airport to comply with a change to FAA Order 7400.2M, Procedures for Handling Airspace Matters; updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database; removing the exclusionary language from the airspace legal description as it is no longer required; adding an extension 2 miles each side of the 045° bearing from the airport extending from the 6.5-mile radius to 9.5 miles northeast of the airport; adding an extension 2 miles each side of the 137° bearing from the airport extending from the 6.5-mile radius to 9.9 miles southeast of the airport; adding an extension 2 miles each side of the 225° bearing from the airport extending from the 6.5-mile radius to 9.5 miles southwest of the airport; and adding an extension 2 miles each side of the 317° bearing extending from the 6.5-mile radius to 9.5 miles northwest of the airport.

These actions are the result of an airspace review caused by the decommissioning of the Siren VOR, which provided navigation information for the instrument procedures at these airports, as part of the VOR MON Program.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11D, dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL WI E5 Siren, WI [Amended]

Burnett County Airport, WI

(Lat. 45°49′24″ N, long. 92°22′25″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Burnett County Airport, and within 2 miles each side of the 045° bearing from the airport extending from the 6.5-mile radius to 9.5 miles northeast of the airport, and within 2 miles each side of the 137° bearing from the airport extending from the 6.5-mile radius to 9.9 miles southeast of the airport, and within 2 miles each side of the 225° bearing from the airport extending from the 6.5-mile radius to 9.5 miles southwest of the airport, and within 2 miles each side of the 317° bearing from the airport extending from the 6.5-mile radius to 9.5 miles northwest of the airport.

Issued in Fort Worth, Texas, on February 10, 2020.

Steve Szukala,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2020–03299 Filed 2–20–20; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 255

Guides Concerning the Use of Endorsements and Testimonials in Advertising

AGENCY: Federal Trade Commission.

ACTION: Regulatory review; request for public comment.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') requests public comments on its Guides Concerning the Use of Endorsements and Testimonials in Advertising (''Endorsement Guides'' or ''Guides''). The Commission is soliciting the comments as part of its systematic review of all current Commission regulations and guides.

DATES: Written comments must be received on or before April 21, 2020.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Endorsement Guides, P204500'' on your comment, and file your comment online through *https://www.regulations.gov.* If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex B), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex B), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Michael Ostheimer (202–326–2699), *mostheimer@ftc.gov,* Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

In December 1972, the Commission published for public comment proposed Guides Concerning the Use of Endorsements and Testimonials in Advertising, 37 FR 25548 (1972). Interested parties submitted extensive comments. On May 21, 1975, the Commission promulgated, under the Federal Trade Commission Act (''FTC Act''), 15 U.S.C. 41–58, three sections of the 1972 proposal as final guidelines (16 CFR 255.0, 255.3 and 255.4) and republished three others, in modified form, for additional public comment. 40 FR 22127 (1975). The Commission received public comment on the three re-proposed guidelines, as well as on one of the final guidelines. On January 18, 1980, the Commission promulgated three new sections as final guidelines (16 CFR 255.1, 255.2 and 255.5) and modified one example to one of the final guidelines adopted in May 1975 (16 CFR 255.0 Example 4). 45 FR 3870 (1980).

As part of its periodic regulatory review, the Commission sought public comment on the Endorsement Guides in January 2007. 72 FR 2214 (2007). In November 2008, the Commission discussed the comments it received in 2007, proposed certain revisions to the Guides, and requested comment on those proposed revisions. 73 FR 72374 (2008). In October 2009, the Commission substantively amended the Guides. 74 FR 53124 (2009).

The Guides are designed to assist businesses and others in conforming their endorsement and testimonial advertising practices to the requirements of Section 5 of the FTC Act. The Guides interpret laws the Commission administers, and thus are advisory in nature. The Commission, however, can take action under the FTC Act if an endorsement or testimonial is inconsistent with the Guides. In any such enforcement action, the Commission must prove that the challenged act or practice is unfair or deceptive in violation of Section 5 of the FTC Act. The Guides define both endorsements and testimonials broadly to mean any advertising message that consumers are likely to believe reflects the opinions, beliefs, findings, or experience of a party other than the

sponsoring advertiser. 16 CFR 255.0(a) and (b).

The Guides state that endorsements must reflect the honest opinions, findings, beliefs, or experience of the endorser. 16 CFR 255.1(a). Furthermore, endorsements may not contain any representations that would be deceptive, or could not be substantiated, if made directly by the advertiser. *Id.*

The Guides advise that an advertisement employing a consumer endorsement on a central or key attribute of a product will be interpreted as representing that the endorser's experience is representative of what consumers will generally achieve. 16 CFR 255.2(a). If an advertiser does not have adequate substantiation that the endorser's experience is representative, the advertisement should contain a clear and conspicuous disclosure. *Id.*

The Guides define an expert endorser as someone who, as a result of experience, study or training, possesses knowledge of a particular subject that is superior to that generally acquired by ordinary individuals. 16 CFR 255.0(d). An expert endorser's qualifications must, in fact, give him or her the expertise that he or she is represented as possessing with respect to the endorsement. 16 CFR 255.3(a). Moreover, an expert endorsement must be supported by an actual exercise of expertise, and the expert's evaluation of the product must have been at least as extensive as someone with the same degree of expertise would normally need to conduct in order to support the conclusions presented. 16 CFR 255.3(b).

Among other things, the Guides also state that: (1) Advertisements presenting endorsements by what are represented to be actual consumers should utilize actual consumers, or clearly and conspicuously disclose that the persons are not actual consumers, 16 CFR 255.2(c); (2) an organization's endorsement must be reached by a process sufficient to ensure that the endorsement fairly reflects the collective judgment of the organization, 16 CFR 255.4; and (3) when there is a connection between the endorser and the seller of the advertised product that might materially affect the weight or credibility of the endorsement (*i.e.,* the connection is not reasonably expected by the audience), such connection must be fully disclosed, 16 CFR 255.5.

II. Regulatory Review Program

The Commission periodically reviews all Commission rules and guides. These reviews seek information about the costs and benefits of the Commission's rules and guides and their economic impact. The information obtained assists the Commission in identifying rules and guides that warrant modification or rescission. Therefore, the Commission solicits comment on, among other things, the economic impact of and the continuing need for its Endorsement Guides; possible conflict between the Guides and state, local, federal, or international laws; and the effect of any technological, economic, environmental, or other industry changes on the Guides.

III. Request for Comment

The Commission is particularly interested in comments and supporting data on the following questions. These questions are designed to assist the public and should not be construed as a limitation on the issues on which public comment may be submitted. In their replies to each of these questions, commenters should provide any available evidence and data, such as empirical data, consumer perception studies, or consumer complaints, that support the commenter's asserted position.

(1) Is there a continuing need for the Endorsement Guides as currently promulgated?

(2) Are any specific provisions of the Guides no longer necessary, and, if so, which provisions and why are they no longer necessary?

(3) Are the deceptive or unfair practices addressed by the Guides prevalent in the marketplace? Are the Guides effective in addressing those practices? Are there deceptive or unfair practices involving endorsements that are not covered by the Guides? Are there alternatives, such as individual enforcement actions under the FTC Act, which would be more effective or equally effective in addressing those practices? Do the Endorsement Guides describe any practices that are not deceptive or unfair, and if so, which practices and why are they not deceptive or unfair?

(4) What is the degree of compliance with the Endorsement Guides? What effect, if any, does this have on the continuing need for the Guides? Do covered businesses and others following the Guides' suggestions self-regulate or have voluntary standards or guidance, such as through trade associations, that overlap with the Guides? If so, to what extent, if any, do the Guides support industry self-regulation or voluntary standards?

(5) What benefits, if any, have the Endorsement Guides provided to consumers? Do the Guides impose any significant costs on consumers?

(6) What impact, if any, have the Guides had on the flow of truthful or deceptive information to consumers?

(7) What changes, if any, should be made to the Endorsement Guides to increase their benefits to consumers? How would these changes affect consumer benefits or business costs?

(8) What burdens or costs, including costs of compliance, have the Guides imposed on businesses? What burdens or costs have the Guides imposed on small businesses in particular? What burdens or costs have the Guides imposed on endorsers? What benefits have the Guides provided to businesses? What benefits have the Guides provided to endorsers?

(9) What changes, if any, should be made to the Guides to reduce the burdens or costs imposed on businesses or endorsers? How would these changes affect the benefits provided by the Guides to consumers, businesses, and endorsers?

(10) Do the Guides overlap or conflict with federal, state, or local laws or regulations? Do the Guides overlap or conflict with any international laws or regulations?

(11) Have consumer perceptions regarding endorsements changed since the Guides were last revised and, if so, do these changes warrant revising the Guides?

(12) What modifications to the Guides, if any, should be made to address technological, economic, or environmental changes that have occurred since the Guides were last revised?

(13) FTC staff periodically updates a business guidance document, ''The FTC's Endorsement Guides: What People Are Asking.'' Is there guidance in the current version of that document that should be incorporated into the Guides? If so, what and why? Is there guidance in the current version of that document that should not be incorporated into the Guides? If so, what and why?

(14) How well are advertisers and endorsers disclosing unexpected material connections on social media platforms? Does this depend on the type of material connection? What disclosures of material connections are sufficiently clear (*i.e.,* understandable) to consumers when used in social media? What disclosures of material connection currently being used in social media are likely not understood by consumers? Does the sufficiency or insufficiency vary by platform, type of material connection (*e.g.,* a paid post versus a free product), or other factors, and, if so, how? To the extent that these connections are not being adequately

disclosed, do the problems tend to be in the substance of the disclosures or in their conspicuousness (*e.g.,* placement, visibility, or audibility)? Should the Guides provide more detail on what disclosures of material connections are sufficiently clear or unclear in different social media formats? Does the fact that Commission Guides are generally reviewed every ten years affect your answer as to whether providing more detail would be helpful?

(15) The FTC has received complaints that young children may not adequately understand disclosures of material connections. To what extent would knowledge of a material connection affect the weight or credibility that young children give to an endorsement? At what age are children capable of making a connection between credibility and a material connection? Does this age differ from the age at which children are capable of identifying advertising? Why or why not and, if so, how? To what extent do young children understand disclosures of material connections? What should advertisers and endorsers appealing to young children know about their intended audience's understanding of a particular endorsement, advertising format, or disclosure? How can disclosures of material connections in media consumed by young children be made clearer or more effective? How, if at all, are your answers to the above questions impacted by parental involvement in the media consumption of young children? What disclosures of material connections should advertisers and endorsers appealing to young children provide to parents?

(16) Some marketers give incentives (*e.g.,* free or discounted products) to consumers in exchange for posting reviews of their products or services without specifically requiring that the reviews be favorable. Do such incentives skew or bias the resulting reviews? Why or why not? If so, how and to what extent do incentives skew or bias the resulting reviews, and what factors may make such impacts more or less likely? Should such incentives be disclosed? Why or why not and if so, how? Does the nature or value of the incentive matter? If so, how? Do such incentives skew composite ratings? Why or why not and if so, how? Do such incentives impact the order in which products or services are presented to consumers on retail or other review platforms? Why or why not and if so, how?

(17) Some consumer reviewers who receive incentives in exchange for their reviews disclose their material connections in their reviews. Are such disclosures adequate when incentivized reviews are included in composite ratings? Why or why not? Are composite ratings that are based in whole or in part on such incentivized reviews misleading? If such composite ratings are misleading: (1) Are there disclosures that could adequately address this concern and if so, what disclosures; and (2) how should the Guides address composite ratings if disclosures are not sufficient or there is not an opportunity for the marketer to make adequate disclosures (*e.g.,* when the reviews and composite ratings appear on a third party's website)?

(18) Some marketers actively solicit customer feedback and send satisfied customers down one path to relevant review sites and send customers with negative sentiment down another path, sometimes into some sort of customer service resolution process. What are the costs and benefits of this practice? Should it be addressed in the Guides and, if so, how?

(19) Some advertisers contend that consumers who use social media understand that influencers who promote products are generally doing so only because they are paid or given something by the marketer, regardless of what or whether disclosures appear in social media posts. What evidence is there to support or contradict this assertion and does the answer differ depending on the nature of the material connection? In particular cases, what factors might be considered to determine whether a material connection is unexpected? Do consumer expectations vary by the age of the audience, the product category, the nature of the influencer, the format or substance of the endorsement, or otherwise, and if so, how?

(20) Some endorsers (including the authors of some product reviews) include affiliate links that can be used to purchase the products they are endorsing. Should the Guides address such links, and if so, how? To what extent do consumers expect that these endorsers are compensated for purchases through those links? If so, what compensation arrangements do consumers ordinarily expect? To what extent would knowing of such compensation affect the weight or credibility given to those endorsements? Is there a distinction in terms of either consumer expectations or the weight ascribed to an endorsement between affiliate links to a product's marketer and affiliate links to one or more retailers? If so, how, why, and how should that be addressed?

(21) What disclosures, if any, do advertisers or the operators of review websites or review platforms need to make about the creation, collection, processing, or publication of reviews or ratings in order to prevent those reviews or ratings from being deceptive or unfair?

(22) What other fact patterns or scenarios should be addressed by the Guides and why?

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before April 21, 2020. Write ''Endorsement Guides, P204500'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it through *https://www.regulations.gov,* by following the instruction on the web-based form.

If you file your comment on paper, write ''Endorsement Guides, P204500'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex B), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex B), Washington, DC 20024. If possible, please submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website *https://www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive personal information, such as your or anyone's Social Security number; date of birth; driver's license number or other state identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for ensuring your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential''—as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and

FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *www.regulations.gov*—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website to read this request for comment and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before April 21, 2020. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2020–03447 Filed 2–20–20; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. AD20–6–000]

Request for Technical Conference and Petition for Rulemaking: Energy Trading Institute

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of request for technical conference and petition for rulemaking.

SUMMARY: The Federal Energy Regulatory Commission has received a petition from the Energy Trading Institute requesting that the Commission hold a technical conference and conduct a rulemaking to update the requirements adopted in Order No. 741 and Commission's regulations addressing credit and risk management in the markets operated by Independent System Operators and Regional Transmission Organizations.

DATES: Comments are due March 12, 2020.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- Electronic Filing through *http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- *Mail/Hand Delivery:* Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Tina Ham (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, Telephone: (202) 502–8887, *Tina.Ham@ferc.gov.*

Michael Hill (Policy Information), Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, Telephone: (202) 502–8703, *Michael.Hill@ferc.gov.*

James Burchill (Policy Information), Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, Telephone: (202) 502–6144, *James.Burchill@ferc.gov.*

Anne Marie Hirschberger (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, Telephone: (202) 502–8387, *AnneMarie.Hirschberger@ferc.gov.*

SUPPLEMENTARY INFORMATION: On December 16, 2019, the Energy Trading Institute filed in the above-captioned docket a petition requesting that the Commission hold a technical conference and conduct a rulemaking to update the requirements adopted in Order No. 741 [1] and section 35.47 of the Commission's regulations [2] addressing credit and risk management in the markets operated by Independent System Operators and Regional Transmission Organizations.

Dated: February 11, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–03272 Filed 2–20–20; 8:45 am]

BILLING CODE 6717–01–P

[1] Credit Reforms in Organized Wholesale Electric Markets, Order No. 741, 133 FERC ¶ 61,060 (2010) (Order No. 741), order on reh'g, Order No. 741–A, 134 FERC ¶ 61,126 (2011), reh'g denied, Order No. 741–B, 135 FERC ¶ 61,242 (2011).

[2] 18 CFR 35.47 (2019).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 130

[Docket No. FDA–1995–N–0062 (Formerly 1995N–0294)]

RIN 0910–AC54

Food Standards; General Principles and Food Standards Modernization; Reopening of the Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; reopening of the comment period.

SUMMARY: The Food and Drug Administration (FDA or we) is reopening the comment period for the proposed rule, published in the **Federal Register** of May 20, 2005, entitled ''Food Standards; General Principles and Food Standards Modernization,'' to establish a set of general principles for food standards for FDA to use when considering whether to establish, revise, or eliminate a food standard. The proposed rule was issued jointly with the United States Department of Agriculture (USDA) and, while FDA will continue to engage with USDA regarding the proposed rule, we are reopening the comment period to receive new data, information, or further comments only on FDA-specific aspects of the proposed rule, including FDA's 13 general principles.

DATES: We are reopening the comment period on the proposed rule that published in the **Federal Register** of May 20, 2005 (70 FR 29214). Submit either electronic or written comments by April 21, 2020.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 21, 2020. The *https://www.regulations.gov*

electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 21, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–1995–N–0062 (formerly 1995N–0294) for ''General Principles and Food Standards Modernization; Reopening of the Comment Period.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA 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.

FOR FURTHER INFORMATION CONTACT: Rumana Yasmeen, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–6060.

SUPPLEMENTARY INFORMATION:

I. Background on the Proposed Rule

In the **Federal Register** of May 20, 2005 (70 FR 29214), FDA and USDA jointly issued a proposed rule entitled ''Food Standards; General Principles and Food Standards Modernization,'' as a first step in instituting a process to modernize FDA definitions and standards of identity (and standards of quality and fill of container) consistent with section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), and USDA's definitions and standards of identity or composition under the Federal Meat Inspection Act and the Poultry Products Inspection Act (21 U.S.C. 607(c) and 457(b)) (and standards of fill of container). The proposed rule, if finalized, would establish general principles that FDA and USDA would consider when determining whether to establish, revise, or eliminate a food standard.

Although the general principles were mostly consistent between FDA and USDA, a few principles were not identical. Because FDA and USDA regulate different products under different statutory authorities, some principles were developed to reflect specific FDA or USDA regulatory needs and perspectives. FDA and USDA stated that adherence to principles identified in the proposed rule would result in standards that would (1) better promote honesty and fair dealing in the interest of consumers and protect the public; (2) allow for technological advances in food production; (3) be consistent with international food standards to the extent feasible; and (4) be clear, simple, and easy to use for both manufacturers and the agencies that enforce compliance with the standards.

The Preliminary Regulatory Impact Analysis (PRIA) of the proposed rule anticipated that the associated social costs of finalizing both FDA and USDA principles would be small, however would likely yield substantial benefits. The PRIA noted that:

> Standards that contain unnecessary elements or that fail to provide flexibility in terms of allowable food technology, may generate unnecessary production costs, and impede technological innovation in the food industry. Such standards may also serve as effective barriers to competition, thereby raising product prices and transferring resources from consumers to producers. Finally, some standards may be inconsistent with international standards, which may impede international trade. Impeding international trade may also restrict competition and lead to higher product prices.

The PRIA stated that applying the principles set forth in the proposed rule could help address these issues and that the benefits of establishing the proposed principles outweighed the costs.

Interested persons were originally given until August 18, 2005, to comment on these proposed general principles and to provide additional information as described in the Request for Comments section of the proposed rule. While comments received were generally supportive, FDA and USDA did not finalize the proposed rule due

to resource constraints and competing priorities.

II. FDA Principles in the Proposed Rule

In the proposed rule, FDA proposed a set of 13 general principles we would consider when establishing, revising, or eliminating a food standard (see 70 FR 29214 at 29234 to 29235 (proposed 21 CFR 130.5(b)). The first four general principles stated the purpose or function of a food standard and were the most fundamental principles addressing consumer economic protection. Therefore, if a food standard is inconsistent with any one of these four principles, we would consider eliminating it. The proposed rule also would revise or establish a new food standard if it was consistent with the full set of 13 principles:

1. Promotes honesty and fair dealing in the interest of consumers.
2. Describes the basic nature of the food to ensure that consumers are not misled by the name of the food and to meet consumers' expectations of product characteristics and uniformity.
3. Reflects the essential characteristics of the food—or those that define or distinguish a food or describe the distinctive properties of a food and that may contribute to achieving the food's basic nature or may reflect relevant consumer expectations of a food product.
4. Ensures food does not appear to be better or of a greater value than it is. May be used as a vehicle to improve the overall nutritional quality of the food supply.
5. Contains clear and easily understood requirements to facilitate compliance by food manufacturers.
6. Permits maximum flexibility in the technology used to prepare the food provided the technology does not alter the basic nature or essential characteristics, or adversely affect the nutritional quality or safety, of the food. Provides for any suitable, alternative manufacturing process that accomplishes the desired effect, and describes ingredients as broadly and generically as feasible.
7. Harmonizes with international food standards to the extent feasible.
8. Is simple, easy to use, and consistent among all food standards. Includes only those elements that are necessary to define the basic nature and essential characteristics of a particular food, without unnecessary details.
9. Allows for variations in the physical attributes of the food. Where necessary to provide for specific variations in the physical attributes of a food within the standard, variations are consolidated into a single food standard.
10. Incorporates general requirements that pertain to multiple food standards of a commodity group into general regulatory provisions that address the commodity group whenever possible.
11. Considers other relevant regulations. Any specific requirements for foods intended for further manufacturing are incorporated within the reference standard rather than provided as a separate standard.
12. Provides terms that can be used to name a food and allows terms to be used in any order that is not misleading to consumers.
13. Names of ingredients and functional use categories in a food standard should be consistent with other food standards and relevant regulations in this chapter, and, when appropriate, incorporate current scientific nomenclature.

III. FDA's Current Food Standards Modernization Efforts

Since publication of the proposed rule, FDA announced our Nutrition Innovation Strategy (NIS) with the goal of helping to reduce preventable death and disease related to poor nutrition. The NIS focuses on, among other things, providing incentives for food manufacturers to produce products that have more healthful attributes. Under the NIS, FDA is seeking to modernize food standards in a manner that will achieve three primary goals: (1) Protect consumers against economic adulteration; (2) maintain the basic nature, essential characteristics, and nutritional integrity of food; and (3) promote industry innovation and provide flexibility to encourage manufacturers to produce more healthful foods.

In July 2018, FDA held a public meeting on the NIS.[1] At the meeting, we led a breakout session to discuss our food standards modernization goals and, among other things, to learn from stakeholders what FDA should be aware of when reviewing our food standard regulations and exploring how to modernize. At this public meeting, and in comments submitted to the public meeting docket, stakeholders expressed general support for FDA continuing its work with USDA to finalize the proposed rule. However, stakeholders also shared that, given the time that has passed since its publication, we should reopen the comment period to allow the public the opportunity to provide data and information on changes that have occurred in manufacturing, food technology, market trends, and nutrition science that FDA should consider when determining next steps for the proposed rule.

While FDA intends to work with USDA if we pursue finalization of the proposed rule, for purposes of this notice we are only interested in comments, data, and information on FDA-specific aspects of the proposed rule, including the 13 general principles listed above.

IV. Additional Issues for Consideration

In response to stakeholder comments and to inform our decision regarding whether to proceed with finalizing the proposed rule, we seek new information and public comment on how we could create general principles for establishing new food standards and for revising or eliminating existing food standards. While FDA and USDA jointly issued the proposed rule, we are only seeking comments on the FDA-specific aspects of the proposal. We encourage comments to be as specific as possible and, when possible, to provide data and information for FDA to consider.

While the public may comment on any FDA aspects of the proposed rule, we are particularly interested in comments on the following questions:

1. Should FDA finalize the proposed rule? Why or why not?
2. Are there general FDA principles that should be added, eliminated, revised, or retained?
   a. What is the specific principle?
   b. Why should the principle be added, eliminated, revised, or retained?
   c. Are there specific product examples that illustrate why a principle should be added, eliminated, revised, or retained?
3. What specific revisions should FDA make to the proposed rule's principles or framework to better reflect our modernization goals of:
   a. Protecting consumers against economic adulteration?
   b. Ensuring standardized foods continue to meet consumer expectations?
   c. Maintaining the basic nature, essential characteristics, and nutritional integrity of food?
   d. Promoting industry innovation?
   e. Providing flexibility to produce more healthful foods?
   f. Facilitating additional flexibility across all or broad categories of standardized foods?
4. How should FDA weigh the general principles?
   a. The proposed rule stated that the first four principles were the most fundamental to addressing consumer

[1] For more information, please visit FDA's website at: *https://www.fda.gov/food/workshops-meetings-webinars-food-and-dietary-supplements/public-meeting-discuss-fdas-nutrition-innovation-strategy-07262018-07262018* or see the public docket FDA–2018–N–2381.

economic protection and therefore, FDA would consider eliminating a food standard if it is inconsistent with any of these four principles.

i. Please explain whether you agree with this framework.

ii. If you do not agree, what principles should FDA consider when deciding whether to eliminate a food standard?

b. The proposed rule explained that FDA would consider revising or establishing a new food standard only if it was consistent with all 13 principles.

i. Please explain whether you agree with this framework.

ii. If you do not agree, what principles should FDA consider when deciding whether to revise or establish a new food standard?

5. What explanation is needed to provide more clarity, certainty, or context regarding:

a. The rationale for the principles?

b. How FDA will consider the principles when evaluating whether to eliminate, revise, or establish a new food standard?

c. How stakeholders should use the principles to inform the preparation of petitions requesting that FDA eliminate, revise, or establish a new food standard?

6. What additional information should FDA consider when evaluating the costs, benefits, and estimates of the annual reporting burden of the proposed rule?

Dated: February 13, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–03437 Filed 2–20–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 866

[Docket No. FDA–2019–N–5192]

Microbiology Devices; Reclassification of Human Immunodeficiency Virus Serological Diagnostic and Supplemental Tests and Human Immunodeficiency Virus Nucleic Acid Diagnostic and Supplemental Tests

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed amendment; proposed order.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is proposing to reclassify certain human immunodeficiency virus (HIV) serological diagnostic and supplemental tests and HIV nucleic acid (NAT) diagnostic and supplemental tests, postamendments class III devices with the product code MZF, into class II (special controls), subject to premarket notification. FDA is also proposing new device classification regulations along with special controls that the Agency believes are necessary to provide a reasonable assurance of safety and effectiveness for these devices. FDA is proposing this reclassification on its own initiative. If finalized, this order will reclassify these types of devices from class III (premarket approval) to class II (special controls) and reduce the regulatory burdens associated with these devices, as these types of devices will no longer be required to submit a premarket approval application (PMA) but can instead submit a premarket notification (510(k)) and receive clearance before marketing their device.

DATES: Submit either electronic or written comments by April 21, 2020. Please see section XI of this document for the proposed effective date when the new requirements apply and for the proposed effective date of a final order based on this proposed order.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 21, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 21, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed below (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–N–5192 for ''Microbiology Devices; Reclassification of human immunodeficiency virus serological diagnostic and supplemental tests and human immunodeficiency virus nucleic acid diagnostic and supplemental tests''. Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as

''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.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.

FOR FURTHER INFORMATION CONTACT:

Jenifer Roe, Center for Biologics Evaluation and Review, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background—Regulatory Authorities

The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended by the Medical Device Amendments of 1976 (the 1976 amendments) (Pub. L. 94–295), the Safe Medical Devices Act of 1990 (Pub. L. 101–629), Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115), the Medical Device User Fee and Modernization Act of 2002 (Pub. L. 107–250), the Medical Devices Technical Corrections Act (Pub. L. 108–214), the Food and Drug Administration Amendments Act of 2007 (Pub. L. 110–85), and the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144), among other amendments, establishes a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) established three categories (classes) of devices, reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (general controls and special controls), and class III (general controls and premarket approval).

Section 513(a)(1) of the FD&C Act defines the three classes of devices. Class I devices are those devices for which the general controls of the FD&C Act (controls authorized by or under sections 501, 502, 510, 516, 518, 519, or 520 (21 U.S.C. 351, 352, 360, 360f, 360h, 360i, or 360j) or any combination of such sections) are sufficient to provide reasonable assurance of safety and effectiveness; or those devices for which insufficient information exists to determine that general controls are sufficient to provide reasonable assurance of safety and effectiveness or to establish special controls to provide such assurance, but because the devices are not purported or represented to be for a use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health, and do not present a potential unreasonable risk of illness or injury, are to be regulated by general controls (section 513(a)(1)(A) of the FD&C Act). Class II devices are those devices for which general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, and for which there is sufficient information to establish special controls to provide such assurance, including the promulgation of performance standards, postmarket surveillance, patient registries, development and dissemination of guidelines, recommendations, and other appropriate actions the Agency deems necessary to provide such assurance (section 513(a)(1)(B) of the FD&C Act). Class III devices are those devices for which insufficient information exists to determine that general controls and special controls would provide a reasonable assurance of safety and effectiveness, and are purported or represented to be for a use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health, or present a potential unreasonable risk of illness or injury (section 513(a)(1)(C) of the FD&C Act).

Devices that were not in commercial distribution prior to May 28, 1976 (generally referred to as postamendments devices) are automatically classified by section 513(f)(1) of the FD&C Act into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval, unless, and until, (1) FDA reclassifies the device into class I or class II, or (2) FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. FDA determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act and part 807 (21 CFR part 807), subpart E, of the regulations.

A postamendments device that has been initially classified in class III under section 513(f)(1) of the FD&C Act may be reclassified into class I or II under section 513(f)(3) of the FD&C Act. Section 513(f)(3) of the FD&C Act provides that FDA, acting by administrative order, can reclassify the device into class I or class II on its own initiative, or in response to a petition from the manufacturer or importer of the device. To change the classification of the device, the proposed new class must have sufficient regulatory controls to provide a reasonable assurance of the safety and effectiveness of the device for its intended use.

FDA relies upon ''valid scientific evidence,'' as defined in section 513(a)(3) and 21 CFR 860.7(c)(2), in the classification process to determine the level of regulation for devices. To be considered in the reclassification process, the ''valid scientific evidence'' upon which the Agency relies must be publicly available (see section 520(c) of the FD&C Act). Publicly available information excludes trade secret and/or confidential commercial information, *e.g.,* the contents of a pending PMA (see section 520(c) of the FD&C Act).

In accordance with section 513(f)(3) of the FD&C Act, the Agency is issuing this proposed order to reclassify HIV serological diagnostic and supplemental tests and HIV NAT diagnostic and supplemental tests, postamendments class III devices, into class II (special controls), subject to premarket notification because the Agency believes the standard in section 513(a)(1)(B) of the FD&C Act is met because there is sufficient information to establish special controls, in addition to general controls, to provide reasonable assurance of the safety and effectiveness of the device.[1]

Section 510(m) of the FD&C Act provides that a class II device may be exempted from the premarket notification requirements under section 510(k) of the FD&C Act if the Agency determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. FDA has determined that premarket notification is necessary to reasonably assure the safety and effectiveness of HIV serological diagnostic and supplemental tests and HIV NAT diagnostic and supplemental tests. Therefore, the Agency does not

[1] In December 2019, FDA began adding the term ''Proposed amendment'' to the ''ACTION'' caption for these documents, typically styled ''Proposed order'', to indicate that they ''propose to amend'' the Code of Federal Regulations. This editorial change was made in accordance with the Office of **Federal Register**'s (OFR) interpretations of the **Federal Register** Act (44 U.S.C. chapter 15), its implementing regulations (1 CFR 5.9 and parts 21 and 22), and the Document Drafting Handbook.

intend to exempt this proposed class II device from premarket notification (510(k)) submission under section 510(m) of the FD&C Act.

II. Regulatory History of the Devices

This proposed order covers HIV serological diagnostic and supplemental tests and HIV NAT diagnostic and supplemental tests. These are prescription tests that are assigned product code MZF. These postamendments devices are currently regulated as class III devices under section 513(f)(1) of the FD&C Act. Based on our review experience and consistent with the FD&C Act and FDA's regulations in 21 CFR 860.134, FDA believes that these devices should be reclassified from class III into class II with special controls because there is sufficient information for these devices to establish special controls that can provide a reasonable assurance of the device's safety and effectiveness.

FDA has regulated the devices subject to this proposed order for many years. The first serological test intended for use as an aid in the diagnosis of infection with HIV was approved in 1987. The first supplemental test intended for use as an aid in confirming diagnosis of infection with HIV was approved in 1992. Currently there are 11 diagnostic serological tests and 6 supplemental serological tests on the market in the United States. In 2006, FDA approved one NAT test that is intended for use as an aid in the diagnosis of infection with HIV. This device is also approved as a supplemental NAT test.

A review of the medical device reporting databases indicates that there is a low number of reported events for HIV serological diagnostic and supplemental tests and HIV NAT diagnostic tests. Over 100 million HIV tests subject to this proposed reclassification have been sold since 2000, with less than 1,000 reported events as of September 2019. Of these, fewer than 40 are reported to involve injuries due to false results; the remainder are malfunctions, user errors, or incorrect results that had no reported effect on the individual being tested. There have been less than 10 recalls specific to these tests, and no class I recalls, indicating a good safety record for this device class.

III. Device Description

This proposed order applies to certain HIV serological diagnostic and supplemental tests that are prescription devices for the qualitative detection of HIV antigens and/or antibodies against HIV in human body fluids or tissues. As such, the prescription device must satisfy prescription labeling requirements for in vitro diagnostic products (see 21 CFR 809.10(a)(4) and (b)(5)(ii)). The tests are intended for use as an aid in the diagnosis of infection with HIV. These devices are not intended for monitoring patient status or for screening donors of blood, plasma, or human cells, tissues, or cellular or tissue-based products (HCT/Ps). HIV serological tests detect the presence of HIV by using anti-HIV antibodies and/or HIV antigens to detect the presence of HIV antigens and/or anti-HIV antibodies in human fluids. The analytes are detected by chemical, fluorescent, luminescent, or other methods to produce a qualitative output that determines the presence or absence of HIV in the sample. Supplemental serological tests are intended to be used as an additional test to confirm the presence of HIV antibodies or antigens in specimens found to be repeatedly reactive by a diagnostic screening device. These tests are intended for professional use only.

This proposed order also applies to certain HIV NAT diagnostic and supplemental tests that are prescription devices for the detection of HIV nucleic acid in human body fluids or tissues. The tests are intended for use as an aid in the diagnosis of infection with HIV. These devices are not intended for monitoring patient status, or for screening donors of blood, plasma, or HCT/Ps. HIV NAT tests detect the presence of HIV by detecting HIV nucleic acid in human body fluids or from solutions after isolation of nucleic acid from cells or tissues. The nucleic acids are amplified and detected by labeled probes that produce a qualitative signal that indicates the presence or absence of HIV nucleic acid in the sample. Supplemental NAT tests are intended to be used as an additional test to confirm the presence of HIV nucleic acid in specimens found to be repeatedly reactive by a diagnostic screening device. These tests are intended for professional use only.

IV. Proposed Reclassification

FDA is proposing to reclassify HIV serological diagnostic and supplemental tests and HIV NAT diagnostic and supplemental tests. FDA held a public meeting on July 19, 2018, of the Blood Products Advisory Committee, convened as a medical device Panel (''the Panel''), which unanimously agreed that special controls, in addition to general controls, are sufficient to mitigate the risks to health from HIV serological diagnostic and supplemental tests and HIV NAT diagnostic and supplemental tests. The Panel believed that class II with special controls would provide reasonable assurance of the safety and effectiveness of the device. The Panel discussed the proposed special controls (see section VII), especially the performance criteria and number of samples that would be required for testing. The Panel also recommended that FDA consider reclassification from class III to class II of HIV viral load tests indicated for use for monitoring patient status.

The Agency believes that, at this time, sufficient data and information exist such that the risks to health identified in section V can be mitigated by establishing special controls that, together with general controls, can provide a reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA proposes these devices be reclassified from class III to class II.

In accordance with section 513(f)(3) of the FD&C Act and 21 CFR part 860, subpart C, FDA is proposing to reclassify postamendments HIV serological diagnostic and supplemental tests and NAT diagnostic and supplemental tests from class III into class II. FDA believes that there are sufficient data and information available through FDA's accumulated experience with these devices from review submissions, recommendations provided by the Panel, and from published literature to demonstrate that the proposed special controls, along with general controls, would effectively mitigate the risks to health identified in section V and provide a reasonable assurance of safety and effectiveness of these devices. Absent the special controls identified in this proposed order, general controls applicable to the device are insufficient to provide reasonable assurance of the safety and effectiveness of the device. FDA expects that the reclassification of these devices would enable more manufacturers to develop HIV serological diagnostic and supplemental and NAT diagnostic and supplemental tests such that patients would benefit from increased access to safe and effective tests.

FDA is proposing to create separate classification regulations for HIV serological diagnostic and supplemental tests and HIV NAT diagnostic and supplemental tests that will be reclassified from class III to class II. Under this proposed order, if finalized, HIV serological diagnostic and supplemental tests and HIV NAT diagnostic and supplemental tests will be identified as prescription devices. In this proposed order the Agency has proposed the special controls under section 513(a)(1)(B) of the FD&C Act

that, together with general controls, would provide a reasonable assurance of the safety and effectiveness of HIV serological and NAT diagnostic and supplemental tests.

Section 510(m) of the FD&C Act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) of the FD&C Act if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. For these HIV serological diagnostic and supplemental tests and HIV NAT diagnostic and supplemental tests, FDA has determined that premarket notification is necessary to provide a reasonable assurance of the safety and effectiveness of the devices. Therefore, FDA does not intend to exempt these proposed class II devices from the 510(k) requirements. If this proposed order is finalized, persons who intend to market this type of device must submit to FDA a 510(k) and receive clearance prior to marketing the device.

This proposal, if finalized, will decrease regulatory burden on industry, as manufacturers will no longer have to submit a PMA for these types of devices but can instead submit a 510(k) to the Agency for review prior to marketing their device. A 510(k) is a less burdensome pathway to market a device, which typically results in a shorter premarket review timeline compared to a PMA. This ultimately provides more timely access of these types of devices to patients.

V. Risks to Health

HIV can be transmitted to others by blood transfusion, sex, sharing of contaminated needles by intravenous drug users, and from mother to child during pregnancy, childbirth, and breast feeding (Ref. 1). Left untreated, a significant proportion of those infected with HIV will develop acquired immunodeficiency syndrome (AIDS), which causes significant morbidity and mortality. However, with consistent anti-retroviral treatment, HIV infection is a treatable, chronic condition with significantly improved survival and quality of life for people living with HIV and significantly decreased risk of transmission to others (Ref. 2). The Centers for Disease Control and Prevention (CDC) recommends that all persons ages 13 through 64 and pregnant women be tested at least once, with more frequent testing for individuals at high risk of infection. Nevertheless, at the present time, only about 85 percent of people infected with HIV in the United States know that they are infected, and those who do not know their status are many times more likely to transmit the virus to others (Ref. 3). Therefore, improving access to HIV diagnostic devices is an urgent public health priority. After considering the recommendations of the panel, FDA's accumulated experience with these devices from review submissions, and the published literature, FDA has identified the following probable risks to health associated with HIV serological diagnostic and supplemental tests:

(1) A false negative/false non-reactive test result may influence patient management decisions, such as the withholding or discontinuation of antiretroviral therapy, which can lead to serious injury including death. A false negative/false non-reactive test result also may contribute to public health risk by leading to inadvertent transmission of virus by an infected person. Factors that may cause decreased test sensitivity and/or increased rate of false negative/false non-reactive test reporting include, but are not limited to, strain variability, acquisition of de novo mutations in genomic regions of HIV targeted by the device, the presence of interfering substances in the sample, acute infection at a stage that is too early for a device to detect the infection, and analyte concentrations that are too low to be detected by the device due to suppression of analyte expression by drugs used to treat or prevent HIV infection. False negative/false non-reactive results also can be caused by improper sample collection or sample handling, loss of sensitivity of the device, failure of detection reagents, and failure of instruments. They also can be caused by misinterpretation of invalid results as negative.

(2) A false positive/false reactive test result may contribute to unnecessary initiation of treatment. It can also lead to unnecessary interventions such as an unnecessary Caesarian section for women during childbirth, unnecessary treatment of infants with anti-retroviral medications, withholding of breastfeeding, and significant emotional stress. Factors that may lead to false positive/false reactive results include cross-reactivity with other substances in the sample, contamination of the sample, patient participation in vaccine trials, and improper sample handling and instrument use.

VI. Summary of the Reasons for Reclassification

FDA believes that HIV serological diagnostic and supplemental tests and HIV NAT diagnostic and supplemental tests should be reclassified from class III (PMA) into class II (special controls) because special controls, in addition to general controls, can be established to mitigate the risks to health identified in section V and provide reasonable assurance of the safety and effectiveness of these device types. The proposed special controls are identified by FDA in section VII. FDA's reasons for reclassification are as follows:

(1) There is substantial scientific and medical information available regarding the nature, complexity, and risks associated with HIV serological diagnostic and supplemental tests and NAT diagnostic and supplemental tests. The safety and effectiveness of this device type has been well-established by the performance of the more than 20 devices currently available (Ref. 4).

(2) Risks associated with the failure of the device to perform as indicated (*e.g.,* false negative/false non-reactive or false positive/false reactive test results) can be mitigated through a combination of special controls, including performance criteria and requirements for submission of certain aspects of labeling, submission of certain manufacturing information, and submission of a complaint log. Performance criteria will consist primarily of analytical and clinical study design specifications and performance criteria that are based on public information regarding the performance and validation of previously approved devices. Examples of labeling mitigations include appropriate limitations, including that results should be confirmed according to current guidelines as promulgated by the CDC and other public health authorities, which are necessary to ensure that the devices are used and the results are interpreted appropriately, given the diversity of environments in which they are intended to be used. Manufacturing information submitted will include summaries of strategies to detect new types, subtypes, genotypes and mutations to ensure the tests continue to detect clinically relevant forms of HIV, a summary of the design matrix that determines the severity of events to ensure appropriate adverse event reporting, protocols for assessing stability, evaluation of test performance at the extremes of specifications to ensure the tests have been validated to function correctly under diverse conditions. The complaint log that will be submitted annually for 5 years following clearance of a traditional 510(k) is the log required to be maintained by device manufacturers under 21 CFR 820.198(a). We are proposing as a special control to require submission of all complaints, whether or not the complaint was reported under part 803 (21 CFR part 803). We are not

requiring submission of an annual report as described in 21 CFR 814.84. Review of the complaint log will allow FDA to closely monitor issues with manufacturing and implementation of new devices that may not rise to the level of adverse event reporting required under 21 CFR 820.198(a) but that may have an effect on the performance of the devices.

Taking into account the probable health benefits of the use of the device and the nature and known incidence of the risk of the device, FDA, on its own initiative, is proposing to reclassify these postamendments devices from class III into class II. FDA believes that, when used as indicated, HIV serological and NAT diagnostic and supplemental tests can provide significant benefits to clinicians and patients.

VII. Proposed Special Controls

FDA believes that these devices can be classified into class II with the establishment of special controls. FDA believes that these special controls, in addition to general controls, will provide a reasonable assurance of the safety and efficacy of these devices. Tables 1 and 2 demonstrate how these proposed special controls will mitigate each of the identified risks to health in section V.

TABLE 1—RISKS TO HEALTH AND MITIGATION MEASURES FOR HIV SEROLOGICAL DIAGNOSTIC AND SUPPLEMENTAL TESTS

Identified risks to health	Mitigation measures
A false negative/false non-reactive test result may influence patient management decisions, such as the withholding of antiviral therapy, which can lead to serious injury including death.	Labeling limitations, warnings, and interpretation requirements. Analytical and clinical sensitivity performance criteria. Clinical testing on appropriate populations. Acceptable strategies for monitoring emergence of and ability of the test to detect new or altered circulating forms of HIV.
A false negative/false non-reactive test result may contribute to public health risk by leading to inadvertent transmission of virus by an infected person.	Acceptable processes for failure mode analysis, testing performance at extremes of specifications, determining severity of adverse events and malfunctions. Submission of a complaint log to monitor decreases in test performance or manufacturing failures.
A false positive/false reactive test result may contribute to unnecessary initiation of treatment or other medical interventions, which increases patient risk to the potential adverse effects of such treatments or medical interventions.	Labeling instructions for appropriate confirmation of results. Analytical and clinical specificity performance criteria. Clinical testing on appropriate populations. Acceptable validation of susceptibility to interference and cross-reactivity. Acceptable processes for failure mode analysis, testing performance at extremes of specifications, determining severity of adverse events and malfunctions. Submission of a complaint log to monitor trends in false positive results.

TABLE 2—RISKS TO HEALTH AND MITIGATION MEASURES FOR HIV NAT DIAGNOSTIC AND SUPPLEMENTAL TESTS

Identified risks to health	Mitigation measures
A false negative/false non-reactive test result may influence patient management decisions, such as the withholding of antiviral therapy, which can lead to serious injury including death.	Labeling limitations, warnings, and interpretation requirements. Analytical and clinical sensitivity performance criteria. Clinical testing on appropriate populations.
A false negative/false non-reactive test result may contribute to public health risk by leading to inadvertent transmission of virus by an infected person.	Acceptable strategies for monitoring emergence of and ability of the test to detect new or altered circulating forms of HIV. Acceptable processes for failure mode analysis, testing performance at extremes of specifications, determining severity of adverse events and malfunctions. Submission of a complaint log to monitor decreases in test performance or manufacturing failures.
A false positive/false reactive result may contribute to unnecessary initiation of treatment or other medical intervention, which increases patient risk to the potential adverse effects of such treatments or medical interventions.	Labeling instructions for appropriate confirmation of results. Analytical and clinical specificity performance criteria. Clinical testing on appropriate populations. Acceptable validation of susceptibility to interference and cross-reactivity. Acceptable processes for failure mode analysis, testing performance at extremes of specifications, determining severity of adverse events and malfunctions. Submission of a complaint log to monitor trends in false positive results.

If this proposed order is finalized, HIV serological diagnostic and supplemental tests and HIV NAT diagnostic and supplemental tests will be reclassified into class II (special controls). As discussed below, the reclassification will be codified in 21 CFR 866.3956 (serological) and 21 CFR 866.3957 (NAT) tests. Firms submitting a 510(k) for an HIV serological diagnostic and/or supplemental or HIV NAT diagnostic and/or supplemental test will be required to comply with the particular mitigation measures set forth in the special controls. Adherence to the special controls, in addition to the general controls, is necessary to provide a reasonable assurance of the safety and effectiveness of the devices.

VIII. Analysis of Environmental Impact

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

IX. Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no new collection of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required. This proposed order refers to previously approved FDA collections of information. These collections of

information are subject to review by the OMB under the PRA. The collections of information in part 807, subpart E, regarding premarket notification submissions have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR parts 801 and 809 have been approved under OMB control number 0910–0485.

X. Codification of Orders

Under section 513(f)(3) of the FD&C Act, FDA may issue final orders to reclassify devices. FDA will continue to codify classifications and reclassifications in the Code of Federal Regulations (CFR). Changes resulting from final orders will appear in the CFR as newly codified orders. Therefore, under section 513(f)(3), in the proposed order, we are proposing to codify HIV serological diagnostic and/or supplemental tests in the new 21 CFR 866.3956, under which HIV serological diagnostic and/or supplemental tests would be reclassified from class III to class II, and HIV NAT diagnostic and/or supplemental tests in the new 21 CFR 866.3957, under which HIV NAT diagnostic and/or supplemental tests would be reclassified from class III to class II.

XI. Proposed Effective Date

FDA proposes that any final order based on this proposed order become effective 30 days after its date of publication in the **Federal Register**.

XII. References

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

1. Branson, B.M., H.H. Handsfield, M.A. Lampe, et al., ''Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health-Care Settings,'' *MMWR. Recommendations and Reports: Morbidity and Mortality Weekly Report,* 55(RR14): 1–17, 2007.

2. Collaboration, T.A.T.C., ''Survival of HIV-Positive Patients Starting Antiretroviral Therapy Between 1996 and 2013: A Collaborative Analysis of Cohort Studies,'' *Lancet HIV,* 2017.

3. Dailey, A.F., B.E. Hoots, H.I. Hall, et al., ''Vital Signs: Human Immunodeficiency Virus Testing and Diagnosis Delays—United States,'' *MMWR. Recommendations and Reports: Morbidity and Mortality Weekly Report,* 66: 1300–1306, 2017.

4. ''Reclassification of HIV Point of Care and Laboratory-Based Serological and NAT Diagnostic Devices from Class III (PMA) to Class II 510(k); Issue Summary; Prepared for the July 19, 2018, Meeting of the Blood Products Advisory Committee (BPAC)).'' Available at: *https://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/BloodVaccinesandOtherBiologics/BloodProductsAdvisoryCommittee/ucm597841.htm.*

List of Subjects in 21 CFR Part 866

Biologics, Laboratories, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 866 be amended as follows:

PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

■ 1. The authority citation for part 866 continues to read as follows:

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

■ 2. Add § 866.3956 to subpart D to read as follows:

§ 866.3956 Human immunodeficiency virus (HIV) serological diagnostic and/or supplemental test.

(a) *Identification.* Human immunodeficiency virus (HIV) serological diagnostic and supplemental tests are prescription devices for the qualitative detection of HIV antigen(s) and/or detection of antibodies against HIV in human body fluids or tissues. The tests are intended for use as an aid in the diagnosis of infection with HIV. The test results are intended to be interpreted in conjunction with other relevant clinical and laboratory findings. For professional use only. These tests are not intended to be used for monitoring patient status, or for screening donors of blood, plasma, or human cells, tissues, and cellular and tissue-based products (HCT/Ps).

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

(1) For all HIV serological diagnostic and supplemental tests

(i) The labeling must include:

(A) An intended use that states that the device is not intended for use for screening donors of blood, plasma, or HCT/Ps.

(B) A detailed explanation of the principles of operation and procedures used for performing the assay.

(C) A detailed explanation of the interpretation of results and recommended actions to take based on results.

(D) Limitations, which must be updated to reflect current clinical practice and disease presentation and management. The limitations must include, but are not limited to, statements that indicate:

(1) The matrices with which the device has been cleared, and that use of this test kit with specimen types other than those specifically cleared for this device may result in inaccurate test results.

(2) The test is not intended to be used to monitor individuals who are undergoing treatment for HIV infection.

(3) A specimen with a reactive result should be investigated further following current guidelines.

(4) All test results should be interpreted in conjunction with the individual's clinical presentation, history, and other laboratory results.

(5) A test result that is nonreactive does not exclude the possibility of exposure to or infection with HIV. Nonreactive results in this assay may be due to analyte levels that are below the limit of detection of this assay.

(ii) Device verification and validation must include:

(A) Detailed device description, including the device components, ancillary reagents required but not provided, and an explanation of the methodology. Additional information appropriate to the technology must be included such as the amino acid sequence of antigen(s) and design of capture antibodies.

(B) For devices with assay calibrators, the design of all primary, secondary, and subsequent quantitation standards used for calibration as well as their traceability to a reference material. In addition, analytical testing must be performed following the release of a new lot of the standard material that was used for device clearance, or when there is a transition to a new calibration standard.

(C) Detailed documentation of analytical performance studies conducted as appropriate to the technology, specimen types tested, and intended use of the device, including, but not limited to, limit of blank, limit of detection, cutoff determination, precision, endogenous and exogenous interferences, cross reactivity, carry-over, quality control, matrix equivalency, and sample and reagent stability. Samples selected for use in analytical studies or used to prepare samples for use in analytical studies must be from subjects with clinically relevant circulating genotypes in the United States.

(D) Multisite reproducibility study that includes the testing of three independent production lots.

(E) Analytical sensitivity of the test must be the same as or better than that of other cleared or approved tests. Samples tested must include appropriate numbers and types of samples, including real clinical samples near the lower limit of detection. Analytical specificity of the test must be the same as or better than that of other cleared or approved tests. Samples must include appropriate numbers and types of samples from patients with different underlying illnesses or infections and from patients with potential endogenous interfering substances.

(F) Detailed documentation of performance from a multisite clinical study. Performance must be analyzed relative to an FDA-cleared or approved comparator. This study must be conducted using patient samples, with an appropriate number of HIV positive and HIV negative samples in applicable risk categories. Additional subgroups or types must be validated using appropriate numbers and types of samples. The samples may be a combination of fresh and repository samples, sourced from within and outside the United States, as appropriate. The study designs, including number of samples tested, must be sufficient to meet the following criteria:

(1) Clinical sensitivity of the test must have a lower bound of the 95 percent confidence interval of greater than or equal to 99 percent.

(2) Clinical specificity of the test must have a lower bound of the 95 percent confidence interval of greater than or equal to 99 percent.

(G) Strategies for detection of new strains, types, subtypes, genotypes, and genetic mutations as they emerge.

(H) Risk analysis and management strategies, such as Failure Modes Effects Analysis and/or Hazard Analysis and Critical Control Points summaries and their impact on test performance.

(I) Final release criteria to be used for manufactured test lots with appropriate evidence that lots released at the extremes of the specifications will meet the claimed analytical and clinical performance characteristics as well as the stability claims.

(J) All stability protocols, including acceptance criteria.

(K) Proposed procedure(s) for evaluating customer complaints and other device information that determines when to submit a medical device report.

(L) Premarket notification submissions must include the information contained in paragraph (b)(1)(ii)(A) through (K) of this section.

(iii) Manufacturers must submit a log of all complaints. The log must include the following information regarding each complaint: The type of event (false negative/false non-reactive or false positive/false reactive), lot, date, population, and whether or not the complaint was reported under part 803 of this chapter (Medical Device Reporting). The log must be submitted annually on the anniversary of clearance, for 5 years following initial clearance of a new traditional 510(k).

(2) If the test is intended for Point of Care (PoC) use, the following special controls, in addition to those listed in paragraph (b)(1) of this section apply:

(i) The intended use must include a statement that the test is for PoC use.

(ii) The PoC intended use must include the following information:

(A) That distribution of the test is limited to clinical laboratories that have an adequate quality assurance program, including planned systematic activities that provide adequate confidence that requirements for quality will be met and where there is assurance that operators will receive and use the instructional materials.

(B) That the test is for use only by an agent of a clinical laboratory.

(C) That individuals must receive the ''Subject Information Notice'' prior to specimen collection and appropriate information when test results are provided.

(iii) PoC labeling must include instructions to follow current guidelines for informing the individual of the test result and its interpretation.

(iv) The instructions must state that reactive results are considered preliminary and should be confirmed following current guidelines.

(v) Device verification and validation for the PoC claim must include:

(A) Detailed documentation of performance from a multisite clinical study. Performance must be analyzed relative to an FDA cleared or approved comparator. This study must be conducted using patient samples, with appropriate numbers of HIV positive and HIV negative samples in applicable risk categories. Additional subgroup or type claims must be validated using appropriate numbers and types of samples. The samples may be a combination of fresh and repository samples, sourced from within and outside the United States, as appropriate. If the test is intended solely for PoC use, the test must meet only the performance criteria in paragraph (b)(2)(v)(A)(*1*) and (*2*) of this section and not the criteria in paragraph (b)(1)(ii)(F) of this section:

(1) Clinical sensitivity of the test must have a lower bound of the 95 percent confidence interval of greater than or equal to 98 percent.

(2) Clinical specificity of the test must have a lower bound of the 95 percent confidence interval of greater than or equal to 98 percent.

(B) Premarket notification submissions must include the information contained in paragraph (b)(2)(v)(A) of this section.

(3) If the test is intended for supplemental use in addition to use as an aid in initial diagnosis, the following special controls, in addition to those listed in paragraphs (b)(1) and (2) of this section, as appropriate, apply:

(i) For the additional supplemental claim, a clinical study must be performed that includes samples that were initially reactive and repeatedly reactive on a diagnostic test but were negative or indeterminate on a different confirmatory test.

(ii) The intended use must include a statement that the test is intended for use as an additional test to confirm the presence of HIV antibodies or antigens in specimens found to be repeatedly reactive by a diagnostic screening test.

(4) If the test is intended solely as a supplemental test, the following special controls, in addition to those listed in paragraphs (b)(1) and (2) of this section, except those in paragraphs (b)(1)(ii)(F) and (b)(2)(v)(A) of this section, as appropriate, apply:

(i) The labeling must include a statement that the test is intended for use as an additional test to confirm the presence of HIV antibodies or antigens in specimens found to be repeatedly reactive by a diagnostic screening test.

(ii) The labeling must clearly state that the test is not for use for initial diagnosis or is not intended as a first-line test.

(iii) A clinical study must be performed that includes samples that were initially reactive and repeatedly reactive on a diagnostic test but were negative or indeterminate on a confirmatory test.

(5) If the test is intended to differentiate different HIV types, the following special controls, in addition to those listed in paragraphs(b)(1) through (4) of this section, as appropriate, apply:

(i) The labeling must include the statement that the test is intended for the confirmation of initial results from a diagnostic test and differentiation of different HIV types.

(ii) Analytical and clinical sensitivity and specificity for each of the HIV

types, strains, and subtypes of HIV intended to be differentiated must be evaluated.

(iii) The results interpretation must include instructions for the user on how to interpret the results, including untypeable and co-infection results.

■ 3. Add § 866.3957 to subpart D to read as follows:

§ 866.3957 Human immunodeficiency virus (HIV) nucleic acid (NAT) diagnostic and/or supplemental test.

(a) *Identification.* Human immunodeficiency virus (HIV) nucleic acid (NAT) diagnostic and supplemental tests are prescription devices for the qualitative detection of HIV nucleic acid in human body fluids or tissues. The tests are intended for use as an aid in the diagnosis of infection with HIV. The test results are intended to be interpreted in conjunction with other relevant clinical and laboratory findings. For prescription use only. These tests are not intended to be used for monitoring patient status, or for screening donors of blood, plasma, or human cells, tissues, or cellular or tissue-based products (HCT/Ps).

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

(1) For all HIV NAT diagnostic and/or supplemental tests

(i) The labeling must include:

(A) An intended use that states that the device is not intended for use for screening donors of blood, plasma, or HCT/Ps.

(B) A detailed explanation of the principles of operation and procedures used for performing the assay.

(C) A detailed explanation of the interpretation of results and recommended actions to take based on results.

(D) Limitations, which must be updated to reflect current clinical practice and disease presentation and management. The limitations must include, but are not limited to, statements that indicate:

(1) The matrices with which the device has been cleared, and that use of this test kit with specimen types other than those specifically cleared for this device may result in inaccurate test results.

(2) The test is not intended to be used to monitor individuals who are undergoing treatment for HIV infection.

(3) A specimen with a reactive result should be investigated further following current guidelines.

(4) All test results should be interpreted in conjunction with the individual's clinical presentation, history, and other laboratory results.

(5) A test result that is nonreactive does not exclude the possibility of exposure to or infection with HIV. Nonreactive results in this assay may be due to analyte levels that are below the limit of detection of this assay.

(ii) Device verification and validation must include:

(A) Detailed device description, including the device components, ancillary reagents required but not provided, and an explanation of the methodology. Additional information appropriate to the technology must be included such as design of primers and probes.

(B) For devices with assay calibrators, the design and nature of all primary, secondary, and subsequent quantitation standards used for calibration as well as their traceability to a reference material. In addition, analytical testing must be performed following the release of a new lot of the standard material that was used for device clearance, or when there is a transition to a new calibration standard.

(C) Detailed documentation of analytical performance studies conducted as appropriate to the technology, specimen types tested, and intended use of the device, including, but not limited to, limit of blank, limit of detection, cutoff determination, precision, endogenous and exogenous interferences, cross reactivity, carry-over, quality control, matrix equivalency, and sample and reagent stability. Samples selected for use in analytical studies or used to prepare samples for use in analytical studies must be from subjects with clinically relevant circulating genotypes in the United States. The effect of each claimed nucleic-acid isolation and purification procedure on detection must be evaluated.

(D) Multisite reproducibility study that includes the testing of three independent production lots.

(E) Analytical sensitivity of the test must be the same as or better than that of other cleared or approved tests. Samples tested must include appropriate numbers and types of samples, including real clinical samples near the lower limit of detection. Analytical specificity of the test must be as the same as or better than that of other cleared or approved tests. Samples must include appropriate numbers and types of samples from patients with different underlying illnesses or infections and from patients with potential endogenous interfering substances.

(F) Detailed documentation of performance from a multisite clinical study. Performance must be analyzed relative to an FDA cleared or approved comparator. This study must be conducted using appropriate patient samples, with appropriate numbers of HIV positive and negative samples in applicable risk categories. Additional subtype, strain, or types must be validated using appropriate numbers and types of samples. The samples may be a combination of fresh and repository samples, sourced from within and outside the United States, as appropriate. The study designs, including number of samples tested, must be sufficient to meet the following criteria:

(1) Clinical sensitivity of the test must have a lower bound of the 95 percent confidence interval of greater than or equal to 99 percent.

(2) Clinical specificity of the test must have a lower bound of the 95 percent confidence interval of greater than or equal to 99 percent.

(G) Strategies for detection of new strains, types, subtypes, genotypes, and genetic mutations as they emerge.

(H) Risk analysis and management strategies, such as Failure Modes Effects Analysis and/or Hazard Analysis and Critical Control Points summaries and their impact on test performance.

(I) Final release criteria to be used for manufactured test lots with appropriate evidence that lots released at the extremes of the specifications will meet the claimed analytical and clinical performance characteristics as well as the stability claims.

(J) All stability protocols, including acceptance criteria.

(K) Proposed procedure(s) for evaluating customer complaints and other device information that determine when to submit a medical device report.

(L) Premarket notification submissions must include the information contained in paragraph (b)(1)(ii)(A) through (K) of this section.

(iii) Manufacturers must submit a log of all complaints. The log must include the following information regarding each complaint: The type of event (false negative/false non-reactive or false positive/false reactive), lot, date, population, and whether or not the complaint was reported under part 803 of this chapter (Medical Device Reporting). The log must be submitted annually on the anniversary of clearance, for 5 years following initial clearance of a new traditional 510(k).

(2) If the test is intended for Point of Care (PoC) use, the following special controls, in addition to those listed in paragraph (b)(1) of this section, apply:

(i) The intended use must include a statement that the test is for PoC use.

(ii) The PoC intended use must include the following information:

(A) That distribution of the test is limited to clinical laboratories that have an adequate quality assurance program, including planned systematic activities that provide adequate confidence that requirements for quality will be met and where there is assurance that operators will receive and use the instructional materials.

(B) That the test is for use only by an agent of a clinical laboratory.

(C) That individuals must receive the ''Subject Information Notice'' prior to specimen collection and appropriate information when test results are provided.

(iii) PoC labeling must include instructions to follow current guidelines for informing the individual of the test result and its interpretation.

(iv) The instructions must state that reactive results are considered preliminary and should be confirmed following current guidelines.

(v) Device verification and validation for the PoC claim must include:

(A) Detailed documentation from a well-conducted multisite clinical study. Performance must be analyzed relative to an FDA cleared or approved comparator. This study must be conducted using patient samples, with appropriate numbers of HIV positive and HIV negative samples in applicable risk categories. Additional subgroup or type claims must be validated using appropriate numbers and types of samples. The samples may be a combination of fresh and repository samples, sourced from within and outside the United States, as appropriate. If the test is intended solely for PoC use, the test must meet only the performance criteria in paragraphs (b)(2)(v)(A)(*1*) and (*2*) of this section and not the criteria in paragraph (b)(2)(ii)(F) of this section:

(1) Clinical sensitivity of the test must have a lower bound of the 95 percent confidence interval of greater than or equal to 98 percent.

(2) Clinical specificity of the test must have a lower bound of the 95 percent confidence interval of greater than or equal to 98 percent.

(B) Premarket notification submissions must include the information contained in paragraph (b)(2)(v)(A) of this section.

(3) If the test is intended for supplemental use in addition to use as an aid in initial diagnosis, the following special controls, in addition to those listed in paragraphs (b)(1) and (2) of this section, as appropriate, apply:

(i) For the additional supplemental claim, a clinical study must be performed that includes samples that were initially reactive and repeatedly reactive on a diagnostic test but were negative or indeterminate on a confirmatory test.

(ii) The intended use must include a statement that the test is intended for use as an additional test to confirm the presence of HIV viral nucleic acid in specimens found to be repeatedly reactive by a diagnostic screening test.

(4) If the test is intended solely as a supplemental test, the following special controls, in addition to those listed in paragraphs (b)(1) and (2) of this section, except those in paragraphs(b)(1)(ii)(F) and (b)(2)(v)(A) of this section, as appropriate, apply:

(i) The labeling must include a statement that the test is intended for use as an additional test to confirm the presence of HIV viral nucleic acid in specimens found to be repeatedly reactive by a diagnostic screening test.

(ii) The labeling must clearly state that the test is not for use for initial diagnosis or is not intended as a first-line test.

(iii) A clinical study must be performed that includes samples that were initially reactive and repeatedly reactive on a diagnostic test but were negative or indeterminate on a confirmatory test.

(5) If the test is intended to differentiate different HIV types, the following special controls, in addition to those listed in paragraphs (b)(1) through (4) of this section, as appropriate, apply:

(i) The labeling must include the statement that the test is intended for the confirmation of initial results and differentiation of different HIV types.

(ii) Analytical and clinical sensitivity and specificity for each of the types, strains, and subtypes of HIV intended to be differentiated must be evaluated.

(iii) The results interpretation must include instructions for the user on how to interpret the results, including un-typeable and co-infection results.

Dated: February 18, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–03515 Filed 2–20–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 17 and 70

RIN 2900–AQ44

VHA Claims and Appeals Modernization

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its regulations concerning its claims and appeals process governing various programs administrated by the Veterans Health Administration (VHA). The Veterans Appeals Improvement and Modernization Act of 2017 (AMA) amended the procedures applicable to administrative review and appeal of VA decisions on claims for benefits, creating a new, modernized review system. This rulemaking proposes amendments to sunset certain VHA regulations which are inconsistent with AMA.

DATES: Comments must be received on or before April 21, 2020.

FOR FURTHER INFORMATION CONTACT: Erik Shepherd, Program Specialist, Office of Regulatory and Administrative Affairs, Department of Veterans Affairs, 810 Vermont Ave. NW, Washington, DC 20420, (202) 461–9596 (This is not a toll-free number.).

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–AQ44 VHA Appeals Modernization.] 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*.

SUPPLEMENTARY INFORMATION: Public Law 115–55, the Veterans Appeals Improvement and Modernization Act of 2017 (AMA), changes the processes by which veterans seek review of VA benefits decisions. VA has implemented the AMA in a rulemaking that is generally applicable to benefits administered throughout VA, to include benefits administered by the Veterans Health Administration (VHA). VA Claims and Appeals Modernization, 84 FR 138, 172 (Jan. 18, 2019). That rulemaking specifically provides, ''unless otherwise specified in this final rule, VA amends its regulations applicable to all claims processed under

the new review system, which generally applies where an initial VA decision on a claim is provided on or after the effective date or where a claimant has elected to opt into the new review system under established procedures.'' 84 FR 138.

However, the VA Claims and Appeals Modernization regulatory amendments did not explicitly revise or remove VHA specific regulations which are inconsistent with AMA. In this rulemaking, VA proposes to sunset multiple VHA regulations that are inconsistent with the AMA and the VA Claim and Appeals Modernization regulatory amendments. Because the AMA and VA's January 2019 regulations apply to VHA, these proposed conforming changes to part 17 will not change the procedures VHA currently follows under the AMA.

First, the authority to reconsider a VHA decision, which is established under VHA's regulations at 38 CFR 17.133, 17.276, 17.904, and 17.1006 and 38 CFR 70.40, is inconsistent with the specific differentiated lanes for seeking review of a VA decision that are established by AMA and implemented in the VA Claims and Appeals Modernization regulatory amendments, particularly the closed record requirement for higher level review. To conform VHA's regulations to the procedures applicable under AMA and implementing regulations, VA proposes to amend §§ 17.133, 17.276, 17.904, 17.1006, and 70.40 to make clear that VHA reconsideration is available only in legacy claims, as defined in Part 3 and 20 of this title.

Similarly, VHA proposes to revise 38 CFR 17.132 regarding appeals of VHA decisions on certain requests for payment or reimbursement for care rendered in the community. Section 17.132 affords only one avenue for disputing a VA decision regarding payment or reimbursement, appeal to the Board of Veterans' Appeals. For payment requests covered by AMA and implementing regulations, this is inconsistent with the three distinct lanes established by that law. Thus, VHA proposes to revise § 17.132 to clarify that it will apply only to payment decisions made for legacy claims as described above.

Paperwork Reduction Act

This final 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 proposed rule only affects procedures regarding the appeals process; it does not affect the cost of filing an appeal nor any amount duly owed to a small entity. 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.

Executive Orders 12866, 13563, and 13771

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is a significant regulatory action under Executive Order 12866.

VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at *http://www.va.gov/orpm* by following the link for VA Regulations Published from FY 2004 through FYTD.

This rule is not expected to be subject to the requirements of Executive Order 13771 because this rulemaking is expected to result in no more than de minimis costs.

Unfunded Mandates

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

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.009—Veterans Medical Care Benefits; 64.039—CHAMPVA.

List of Subjects in 38 CFR Parts 17 and 70

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Pamela Powers, Chief of Staff, Department of Veterans Affairs, approved this document on January 10, 2020, for publication.

Consuela Benjamin,

Regulations 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 38 CFR parts 17 and 70 as set forth below:

PART 17—MEDICAL

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

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

* * * * *

■ 2. Amend § 17.132 by:

■ a. Designating the text as paragraph (b); and

■ b. Adding paragraph (a).

The addition to read as follows:

§ 17.132 Appeals.

(a) This section applies only to legacy claims.

* * * * *

■ 3. Amend § 17.133 by revising paragraph (a) to read as follows:

§ 17.133 Procedures.

(a) *Scope.* This section sets forth reconsideration procedures regarding claims for benefits administered by the Veterans Health Administration (VHA).

This section applies only to legacy claims.

* * * * *

■ 4. Amend § 17.276 by:

■ a. Designating the text as paragraph (b); and

■ b. Adding paragraph (a).

The addition to read as follows:

§ 17.276 Appeal/Review Process

(a) This section applies only to legacy claims.

* * * * *

■ 5. Amend § 17.904 by:

■ a. Designating the text as paragraph (b); and

■ b. Adding paragraph (a).

The addition to read as follows:

§ 17.904 Review and Appeal Process

(a) This section applies only to legacy claims.

* * * * *

§ 17.1006 [Amended].

■ 6. Amend § 17.1006 by removing the words ''reconsideration and'' from the last sentence.

PART 70—VETERANS TRANSPORTATION PROGRAMS

■ 1. The authority citation for part 70 continues to read as follows:

Authority: 38 U.S.C. 101, 111, 111A, 501, 1701, 1714, 1720, 1728, 1782, 1783, and E.O. 11302, 31 FR 11741, 3 CFR, 1966–1970 Comp., p. 578, unless otherwise noted.

■ 2. Amend § 70.40 by:

■ a. Designating the text as paragraph (b); and

■ b. Adding paragraph (a).

The addition to read as follows:

§ 70.40 Administrative Procedures

(a) This section applies only to legacy claims.

* * * * *

[FR Doc. 2020–03432 Filed 2–20–20; 8:45 am]

BILLING CODE 8320–01–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3010

[Docket No. RM2020–5; Order No. 5433]

Market Dominant Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing revisions to its rules concerning rate incentives for market dominant products to clarify the definition of ''rate of general applicability'' within the context of a market dominant price adjustment proceeding; to add an additional criterion for a rate incentive to be included in a percentage change in rates calculation at discounted prices; and to state clearly what information the Postal Service must file to support a claim that a rate incentive meets the necessary criteria to be included in a percentage change in rates calculation at discounted prices. The Commission invites public comment on the propose rules.

DATES: *Comments are due:* March 23, 2020.

ADDRESSES: For additional information, Order No. 5433 can be accessed electronically through the Commission's website at *https://www.prc.gov.*

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Background

The Commission's rules permit the Postal Service, when adjusting market dominant rates as part of a market dominant rate adjustment proceeding, to include discounted prices for rate incentives that the Postal Service plans to offer in the percentage change in rates calculation, as long as the rate incentive meets certain criteria. 39 CFR 3010.23(e). These criteria are: (1) That the rate incentive is in the form of a discount or can be easily translated into a discount; (2) that sufficient billing determinants are available for the rate incentive to be included in the percentage change in rates calculation; and (3) that the rate incentive is a rate of general applicability. 39 CFR 3010.23(e)(2). The Commission's rules also require the Postal Service to provide ''sufficient information to demonstrate that the rate incentive is a rate of general applicability.'' 39 CFR 3010.12(b)(9)(i).

When the Commission promulgated rules with regard to the treatment of market dominant rate incentives, it included a specific definition of ''rate of general applicability'' in the context of market dominant rate adjustments which provided, *inter alia,* that ''[a] rate is not a rate of general applicability if eligibility for the rate is dependent on factors other than the characteristics of the mail to which the rate applies.'' 39 CFR 3010.1(g). The Commission explained that mail volume sent by a mailer in a previous year is not a characteristic of the mail to which rates under an incentive program apply.[1]

In the most recent market dominant rate adjustment proceeding, the Postal Service sought to include a rate incentive in the percentage change in rates calculation that featured the following terms. First, a 2-cent ''base'' credit per qualifying mailpiece was offered to mailers who sent out Business Reply Mail, Courtesy Reply Mail, and/or Share Mail enclosures which were subsequently returned or forwarded by the recipients.[2] For new participants, there was no required volume threshold in order to be eligible to participate in the incentive program. *Id.* For repeat participants, they had to meet or exceed 93 percent of their returns from the prior year in order to remain eligible. *Id.* In addition, repeat participants whose returns exceeded 100 percent of their returns from the prior year were eligible for an additional 2-cent ''bonus'' credit (for a total of 4 cents per qualifying mailpiece). *Id.* A question arose as to whether the ''base'' tier of the incentive program, the ''bonus'' tier, both, or neither constituted ''rates of general applicability'' appropriate for inclusion in the percentage change in rates calculation at discounted prices. *Id.* at 17, 19–24.

The Commission found that the Postal Service had failed to provide sufficient information to demonstrate that the rate incentive in question was a rate of general applicability, as required by § 3010.12(b)(9)(i). *Id.* at 22. Nevertheless, upon considering the matter, the Commission determined that a potential ambiguity existed in the Commission's rules concerning whether a rate incentive featuring a mailer-specific volume threshold based on historical volume data could constitute a ''rate of general applicability.'' *Id.* at 23–24. The Commission permitted both tiers of the promotion to be included in the percentage change in rates calculation in Docket No. R2020–1, but indicated that it would initiate a rulemaking to clarify this issue. *Id.*

II. Basis for Proposed Rule Change

The Commission proposes to clarify its rules by making three revisions. First, the Commission proposes to amend § 3010.1(g) to clarify that in order to qualify as a rate of general

[1] *See* Docket No. RM2014–3, Order Adopting Final Rules on the Treatment of Rate Incentives and De Minimis Rate Increases for Price Cap Purposes, June 3, 2014, at 15–16 (Order No. 2086).

[2] Docket No. R2020–1, Order on Price Adjustments for USPS Marketing Mail, Periodicals, Package Services, and Special Services Products and Related Mail Classification Changes, November 22, 2019, at 16–17 (Order No. 5321).

applicability, a rate cannot be based on mailer-specific data, such as historical mailer volume. Second, the Commission proposes to amend § 3010.23(e)(2) to add an additional criterion for a rate incentive to be eligible for inclusion in a percentage change in rates calculation at discounted prices—the rate incentive must be made available to all mailers equally on the same terms and conditions.

The Commission's basis for proposing these revisions is twofold. The Commission is concerned that interpreting ''rate of general applicability'' to permit volume thresholds based on historical volume data would contravene the policy reasons underlying the general applicability requirement, because, as the Commission has found before, ''volume sent by a mailer in a previous year is not a characteristic of the mail to which rates under [an] incentive program apply[,]'' due to the fact that past behavior by mailers bears no relationship to mail being sent in the present. *See* Order No. 2086 at 15. The Commission is equally concerned about the fairness of permitting mailer-specific thresholds for determining eligibility for market dominant rate incentives. Where a rate incentive is not made available to all mailers on the same terms and conditions, the potential exists for non-qualifying mailers to be forced to subsidize the rate incentives received by qualifying mailers.

The third revision the Commission is proposing is to amend § 3010.12(b)(9) to add additional requirements intended to ensure that the Postal Service provides sufficient information at the outset of a market dominant rate adjustment proceeding to permit the Commission and stakeholders to verify that all rate incentives included in a percentage change in rates calculation comply with the definition of ''rates of general applicability'' and are made available to all mailers equally on the same terms and conditions.

III. Proposed Rule

Proposed § 3010.1(g). Proposed § 3010.1(g) is revised to state clearly that the definition of ''rate of general applicability'' within the context of a market dominant rate adjustment proceeding means a rate incentive that is not based on mailer-specific data, such as historical volume data.

Proposed § 3010.12(b)(9). Proposed § 3010.12(b)(9) is revised to state clearly what information the Postal Service must file to support its claim that a rate incentive meets the necessary criteria to be included in a percentage change in rates calculation.

Proposed § 3010.23(e)(2)(iv). Proposed § 3010.23(e)(2)(iv) is added to make it a criterion for a market dominant rate incentive to be included in a percentage change in rates calculation that the incentive be available to all mailers equally on the same terms and conditions.

List of Subjects in 39 CFR Part 3010

Administrative practice and procedure, Postal Service.

For the reasons stated in the preamble, the Commission proposes to amend chapter III of title 39 of the Code of the Federal Regulations as follows:

PART 3010—REGULATION OF RATES FOR MARKET DOMINANT PRODUCTS

■ 1. The authority citation for part 3010 continues to read as follows:

Authority: 39 U.S.C. 503; 3622.

■ 2. Amend § 3010.1 by revising paragraph (g) to read as follows:

§ 3010.1 Definitions.

* * * * *

(g) Rate of general applicability means a rate applicable to all mail meeting standards established by the Mail Classification Schedule, the Domestic Mail Manual, and the International Mail Manual. A rate is not a rate of general applicability if eligibility for the rate is dependent on factors other than the characteristics of the mail to which the rate applies, including the volume of mail sent by a mailer in a past year or years. A rate is not a rate of general applicability if it benefits a single mailer. A rate that is only available upon the written agreement of both the Postal Service and a mailer, a group of mailers, or a foreign postal operator is not a rate of general applicability.

* * * * *

■ 3. Amend § 3010.12 by revising paragraph (b)(9) to read as follows:

§ 3010.12 Contents of notice of rate adjustment.

* * * * *

(b) * * *

(9) For a notice that includes a rate incentive:

(i) Whether the rate incentive is being treated under § 3010.23(e)(2) or under § 3010.23(e)(1) and § 3010.24.

(ii) If the Postal Service seeks to include the rate incentive in the calculation of the percentage change in rates under § 3010.23(e)(2), whether the rate incentive is available to all mailers equally on the same terms and conditions.

(iii) If the Postal Service seeks to include the rate incentive in the calculation of the percentage change in rates under § 3010.23(e)(2), sufficient information to demonstrate that the rate incentive is a rate of general applicability, which at a minimum includes: the terms and conditions of the rate incentive; the factors that determine eligibility for the rate incentive; a statement that affirms that the rate incentive will not benefit a single mailer; and a statement that affirms that the rate incentive is not only available upon the written agreement of both the Postal Service and a mailer, or group of mailers, or a foreign postal operator.

* * * * *

■ 4. Amend § 3010.23 by revising paragraph (e)(2) to read as follows:

§ 3010.23 Calculation of percentage change in rates.

* * * * *

(e) * * *

(2) A rate incentive may be included in a percentage change in rates calculation if it meets the following criteria:

(i) The rate incentive is in the form of a discount or can easily be translated into a discount;

(ii) Sufficient billing determinants are available for the rate incentive to be included in the percentage change in rate calculation for the class, which may be adjusted based on known mail characteristics or historical volume data (as opposed to forecasts of mailer behavior);

(iii) The rate incentive is a rate of general applicability; and

(iv) The rate incentive is made available to all mailers equally on the same terms and conditions.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2020–03428 Filed 2–20–20; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[EPA–HQ–OAR–2018–0633; FRL–10005–41–OAR]

RIN 2060–AT80

Revisions to Appendix P to 40 CFR Part 51, Concerning Minimum Emission Reporting Requirements in SIPs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to update a

regulation, Appendix P to 40 CFR part 51 (Appendix P), that specifies what State Implementation Plans (SIPs) must require of sources among four categories with respect to continuous emission monitoring, recording, and reporting. Those four Appendix P source categories are: Fossil fuel-fired steam generators; fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries; sulfuric acid plants; and nitric acid plants. In particular, proposed amendments to Appendix P would revise the minimum frequency for submitting reports of excess emissions from ''each calendar quarter'' to ''twice per year at 6-month intervals.'' As a result, states may, in their SIPs, establish a semiannual reporting frequency for excess emissions at affected sources that aligns with what the EPA has generally established as the reporting frequency applicable to the Appendix P source categories under more recently updated regulations, such as New Source Performance Standards (NSPS) under 40 CFR part 60. Proposed amendments also include correction of an erroneous cross-reference in Appendix P.

DATES:

Comments: Written comments must be received on or before March 23, 2020. *Public hearings.* If anyone contacts us requesting a public hearing on or before March 9, 2020, we will hold a public hearing. Additional information about the hearing, if one is requested, will be published in a subsequent **Federal Register** document. Please refer to **SUPPLEMENTARY INFORMATION** for additional information on the comment period and the public hearing.

Information collection request: Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of having full effect if the Office of Management and Budget (OMB) receives a copy of your comments on or before March 23, 2020.

ADDRESSES: *Comments:* Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2018–0633, at *https://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 document 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.*

FOR FURTHER INFORMATION CONTACT: For further general information on this proposed rule or on the Information Collection Request (ICR), contact Ms. Lisa Sutton, U.S. EPA, Office of Air Quality Planning and Standards, State and Local Programs Group (C539–01), Research Triangle Park, NC 27711, telephone number (919) 541–3450, email address: *sutton.lisa@epa.gov.* For information on the public hearing, contact Ms. Pam Long, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Policy Division (C504–01), Research Triangle Park, NC 27711, telephone number (919) 541–0641, email address: *long.pam@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Entities potentially affected directly by this action include states, United States (U.S.) territories, local authorities and eligible tribes that are currently administering, or may in the future administer, EPA-approved implementation plans (collectively ''states'').[1] Entities potentially affected indirectly by this action are sources categorized as fossil fuel-fired steam generators, fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries, sulfuric acid plants, or nitric acid plants. For convenience, the EPA's reference to ''affected sources'' in this rulemaking generally refers to sources affected by SIP requirements, *i.e.,* those sources to which a SIP's Appendix P-specified monitoring requirements actually apply. While all sources among the Appendix P source categories (when not already excepted in Appendix P itself) are *potentially* affected by such requirements, it is within the state's discretion to grant an exemption in its SIP from applicability of the Appendix P-specified monitoring requirements for certain sources. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

B. What should I consider as I prepare my comments for the EPA?

When submitting comments, remember to:

- Identify the rulemaking docket by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions. The proposed rule may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree, suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used to support your comment.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns wherever possible, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

Submitting CBI. Do not submit information containing CBI to the EPA through *https://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, mark the outside of the digital storage media as CBI and then identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI for inclusion in the public docket. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic

[1] The EPA respects the unique relationship between the U.S. government and tribal authorities and acknowledges that tribal concerns are not interchangeable with state concerns. Under the CAA and EPA regulations, a tribe may, but is not required to, apply for eligibility to have a tribal implementation plan (TIP). For convenience, the EPA refers to either ''states'' or ''air agencies'' in this rulemaking when meaning to refer in general to states, the District of Columbia, U.S. territories, local air permitting authorities and eligible tribes that are currently administering, or may in the future administer, EPA-approved implementation plans.

public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2018–0633.

C. How can I find information about a possible hearing?

To request a public hearing or information pertaining to a public hearing regarding this document, please contact Ms. Pam Long, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Policy Division (C504–01), Research Triangle Park, NC 27711, telephone number (919) 541–0641, email address: *long.pam@epa.gov* on or before March 9, 2020. Additional information about the hearing, if one is requested, will be published in a subsequent **Federal Register** document.

D. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this **Federal Register** document will be posted at *https://www.epa.gov/air-quality-implementation-plans/develop-air-quality-sip#guidance.*

E. How is this notice of proposed rulemaking organized?

The information presented in this preamble is organized as follows:

I. General Information
A. Does this action apply to me?
B. What should I consider as I prepare my comments for the EPA?
C. How can I find information about a possible hearing?
D. Where can I get a copy of this document and other related information?
E. How is this notice of proposed rulemaking organized?
II. Overview of Proposed Action
A. What action is the Agency proposing?
B. What is the Agency's authority for proposing this action?
III. Historical and Regulatory Background for Appendix P
A. State Implementation Plans and the EPA's Regulations at 40 CFR Part 51
B. Part 51 Amended To Require Continuous Emission Monitoring
IV. Rationale for Updating Appendix P
A. Proposed Action Comports With the EPA's Burden Reduction Rule of 1999
B. States Urge the EPA To Reduce Reporting Frequency for Appendix P Source Categories
V. Environmental Justice Considerations
VI. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs
C. Paperwork Reduction Act (PRA)
D. Regulatory Flexibility Act (RFA)
E. Unfunded Mandates Reform Act (UMRA)
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use
J. National Technology Transfer and Advancement Act (NTTAA)
K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
VII. Statutory Authority

II. Overview of Proposed Action

A. What action is the Agency proposing?

The EPA is proposing amendments to update the data reporting requirements specified for SIPs under Appendix P to 40 CFR part 51. Appendix P, which the EPA promulgated in 1975, sets forth certain minimum requirements for continuous emission monitoring that each SIP must include in order to be approved under the provisions of 40 CFR 51.214. *See* 40 FR 46240 (October 6, 1975).

The EPA proposes to revise the current specification that sources among the four Appendix P source categories must report excess emissions at a frequency of no less than every calendar quarter, by changing the minimum frequency to semiannually. For example, the reference to ''each calendar quarter'' in paragraph 4.1 of Appendix P would be removed and replaced with a reference to ''twice per year at 6-month intervals.'' As a result, states would be allowed to establish, in their SIPs, a reporting frequency for affected sources under Appendix P that aligns with the reporting frequency that the EPA has generally established under more recently updated programs applicable to sources among the four Appendix P source categories, such as NSPS. As described in Section III.B of this document, the EPA has generally moved to a semiannual reporting frequency specification for sources regulated under its regulations pursuant to the Clean Air Act (CAA), *e.g.,* in NSPS (40 CFR part 60) and National Emission Standards for Hazardous Air Pollutants (NESHAP) (40 CFR parts 61 and 63).[2] A semiannual minimum reporting frequency under Appendix P would also align with the semiannual reporting frequency required of sources through the EPA's regulations for title V operating permits (40 CFR parts 70 and 71).[3] Notwithstanding these proposed revisions to Appendix P, a source that is subject to other excess emission reporting requirements (*e.g.,* under 40 CFR parts 60, 61, or 63) would be required to comply with the applicable provisions of those rules.

The EPA emphasizes that the proposed amendments to Appendix P, if finalized as proposed, would not require states to adopt these particular changes (by revising their SIPs). When proposing in 1974 to add Appendix P to 40 CFR part 51, the EPA stressed that Appendix P set forth only minimum requirements and recognized that in keeping with the basic framework of SIPs, states were allowed, even encouraged, to develop procedures even more comprehensive than those in Appendix P.[4] Likewise, upon promulgating Appendix P in 1975, the EPA stated that while minimum requirements were being established, states ''may, as they deem appropriate, expand these requirements.''[5] Thus, although the relaxation in minimum reporting frequency specified for SIPs under Appendix P being proposed would allow a state in turn to require semiannual reporting of sources among the Appendix P source categories, it would not obligate a state to adopt requirements for semiannual reporting in its SIP if the state chooses to retain requirements beyond the minimum (*e.g.,* quarterly reporting requirements for Appendix P source categories).

An additional amendment proposed in this action would revise one cross-reference under Appendix P so that it refers to the appropriate section of 40 CFR part 51. In accordance with the EPA's regulations for SIPs concerning continuous emission monitoring, each SIP must meet certain minimum requirements, including those specified in Appendix P. The continuous

[2] ''Recordkeeping and Reporting Burden Reduction, Final amendments,'' 64 FR 7457 (February 12, 1999).

[3] The title V permit shall require submittal of reports of any required monitoring at least every 6 months, and all instances of deviations from permit requirements must be clearly identified in such reports. *See* 40 CFR 70.6(a)(3)(iii)(A) and 40 CFR 71.6(a)(3)(iii)(A).

[4] ''Requirements for the Preparation, Adoption and Submittal of Implementation Plans: Emission Monitoring of Stationary Sources; Proposed rules,'' 39 FR 32871 (September 11, 1974). *See* 32872/3.

[5] ''Part 51—Requirements for the Preparation, Adoption and Submittal of Implementation Plans: Emission Monitoring of Stationary Sources,'' 40 FR 46240 (October 6, 1975). *See* 46246/3.

emission monitoring regulations of 40 CFR part 51 were moved from § 51.19(e) to § 51.214 as part of a 1986 rule through which the EPA significantly restructured and consolidated its regulations for the development of SIPs.[6] In the notice of final rulemaking for that 1986 rule, several cross-references under Appendix P were revised. The EPA acknowledges that the cross-reference in Appendix P under section 1.0 (which concerns contininuous emission monitoring requirements) was changed from § 51.19(e) to § 51.165(b) in error, when the intent was to change it to § 51.214. The EPA now proposes to revise section 1.0 of Appendix P so that it correctly refers to the continuous emission monitoring regulations at § 51.214.

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

This document is being developed under the authority of sections 110(a)(2)(F) and 301(a) of the CAA.

III. Historical and Regulatory Background for Appendix P

A. State Implementation Plans and the EPA's Regulations at 40 CFR Part 51

The SIP is a state's plan identifying how the state will meet its CAA requirements, such as to attain and maintain the National Ambient Air Quality Standards (NAAQS). Pursuant to section 110 of the CAA, each state is required to submit a SIP for EPA approval, and the EPA is required to evaluate and either approve or disapprove the state's submission. The SIP (including revisions over time) contains control measures and strategies developed through a public process and formally adopted by the state. The elements of a SIP are prescribed in particular under section 110 and Part D of the CAA. Of particular relevance to this proposed rulemaking, CAA section 110(a)(2)(F) governs requirements associated with stationary source monitoring and reporting in the context of SIPs.

Pursuant to CAA section 110, the EPA established procedural requirements applicable to all states concerning the preparation, adoption, and submission of SIPs and SIP revisions. These regulations, initially promulgated in 1971, comprise 40 CFR part 51, ''Requirements for Preparation, Adoption, and Submittal of Implementation Plans.'' Like the SIPs themselves, these regulations are periodically revised.

B. Part 51 Amended To Require Continuous Emission Monitoring

The EPA in 1974 proposed to amend its SIP preparation regulations under 40 CFR part 51 to require that SIPs contain legally enforceable procedures mandating owners or operators of stationary sources to install equipment to monitor pollutant emissions on a continuous basis and to report the data obtained.[7] As was explained in the 1974 notice of proposed rulemaking, the regulations already required states to have the legal authority to require such monitoring and recording.[8] However, at the time that the EPA's SIP preparation regulations were originally published, ''[t]he Agency believed that the state-of-the-art was such that it was not prudent to require existing sources to install [continuous monitoring] devices.'' [9] The agency explained that, for certain sources, ''general specifications for accuracy, reliability and durability can be established for continuous emission monitors . . . .'' [10] Accordingly, the agency proposed to amend 40 CFR part 51 by adding a new requirement that would ''require States to revise their implementation plans to require sources to install monitoring instruments and to report the resulting data to the appropriate State Agency.'' [11]

In choosing the types of sources and pollutants listed in Appendix P and, thus, subject to the proposed minimum requirements for continuous emission monitoring specified for SIPs, the EPA selected four source categories that would be covered by continuous emission monitoring requirements and performance testing methods simultaneously proposed under NSPS regulations pursuant to section 111 of the CAA (*i.e.,* under Part 60).[12] The EPA even noted in the Appendix P proposal that the SIP rulemaking was very closely connected with the NSPS rulemaking. The EPA urged states and other affected parties to consider the companion NSPS proposal as part of the Appendix P proposal and to direct comments to the relevant portions of both proposals.[13]

In 1975, the EPA promulgated Appendix P on the same day it promulgated the NSPS monitoring and performance requirements under 40 CFR part 60.[14] In the final amendments to 40 CFR part 51, the EPA expanded 40 CFR 51.19 (now 40 CFR 51.214) to require states to revise their SIPs to include legally enforceable procedures requiring certain specified categories of existing stationary sources to monitor emissions on a continuous basis. The agency explained that requiring ''a sound program of continuous emission monitoring and reporting'' would more fully implement CAA sections 110(a)(2)(F)(ii) and (iii).[15]

Section 51.19(e)(4) (now § 51.214(e)) in 40 CFR specifies such procedures to require the source owner or operator to submit information relating to emissions and operation of the emission monitors to the state to the extent described in Appendix P as frequently as or more frequently than described therein.[16] With respect to reporting requirements, Appendix P specifies under paragraph 4.1 that the SIP ''shall require owners or operators of facilities required to install continuous monitoring systems to submit a written report of excess emissions for each calendar quarter and the nature and cause of the excess emissions, if known.'' [17] At the time of promulgation in 1975, this specification in Appendix P of quarterly reporting as the minimum frequency was by design aligned with the quarterly reporting frequency generally specified for new sources under Part 60. This ''report of excess emissions,'' like the corollary ''excess emissions and monitoring systems performance report'' specified under 40 CFR part 60 (*see* § 60.7(c)), should be submitted by the owner or operator whether or not excess emissions occurred within the reporting period (*see* Appendix P, paragraph 4.5).

Each state is required to include all of the Appendix P-specified requirements in its SIP, including the monitoring requirements listed in Appendix P under section 1.1, ''Applicability,'' for sources specified under Appendix P at a minimum.[18] However, section 1.2, ''Exemptions,'' provides that a state may exempt certain sources from applicability of those monitoring requirements. When proposing in 1974 to amend the 40 CFR part 51 regulations

[6] ''Air Quality Implementation Plans; Restructuring SIP Preparation Regulations; Final rule,'' 51 FR 40656 (November 7, 1986). The changes to cross-references in Appendix P and Appendix S are described at 40675.

[7] ''Requirements for the Preparation, Adoption and Submittal of Implementation Plans: Emission Monitoring of Stationary Sources; Proposed rules,'' 39 FR 32871 (September 11, 1974). *See* 32871/3.

[8] *Id.*

[9] *Id.*

[10] *Id.*

[11] *Id.*

[12] 39 FR 32871 at 32872; *see also* ''Standards of Performance for New Stationary Sources: Emission Monitoring Requirements and Performance Testing Methods; Proposed rules,'' 39 FR 32852 (September 11, 1974).

[13] 39 FR 32871 at 32872/2.

[14] ''Part 60—Standards of Performance for New Stationary Sources,'' 40 FR 46250 (October 6, 1975).

[15] ''Part 51—Requirements for the Preparation, Adoption and Submittal of Implementation Plans: Emission Monitoring of Stationary Sources,'' 40 FR 46240 (October 6, 1975).

[16] 40 FR 46240 at 46247/2.

[17] *Id.* at 46249/1.

[18] *Id.* at 46246/3.

to include minimum requirements for continuous emission monitoring, the EPA noted that the 40 CFR part 51 amendments were not intended to necessarily apply to new sources, since the 40 CFR part 60 (NSPS) requirements would apply to those new sources.[19] Therefore, in accordance with Appendix P, paragraph 1.2.1, a state may choose to include in its SIP a provision to grant an exemption from the Appendix P-specified monitoring requirements for a source that is subject to an NSPS promulgated in 40 CFR part 60. Similarly, in accordance with paragraph 1.2.2, a state may choose to include in its SIP a provision to grant an exemption for a source that is not subject to an applicable emission standard of the approved SIP. As the EPA clarified in the 40 CFR part 51 amendments, Appendix P-specified continuous emission monitors ''are not required for sources unless such sources are subject to an applicable emission limitation of an approved SIP.'' [20] In addition, in accordance with paragraph 1.2.3, a state was allowed to include in its SIP a provision granting an exemption for certain affected sources that were scheduled for retirement within 5 years after inclusion of the Appendix P monitoring requirements in its SIP.

IV. Rationale for Updating Appendix P

A. Proposed Action Comports With the EPA's Burden Reduction Rule of 1999

As of 1975, when the continuous emission monitoring specifications for SIPs under 40 CFR part 51 and for NSPS under 40 CFR part 60 were promulgated, sources affected under either set of regulations were required to submit continuous emission monitor reports of their excess emissions and other information on a quarterly basis. Over the next many years, the EPA expanded the types of sources to be regulated pursuant to CAA sections 111 (for NSPS) and 112 (for NESHAP), and those later regulations (*e.g.,* NSPS under 40 CFR part 60 and NESHAP under 40 CFR parts 61 and 63) increasingly allowed sources to submit such reports on a less frequent basis, semiannually or in some cases even annually. In the agency's experience, semiannual reporting provides sufficiently timely information to ensure compliance and enable adequate enforcement of applicable requirements, while imposing less burden on the affected industry than would quarterly reporting. Thus, in 1999, the EPA promulgated a Burden Reduction Rule,[21] which, among other revisions, revised the NSPS reporting frequency, with a few exceptions,[22] to semiannually for nearly all source categories. As a result, the reporting frequency requirements under NSPS regulations, including for the four Appendix P source categories, no longer aligned with the reporting requirements specified in Appendix P.

As rationale for the Burden Reduction Rule, the EPA noted at proposal that its most recent NSPS and NESHAP had moved almost exclusively to semiannual reporting as a standard approach.[23] Thus, also in the General Provisions for 40 CFR parts 60, 61, and 63, the Burden Reduction Rule changed the reporting frequency requirements, to conform them to recently promulgated NSPS and NESHAP regulations. The EPA estimated a 20-percent reduction in reporting burden on sources under a typical rule.[24]

As noted by the EPA in the Burden Reduction Rule,[25] and as recognized in Section II.A of this document, the EPA's regulations for title V operating permits also specify semiannual reporting by sources.[26]

B. States Urge the EPA To Reduce Reporting Frequency for Appendix P Source Categories

With this proposed rulemaking, the EPA is seeking to reasonably resolve a longstanding inconsistency in its reporting requirements for certain categories of sources between (i) those specified as the minimum for Appendix P source categories in the SIP context (under 40 CFR part 51) and (ii) those prescribed for similar sources through NSPS (under part 60) or NESHAP (under 40 CFR parts 61 and 63). The EPA acknowledges that two states in particular, South Carolina and Tennessee, have been urging the EPA to amend the Appendix P specification for reporting frequency. South Carolina and Tennessee each have sources among the Appendix P source categories that cannot be exempted from the Appendix P-specified monitoring requirements under any of the exemptions available under Appendix P section 1.2 (Exemptions). While such sources are subject to SIP emission limitations, they are not subject to any NSPS because they commenced operation before the applicability dates of those standards. States have argued that the rationale on which the EPA has relied to decrease the minimum reporting frequency over time for sources regulated under NSPS, for example, is the same rationale on which the EPA should rely to decrease the minimum reporting frequency that Appendix P specifies for 40 CFR part 51 sources. Materials submitted by South Carolina and Tennessee, including their general arguments in support of—and in advance of—such action, are available in the docket for this rulemaking. The EPA is including those materials in the docket because they serve to illustrate how the proposed amendments to Appendix P might manifest in a SIP.

V. Environmental Justice Considerations

A change in the specified minimum frequency with which affected sources must submit continuous monitoring system data reports, as a result of the proposed revisions to Appendix P, is not expected to result in any change in the pollutant emissions from any of the affected sources. Therefore, the EPA believes that this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations.

VI. Statutory and Executive Order Reviews

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

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

[19] 39 FR 32871 at 32872/2.

[20] 40 FR 46240 at 46246/2.

[21] ''Recordkeeping and Reporting Burden Reduction, Final amendments,'' 64 FR 7457 (February 12, 1999).

[22] For most source categories, the reporting requirements under NSPS and NESHAP General Provisions apply. However, a minority of the NSPS regulations do not adopt by reference the Part 60 General Provisions for reporting requirements, instead explicitly specifying requirements for the affected source category. Certain reporting requirements, for particular pollutants and particular source categories, were not revised in the Burden Reduction Rule. For example, for those electric utility steam generating units subject to NSPS subpart Da (which also fall under Appendix P's ''fossil fuel-fired steam generators'' source category), the regulation continues even today to require that opacity levels in excess of the applicable opacity standard and the date of such excesses are to be submitted (reported) to the Administrator each calendar quarter; *see* 40 CFR 60.51Da(i).

[23] ''Recordkeeping and Reporting Burden Reduction; Proposed revisions to rules and notice of public hearing,'' 61 FR 47840 (September 11, 1996). *See* 61 FR 47844/2.

[24] *Id.*

[25] 64 FR 7457 at 7458/3.

[26] The title V permit shall require submittal of reports of any required monitoring at least every 6 months, and all instances of deviations from permit requirements must be clearly identified in such reports. *See* 40 CFR 70.6(a)(3)(iii)(A) and 40 CFR 71.6(a)(3)(iii)(A).

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

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

C. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule have been submitted for approval to the OMB under the PRA. The ICR document that the EPA prepared has been assigned EPA ICR number 2590.01. You can find a copy of the ICR in the docket for this proposed rule, and it is briefly summarized here.

The EPA is proposing to update a regulation, Appendix P to 40 CFR part 51, that specifies what SIPs must require of sources among four categories with respect to continuous emission monitoring, recording, and reporting. In particular, the proposed amendments to Appendix P would generally relax a ''minimum reporting frequency'' specification for SIPs from quarterly to semiannually. The subject rule would revise only the minimum requirement, and so the rule does not require that any state change the actual reporting frequency requirement in its SIP that applies to Appendix P sources. Therefore, to comply with the subject rule's requirements, each state may choose to prepare and submit a SIP revision but is not required to do so, and so the information collection activities in this proposed rule are voluntary for the states as respondents. The EPA has determined that the requested information collection (SIP submissions) would not include any confidential information. In accordance with 40 CFR 51.116, ''Data availability,'' each state must retain and make available for public inspection all detailed data and calculations used in the preparation of its SIP and SIP revisions. The EPA has the responsibility and statutory authority under CAA section 110(a) to assure that the states, through their SIPs, meet the requirements of the CAA. The regulatory burden under the information collection is attributed to states' preparation and submission of SIP revisions, a type of reporting burden. For purposes of estimating the paperwork burden, the EPA assumes that each of 56 entities, including states, the District of Columbia, and U.S. territories, would make a single SIP submission that includes an Appendix P-related provision within 3 years after the effective date of the rule, corresponding to the requested 3-year collection period. There are no capital costs or operation and maintenance costs attributed to the proposed rule.

Respondents/affected entities: All states.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 56.

Frequency of response: One-time.

Total estimated burden: 3,080 hours per year (or 55 hours per respondent per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $191,200 per year (or $3,414 per respondent per year), with no capital cost and no operation and maintenance cost.

The derivation of these estimates is described in greater detail in the Supporting Statement for the initial, rule-related ICR for ''Revisions to Appendix P to 40 CFR part 51'' that is included in the docket for this rulemaking.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *OIRA_submission@omb.eop.gov,* Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than March 23, 2020. The EPA will respond to any ICR-related comments in the final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. Any agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to this rule. This action will not impose any requirements on small entities. Instead, this action leaves to each state the choice as to whether to reflect in its SIP a reduction in minimum reporting frequency specified for certain categories of stationary sources regulated under the CAA.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications as specified in Executive Order 13175. It would not have a substantial direct effect on one or more Indian tribes, since no tribe has to develop a TIP under these regulatory revisions. Furthermore, these regulation revisions do not affect the relationship or distribution of power and responsibilities between the federal government and Indian tribes. The CAA and the Tribal Air Rule establish the relationship of the federal government and tribes in developing plans to attain the NAAQS, and these revisions to the regulations do nothing to modify that relationship. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because the reduction in minimum reporting frequency specified for certain categories of sources regulated under the CAA will have no effect on any obligation to comply with emission limitations in SIPs, and so it does not concern an environmental health risk or safety risk.

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

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. This action merely allows states the option to reflect in their SIPs a reduction in minimum reporting frequency specified for certain categories of stationary sources regulated under the CAA.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous populations as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

This action merely allows states the option to reflect in their SIPs a reduction in minimum reporting frequency specified for certain categories of stationary sources regulated under the CAA, which will have no effect on any obligation to comply with emission limitations in SIPs.

VII. Statutory Authority

The statutory authority for this action is provided by CAA section 101 *et seq.* (42 U.S.C. 7401 *et seq.*).

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Nitrogen oxides, Opacity, Ozone, Reporting and recordkeeping requirements, Sulfur dioxide, Sulfur oxides, Transportation, Volatile organic compounds.

Dated: February 7, 2020.

Andrew R. Wheeler,

Administrator.

For the reasons stated in the preamble, 40 CFR part 51 is proposed to be amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

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

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

APPENDIX P TO PART 51—MINIMUM EMISSION MONITORING REQUIREMENTS—[AMENDED]

■ 2. In appendix P to part 51:

■ a. Paragraph 1.0 is amended by removing the reference to ''40 CFR 51.165(b).'' and adding in its place a reference to ''40 CFR 51.214.'';

■ b. Paragraph 4.1 is amended by removing the words ''each calendar quarter'' and adding in their place the words ''twice per year at 6-month intervals'';

■ c. Paragraph 4.6 is amended by removing the words ''in the quarterly summaries, and'' and adding in their place the words ''as specified in paragraph 4.1 of this appendix and'';

■ d. Paragraph 5.2.3 is amended by removing the words ''quarterly summary.'' and adding in their place the words ''reports submitted as specified in paragraph 4.1 of this appendix.'';

■ e. Paragraph 5.3.3 is amended by removing the words ''quarterly summary.'' and adding in their place the words ''reports submitted as specified in paragraph 4.1 of this appendix.''

[FR Doc. 2020–03154 Filed 2–20–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2018–0634; FRL–10005–33–Region 5]

Air Plan Approval; Indiana; Revisions to NO_X SIP Call and CAIR Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve under the Clean Air Act (CAA) a request from the Indiana Department of Environmental Management to revise the Indiana State Implementation Plan (SIP) to incorporate the following: A new rule concerning nitrogen oxide (NO_X) emissions for the ozone season from Electric Generating Units (EGUs) and large non-EGUs; revisions concerning NO_X emission rate limits for specific source categories; the repeal of the NO_X Budget Trading Program; and the repeal of the Clean Air Interstate Rule NO_X ozone season trading program. This SIP revision would ensure continued compliance by EGUs and large non-EGUs with the requirements of the NO_X SIP Call.

DATES: Comments must be received on or before March 23, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2018–0634 at *http://www.regulations.gov* or via email to *arra.sarah@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Eric Svingen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4489, *svingen.eric@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives such comments, the direct final rule will be withdrawn and all public comments received will be addressed in

a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: January 30, 2020.

Kurt A. Thiede,

Regional Administrator, Region 5.

[FR Doc. 2020–02818 Filed 2–20–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 320

[EPA–HQ–OLEM–2019–0086; FRL–10005–53–OLEM]

RIN 2050–AH05

Financial Responsibility Requirements Under CERCLA Section 108(b) for Facilities in the Chemical Manufacturing Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is proposing to not impose financial responsibility requirements for facilities in the Chemical Manufacturing industry under Section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Section 108(b) addresses the promulgation of regulations that require classes of facilities to establish and maintain evidence of financial responsibility consistent with the degree and duration of risk associated with the production, transportation, treatment, storage, or disposal of hazardous substances.

DATES: Comments must be received on or before April 21, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–2019–0086, at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: For more information on this document, contact Charlotte Mooney, U.S. Environmental Protection Agency, Office of Resource Conservation and Recovery, Mail Code 5303P, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone (703) 308–7025 or (email) *mooney.charlotte@epa.gov.*

SUPPLEMENTARY INFORMATION:

How can I get copies of this document and other related information?

This **Federal Register** proposed rule and supporting documentation are available in a docket EPA has established for this action under Docket ID No. EPA–HQ–OLEM–2019–0086. All documents in the docket are listed in the *http://www.regulations.gov* index. 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, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at EPA/DC, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (202) 566–0276. 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.

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I. Executive Summary

A. Overview

Section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) directs EPA to develop regulations that require classes of

facilities to establish and maintain evidence of financial responsibility consistent with the degree and duration of risk associated with the production, transportation, treatment, storage, or disposal of hazardous substances. The statute further requires that the level of financial responsibility be established to protect against the level of risk that the President, in his discretion, believes is appropriate, based on factors including the payment experience of the Hazardous Substance Superfund (Fund). The President's authority under this section for non-transportation-related facilities has been delegated to the EPA Administrator.

This proposal is based on EPA's interpretation of the statute and analysis of its record developed for this rulemaking.[1] EPA has analyzed the need for financial responsibility based on risk of taxpayer funded cleanups at facilities in the Chemical Manufacturing Industry operating under modern management practices and modern environmental regulations, *i.e.,* the type of facilities to which financial responsibility regulations would apply.

That risk is identified by examining the management of hazardous substances at such facilities, as well as by examining Federal and state regulatory controls on that management and Federal and state financial responsibility requirements.

Based on that examination, EPA is proposing that, in the context of CERCLA section 108(b), the degree and duration of risk associated with the modern production, transportation, treatment, storage or disposal of hazardous substances by the Chemical Manufacturing Industry does not present a level of risk of taxpayer funded response actions that warrant imposition of financial responsibility requirements for this sector.

In August 2014, the Idaho Conservation League, Earthworks, Sierra Club, Amigos Bravos, Great Basin Resource Watch, and Communities for a Better Environment filed a lawsuit in the U.S. Court of Appeals for the District of Columbia Circuit, seeking a writ of mandamus requiring issuance of CERCLA Section 108(b) financial responsibility rules for the hardrock mining industry, and for the three additional industries identified by EPA in the 2010 Advance Notice of Proposed Rulemaking (ANPRM),[2] that is, Chemical Manufacturing; Petroleum and Coal Products Manufacturing; and Electric Power Generation, Transmission, and Distribution. Following oral arguments, EPA and the petitioners submitted a Joint Motion for an order on Consent, filed on August 31, 2015, which included a schedule for further administrative proceedings under CERCLA Section 108(b). The court order granting the motion was issued on January 29, 2016. A copy of the order can be found in the docket for this rulemaking.

In addition to requiring EPA to publish a proposed rule on hardrock mining financial requirements by December 1, 2016, the January 2016 order required EPA to sign for publication in the **Federal Register** a determination whether EPA will issue a notice of proposed rulemaking on financial assurance requirements under Section 108(b) in the (a) chemical manufacturing industry; (b) petroleum and coal products manufacturing industry; and (c) electric power generation, transmission, and distribution industry by December 1, 2016. EPA signed the required determination on December 1, 2016; the notice was published on January 11, 2017[3] and announced EPA's intent to proceed with rulemakings for all three of the classes.

B. Purpose of This Action

The purpose of this action is to propose that financial responsibility requirements under CERCLA Section 108(b) at facilities in the Chemical Manufacturing industry are not necessary and to solicit comments on this proposal. EPA has reached this conclusion based on the analyses described in Parts VI and VII of this proposal. The evidence provided in these analyses contributed to EPA's proposed finding that the degree and duration of risk posed by the Chemical Manufacturing industry does not warrant financial responsibility requirements under CERCLA Section 108(b).

The analysis and proposed finding in this proposal are not applicable to and do not affect, limit, or restrict EPA's authority (1) to take a response action or enforcement action under CERCLA with respect to any facility in the Chemical Manufacturing industry, including any currently operating facilities or those described in this proposal and in the background documents for this proposal, and (2) to include requirements for financial responsibility as part of such response action. The set of facts in the rulemaking record related to the individual facilities discussed in this proposed rulemaking support the Agency's proposal not to issue financial responsibility requirements under Section 108(b) for this class. At the same time, a different set of facts could demonstrate a need for a CERCLA response action at an individual site. This proposed rulemaking also does not affect the Agency's authority under other authorities that may apply to individual facilities, such as the Clean Air Act (CAA), the Clean Water Act (CWA), the Resource Conservation and Recovery Act (RCRA), and the Toxic Substances Control Act (TSCA).

C. Summary of the Major Provisions of the Regulatory Action

EPA is proposing to not require evidence of financial responsibility under CERCLA Section 108(b) at facilities in the Chemical Manufacturing industry. Thus, there are no proposed regulatory provisions associated with this action.

D. Costs and Benefits of the Regulatory Action

EPA is proposing to not require evidence of financial responsibility under CERCLA Section 108(b) at facilities in the Chemical Manufacturing industry. EPA, therefore, has not conducted a Regulatory Impact Analysis for this action.

II. Authority

This proposed rule is issued under the authority of Sections 101, 104, 108 and 115 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C 9601, 9604, 9608 and 9615, and Executive Order 12580 (52 FR 2923, January 29, 1987).

III. Background Information

A. Overview of Section 108(b) and Other CERCLA Provisions

CERCLA, as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), establishes a comprehensive environmental response and cleanup program. Generally, CERCLA authorizes EPA[4] to undertake removal or remedial actions in response to any release or threatened release into the environment of ''hazardous substances'' or, in some circumstances, any other ''pollutant or

[1] EPA's interpretation of the statute was upheld by the D.C. Circuit in *Idaho Conservation League* v. *Wheeler,* No. 18–1141, slip op. at 9–12 (D.C. Cir. July 19, 2019).

[2] 75 FR 816 (Jan. 6, 2010).

[3] 82 FR 3512 (Jan. 11, 2017).

[4] Although Congress conferred the authority for administering CERCLA on the President, most of that authority has since been delegated to EPA. *See* Exec. Order No. 12580, 52 FR 2923 (Jan. 23, 1987). The executive order also delegates to other Federal agencies specified CERCLA response authorities at certain facilities under those agencies' ''jurisdiction, custody or control.''

contaminant.'' As defined in CERCLA Section 101, removal actions include actions to ''prevent, minimize, or mitigate damage to the public health or welfare or to the environment,'' and remedial actions are ''actions consistent with [a] permanent remedy[.]'' Remedial and removal actions are jointly referred to as ''response actions.'' CERCLA Section 111 authorizes the use of the Hazardous Substance Superfund established under title 26, United States Code, to finance response actions undertaken by EPA. In addition, CERCLA Section 106 gives EPA [5] authority to compel action by liable parties in response to a release or threatened release of a hazardous substance that may pose an ''imminent and substantial endangerment'' to public health or welfare or the environment.

CERCLA Section 107 imposes liability for response costs on a variety of parties, including certain past owners and operators, current owners and operators, and certain generators, arrangers, and transporters of hazardous substances. Such parties are liable for certain costs and damages, including all costs of removal or remedial action incurred by the Federal Government, so long as the costs incurred are ''not inconsistent with the national contingency plan'' (the National Oil and Hazardous Substances Pollution Contingency Plan or NCP).[6] Section 107 also imposes liability for natural resource damages and health assessment costs.[7]

Section 108(b) establishes authority to require owners and operators of classes of facilities to establish and maintain evidence of financial responsibility. Section 108(b)(1) directs EPA to develop regulations requiring owners and operators of facilities to establish evidence of financial responsibility ''consistent with the degree and duration of risk associated with the production, transportation, treatment, storage, or disposal of hazardous substances.'' In turn, Section 108(b)(2) directs that the level of financial responsibility shall be initially established, and, when necessary, adjusted to protect against the level of risk that EPA in its discretion believes is appropriate based on the payment experience of the Fund, commercial insurers, court settlements and judgments, and voluntary claims satisfaction. Section 108(b)(2) does not, however, preclude EPA from considering other factors in addition to those specifically listed. The statute prohibited promulgation of such regulations before December 1985.

In addition, Section 108(b)(1) provides for publication within three years of the date of enactment of CERCLA of a ''priority notice'' identifying the classes of facilities for which EPA would first develop financial responsibility requirements. It also directs that priority in the development of requirements shall be accorded to those classes of facilities, owners, and operators that present the highest level of risk of injury.

B. History of Section 108(b) Rulemakings

1. 2009 Identification of Priority Classes of Facilities for Development of CERCLA Section 108(b) Financial Responsibility Requirements

On March 11, 2008, Sierra Club, Great Basin Resource Watch, Amigos Bravos, and Idaho Conservation League filed suit in the U.S. District Court for the Northern District of California against then EPA Administrator Stephen Johnson and then Secretary of the U.S. Department of Transportation Mary E. Peters. *Sierra Club, et al.* v. *Johnson,* No. 08–01409 (N. D. Cal.). On February 25, 2009, that court ordered EPA to publish the Priority Notice required by CERCLA Section 108(b)(1) later that year. The 2009 Priority Notice and supporting documentation presented the Agency's conclusion that hardrock mining facilities would be the first class of facilities for which EPA would issue CERCLA Section 108(b) requirements.[8] Additionally, the 2009 Priority Notice stated EPA's view that classes of facilities outside of the hardrock mining industry may warrant the development of financial responsibility requirements.[9] The Agency committed to gather and analyze data on additional classes of facilities and to consider them for possible regulation. The court later dismissed the remaining claims.

2. Additional Classes 2010 Advance Notice of Proposed Rulemaking

On January 6, 2010, EPA published an Advance Notice of Proposed Rulemaking (ANPRM),[10] in which the Agency identified three additional industrial sectors for the development, as necessary, of proposed Section 108(b) regulation. To develop the list of additional classes for the 2010 ANPRM, EPA used information from the CERCLA National Priorities List (NPL) and analyzed data from the RCRA Biennial Report (BR) and the Toxics Release Inventory (TRI).

EPA specifically requested public comment in the 2010 ANPRM on whether to propose a regulation under CERCLA Section 108(b) for each of the three industries, or any class or classes within those industries, including information demonstrating why such financial responsibility requirements would or would not be appropriate for those particular classes. In addition, the Agency requested information related to the industry categories discussed in the ANPRM, including data on facility operations, information on past and expected future environmental response actions, use of financial responsibility mechanisms by the industry categories, existing financial responsibility requirements, and other information the Agency might consider in setting financial responsibility levels. Finally, EPA requested information from the insurance and financial sectors related to instrument availability and implementation, and to potential instrument conditions.[11] Comments received on the ANPRM are summarized in the Additional Classes 2017 Notice of Intent to Proceed with Rulemakings, section III.B.4 below.

3. 2014 Petition for Writ of Mandamus

In August 2014, the Idaho Conservation League, Earthworks, Sierra Club, Amigos Bravos, Great Basin Resource Watch, and Communities for a Better Environment filed a new lawsuit in the U.S. Court of Appeals for the District of Columbia Circuit, seeking a writ of mandamus requiring issuance of CERCLA Section 108(b) financial assurance rules for the hardrock mining industry and for three other industries: Chemical manufacturing; petroleum and coal products manufacturing; and electric power generation, transmission, and distribution. Thirteen companies and organizations representing business interests in the hardrock mining and other sectors sought to intervene in the case.

Following oral argument, the court issued an order in May 2015 requiring the parties to submit, among other things, supplemental submissions addressing a schedule for further administrative proceedings under CERCLA Section 108(b). Petitioners and EPA requested an order from the court with a schedule calling for the Agency to sign a proposed rule for the hardrock mining industry by December 1, 2016, and a final rule by December 1, 2017. The joint motion also included a

[5] CERCLA Sections 106 authority is also delegated to other Federal agencies in certain circumstances. *See* Exec. Order No. 13016, 61 FR 45871 (Aug. 28, 1996).

[6] CERCLA Section 107 (a)(4)(A).

[7] CERCLA Section 107 (a)(4)(C)–(D).

[8] 74 FR 37214 (July 28, 2009).

[9] Id. at 37218.

[10] 75 FR 816 (Jan. 6, 2010).

[11] 75 FR 816, 830–831 (Jan. 6, 2010).

requested schedule for the additional industry classes, which called for EPA to sign by December 1, 2016, a determination on whether EPA would issue a notice of proposed rulemaking for classes of facilities in any or all of the other industries, and a schedule for proposed and final rules for the additional industry classes as follows:

EPA will sign for publication in the **Federal Register** a notice of proposed rulemaking in the first additional industry by July 2, 2019, and sign for publication in the **Federal Register** a notice of its final action by December 2, 2020.

EPA will sign for publication in the **Federal Register** a notice of proposed rulemaking in the second additional industry by December 4, 2019, and sign for publication in the **Federal Register** a notice of its final action by December 1, 2021.

EPA will sign for publication in the **Federal Register** a notice of proposed rulemaking in the third additional industry by December 1, 2022, and sign for publication in the **Federal Register** a notice of its final action by December 4, 2024.[12]

While the joint motion identified the three additional industries as the Chemical Manufacturing industry, the Petroleum and Coal Products Manufacturing industry, and the Electric Power Generation, Transmission and Distribution industry, and set a rulemaking schedule, the motion did not indicate which industry would be the first, second or third. The Joint Motion specified that it did not alter the Agency's discretion as provided by CERCLA and administrative law.[13]

On January 29, 2016, the court granted the joint motion and issued an order that mirrored the submitted schedule in substance. The order did not mandate any specific outcome of the rulemakings.[14] The court order can be found in the docket for this rulemaking. The signing of this proposed rule by December 1, 2022, will satisfy one component of the court order.

4. Additional Classes 2017 Notice of Intent To Proceed With Rulemakings

Consistent with the January 2016 court order, EPA signed on December 1, 2016, a determination regarding rulemakings for the additional classes—a Notice of Intent to Proceed with Rulemakings for all three of the classes. The notice was published in the **Federal Register** on January 11, 2017.[15]

The notice formally announced EPA's intention to move forward with the regulatory process and to publish a notice of proposed rulemaking for classes of facilities within the three industries identified in the 2010 ANPRM. The announcement in the notice was not a determination that requirements were necessary for any or all of the classes of facilities within the three industries, or that EPA would propose such requirements. In addition, the notice gave an overview of some of the comments received on the 2010 ANPRM and initial responses to those comments. The comments on the ANPRM which specifically addressed the need for CERCLA Section 108(b) regulation for the three additional classes fell into four categories: (1) Other laws with which the industry complies that obviate the need for CERCLA Section 108(b) regulation; (2) the sources of data that EPA used to select the industries; (3) past versus current practices within each industry; and (4) the overall need for financial responsibility for each industry. In discussing the ANPRM comments in the 2017 notice, the Agency stated its intent to use other, more industry-specific and more current sources of data to identify risk; to consider site factors that reduce risks, including those that result from compliance with other regulatory requirements; and to develop a regulatory proposal for each rulemaking.

At the time of the 2017 notice, EPA had not identified sufficient evidence to determine that the rulemaking process was not warranted, nor had EPA identified sufficient evidence to establish CERCLA Section 108(b) requirements. The notice described a process to gather and analyze additional information to support the Agency's ultimate decision, including further evaluation of the classes of facilities within the three industry sectors. The notice stated that EPA would decide whether proposing requirements was necessary and, accordingly, that EPA would propose appropriate requirements or would propose not to impose requirements.

5. CERCLA Section 108(b) Proposal for Facilities in the Electric Power Generation, Transmission, and Distribution Industry

On July 29, 2019, EPA published a notice of proposed rulemaking on the first of the three additional industries. In that notice, the Agency proposed to not impose financial responsibility requirements for the Electric Power Generation, Transmission, and Distribution industry and described the analyses and results that were used to reach that decision. The court's January 2016 order requires that a final action on the first additional industry be signed by December 2, 2020.[16]

IV. Statutory Interpretation

CERCLA Section 108(b) provides general instructions on how to determine what financial responsibility requirements to impose for a particular class of facility. Section 108(b)(1) directs EPA to develop regulations requiring owners and operators of facilities to establish evidence of financial responsibility ''consistent with the degree and duration of risk associated with the production, transportation, treatment, storage, or disposal of hazardous substances.'' Section 108(b)(2) directs that the ''level of financial responsibility shall be initially established and, when necessary, adjusted to protect against the level of risk'' that EPA ''believes is appropriate based on the payment experience of the Fund, commercial insurers, courts settlements and judgments, and voluntary claims satisfaction.'' EPA interprets the risk to be addressed by financial assurance under Section 108(b) to be the risk of the need for taxpayer financed response actions. Read together, the statutory language on determining the degree and duration of risk and on setting the level of financial responsibility confers a significant amount of discretion on EPA.

Section 108(b)(1) directs EPA to evaluate risk from a selected class of facilities, but it does not suggest that a precise calculation of risk is either necessary or feasible. Although the cost of response associated with a particular site can be ascertained only once a response action is required, any financial responsibility requirements imposed under Section 108(b) would be imposed before any such response action was identified. The statute thus necessarily confers on EPA wide latitude to determine, in a Section 108(b) rulemaking proceeding, what

[12] *In Re: Idaho Conservation League,* No. 14–1149 (D.C. Cir. Jan. 29, 2016) (order granting joint motion).

[13] *See* Joint Motion at 6 (''Nothing in this Joint Motion should be construed to limit or modify the discretion accorded EPA by CERCLA or the general principles of administrative law.'')

[14] In granting the Joint Motion, the court expressly stated that its order ''merely requires that EPA conduct a rulemaking and then decide whether to promulgate a new rule—the content of which is not in any way dictated by the [order].'' *In re Idaho Conservation League,* at 17 (quoting *Defenders of Wildlife* v. *Perciasepe,* 714 F.3d 1317, 1324 (D.C. Cir. 2013).

[15] 82 FR 3512 (Jan. 11, 2017).

[16] 84 FR 36535 (Jul. 29, 2019).

degree and duration of risk are presented by the identified class.

Section 108(b)(2) in turn directs that EPA establish the level of financial responsibility that EPA in its discretion believes is appropriate to protect against the risk. This statutory direction does not specify a methodology for the evaluation. Rather, this decision is committed to the discretion of the EPA Administrator. While the statute provides a list of information sources on which EPA is to base its decision—the payment experience of the Superfund, commercial insurers, courts settlements and judgments, and voluntary claims satisfaction—the statute does not indicate that this list of factors is exclusive, nor does it specify how the information from these sources is to be used, such as by indicating how these categories are to be weighted relative to one another.

EPA believes that sections 108(b)(1) and (b)(2) are sufficiently interrelated that it is appropriate to evaluate the degree and duration of risk under subsection (b)(1) by considering the factors enumerated in subsection (b)(2). EPA therefore concludes that Congress intended the risk associated with a particular class of facilities to mean the risk of future Fund-financed cleanup actions in that industry. This reading is supported by the structure of the statute, as Section 108(b) appears between two provisions related to cost recovery. Section 108(a), concerning financial assurance requirements for certain vessels, refers specifically to cleanup costs. And Section 108(c), concerning recovery of costs from guarantors who provide the financial responsibility instruments, refers specifically to liability for cleanup costs. EPA thus reads ''risk'' in Section 108(b) consistent with its meaning in sections 108(a) and (c); that is, the risk of Fund-financed cleanup. EPA adopted this interpretation in assessing the need for financial responsibility requirements under CERCLA Section 108(b) for facilities in the first class of facilities it evaluated: The Hardrock Mining industry.[17] In its opinion deciding the challenge to the Final Action for the Hardrock Mining industry, the U.S. Court of Appeals for the District of Columbia Circuit held that EPA's interpretation that the provisions of Section 108(b) ''relate only to ensuring against financial risks associated with cleanup costs,'' is reasonable and entitled to deference.[18]

For the Chemical Manufacturing industry, EPA has investigated the payment history of the Fund, and enforcement settlements and judgments, to evaluate, in the context of this CERCLA Section 108(b) rulemaking, the risk of a Fund-financed response action at facilities that would be subject to CERCLA financial responsibility requirements. The statute also authorizes EPA to consider the existence of Federal and state regulatory requirements, including any financial responsibility requirements. Section 108(b)(1) directs EPA to promulgate financial responsibility requirements ''in addition to those under subtitle C of the Solid Waste Disposal Act and other Federal law.'' According to the 1980 Senate Report on legislation that was later enacted as CERCLA, Congress considered it appropriate for EPA to examine those additional requirements when evaluating the degree and duration of risk under what was later enacted as CERCLA Section 108(b):

> The bill requires also that facilities maintain evidence of financial responsibility consistent with the degree and duration of risks associated with the production, transportation, treatment, storage, and disposal of hazardous substances. These requirements are in addition to the financial responsibility requirements promulgated under the authority of Section 3004(6) of the Solid Waste Disposal Act. It is not the intention of the Committee that operators of facilities covered by Section 3004(6) of that Act be subject to two financial responsibility requirements for the same dangers.[19]

While the Senate Report mentions RCRA Section 3004(6) specifically, it is consistent with congressional intent for EPA to consider other potentially duplicative Federal financial responsibility requirements when examining the ''degree and duration of risk'' in the context of CERCLA Section 108(b) to determine whether and what financial responsibility requirements are appropriate. It is also consistent with congressional intent for EPA to consider state laws before imposing additional Federal financial responsibility requirements.

Consideration of state laws *before* developing financial responsibility regulations is consistent with CERCLA Section 114(d), which prevents states from imposing financial responsibility requirements for liability for releases of the same hazardous substances *after* a facility is regulated under Section 108 of CERCLA. Just as Congress intended to prevent states from imposing duplicative financial assurance requirements after EPA had acted to impose such requirements under Section 108, it is reasonable to also conclude that Congress did not mean for EPA to disrupt existing state programs that are successfully regulating industrial operations to minimize risk, including the risk of taxpayer liability for response actions under CERCLA, and that specifically include appropriate financial assurance requirements under state law. Reviews of both state programs and other Federal programs help to identify whether and at what level there is current risk that is appropriate to address under CERCLA Section 108.

EPA also believes that, when evaluating whether and at what level it is appropriate to require evidence of financial responsibility, EPA should examine information on Chemical Manufacturing facilities operating under modern conditions. In other words, EPA should assess the types of facilities to which any new financial responsibility regulations would apply. Financial responsibility requirements under Section 108(b) would not apply to legacy operations that are no longer operating. Rather, any requirements would apply to facilities that follow current industry practices and are subject to the modern regulatory framework (*i.e.,* the regulations currently in place that apply to this industry). These modern conditions include state and Federal regulatory requirements and financial responsibility requirements that currently apply to operating facilities. This reading of Section 108(b) is consistent with statements in the legislative history of the statute. The1980 Senate Report states that the legislative language that became Section 108(b) ''requires those engaged in businesses involving hazardous substances to maintain evidence of financial responsibility commensurate with the risk which they present.''[20] This approach is also consistent with the analysis that EPA undertook, in developing its Final Action on Financial Responsibility Requirements Under CERCLA Section 108(b) for Classes of Facilities in the Hardrock Mining Industry.[21] EPA's approach was recently upheld by the U.S. Court of Appeals for the District of Columbia Circuit.[22]

This statutory interpretation is reflected in today's proposal. Any financial responsibility requirements imposed under Section 108(b) would apply to currently operating facilities.

[17] 83 FR 7556, 7561–62 (Feb. 21, 2018).

[18] *Idaho Conservation League* v. *Wheeler,* No. 18–1141, slip op. at 12 (D.C. Cir. July 19, 2019).

[19] S. Rept. 96–848 (2d Sess, 96th Cong.), at 92.

[20] S. Rept. 96–848 (2d Sess, 96th Cong.), at 92.

[21] 83 FR 7556 (Feb. 21, 2018).

[22] *Idaho Conservation League* v. *Wheeler,* No. 18–1141 (D.C. Cir. July 19, 2019).

EPA thus sought to examine the extent to which hazardous substance management at currently operating Chemical Manufacturing facilities as a class continues to present risk. Moreover, the statutory direction to identify requirements consistent with identified risks guides EPA's interpretation that imposition of financial responsibility requirements under Section 108(b) would not be necessary for currently operating facilities that present minimal current risk of a Fund-financed response action. The interpretation in this proposal does not extend to any site-specific determinations of risk made in the context of individual CERCLA site responses. Those decisions will continue to be made in accordance with preexisting procedures.

EPA thus examined records of releases of hazardous substances from facilities operating under a current regulatory framework and data on the actions taken and expenditures incurred in response to such releases. The data collected do not reflect historical practices, many of which would be illegal under current environmental laws and regulations. Instead, EPA has considered current Federal and state regulation of hazardous substance production, transportation, treatment, storage, or disposal applicable to facilities in the Chemical Manufacturing industry.

V. Approach To Developing This Proposed Rule

Based on the statutory interpretation described above, EPA developed an analytical approach to determine whether the current risk under the modern regulatory framework within the Chemical Manufacturing industry rises to the level that warrants imposition of financial responsibility requirements under CERCLA Section 108(b). Specifically, EPA designed the analytical approach to determine the need for financial responsibility for this industry based on the degree and duration of risk of a Fund-financed response action associated with the industry's production, transportation, treatment, storage, or disposal of hazardous substances.

The approach, described in detail below, looks at risks by examining records of releases of hazardous substances from facilities in the industry in combination with the payment history of the Fund and enforcement settlements and judgments. To enable EPA to base its decision on risk posed by facilities operating under modern conditions, *i.e.,* the types of facilities to which financial responsibility requirements would apply, EPA developed an approach to identify and consider relevant state and Federal regulatory requirements and financial responsibility requirements that currently apply to operating facilities, as well as voluntary protective practices.

EPA sought to determine the level of risk of a Fund-financed response action at current Chemical Manufacturing operations. Relevant to this decision are requirements of existing regulatory programs and voluntary practices, including existing financial responsibility requirements, which can reduce costs to the taxpayer; EPA's experience with cleanups in the Chemical Manufacturing industry; and enforcement actions, which may reduce the need for Federally-financed response action at facilities in the Chemical Manufacturing industry.

As part of scoping the Chemical Manufacturing industry for this proposal, EPA sought to understand general characteristics of the industry that may be relevant to financial responsibility under Section 108(b). To do this, EPA compiled industry features, including the types of activities undertaken and wastes handled or produced. Additionally, EPA looked at the financial condition of the industry to assess the ability of facilities in this class to pay for any environmental obligations they may incur. Discussion of these aspects of the industry is included in section VI of this proposal.

Section VII.A describes EPA's evaluation of cleanup cases at facilities in the Chemical Manufacturing industry. So-called ''cleanup cases'' are sites in the Chemical Manufacturing industry where releases and cleanup actions occurred. To perform this evaluation EPA developed an analytic approach that considered cleanup cases to identify risk at currently operating facilities and where taxpayer funds were expended for response action. EPA first examined each site to determine the nature and timing of release. EPA used this information to determine if releases occurred under current regulations. As an initial screen, releases that occurred prior to 1980 were deemed to be legacy releases that occurred before the advent of the modern environmental regulatory framework and were therefore screened out of our analysis. Once EPA identified those sites with more recent releases occurring under a modern regulatory framework, EPA then focused on those response actions that were paid for by the taxpayer by looking at those sites with Fund-financed cleanup activity.

As described in section VII.B, to understand the modern regulatory framework applicable to currently operating facilities within the Chemical Manufacturing industry, EPA compiled applicable Federal and state regulations. Specifically, EPA looked to regulations that address the types of releases identified in the cleanup cases. This review also considered industry voluntary programs that could reduce risk of releases. EPA also identified financial responsibility regulations that apply to facilities in the Chemical Manufacturing industry in section VII.C, and compliance and enforcement history for the relevant regulations in section VII.D.

EPA considered payments from commercial insurers as well but determined that it was not necessary to conduct a detailed analysis of this potential information source in light of the analyses of cleanup cases and enforcement data. The cleanup cases and enforcement data, in addition to addressing the payment experience of the Fund, court settlements and judgments, and voluntary claims satisfaction, also encompasses amounts from commercial insurance payments. For example, at three of the Chemicals Manufacturing NPL sites identified and reviewed, EPA recovered funds from a commercial insurer that had issued a policy to a potentially responsible party (PRP) that was a liable party at all three sites. Furthermore, payments from commercial insurers may have helped finance the work conducted by PRPs in the cleanup cases identified or may have been included in settlements, judgments, or enforcement cases identified by EPA. However, in the event there were significant payments from commercial insurers associated with facilities in the Chemical Manufacturing industry that were not already indirectly captured, this information would neither indicate greater risk to the Fund nor suggest a need for financial responsibility requirements under CERCLA Section 108(b).

In considering how to structure its analysis and what data sources to examine, EPA reviewed prior analysis done for selection of industry classes in the 2010 ANPRM and public comments responding to EPA's approach. In the public comment period for the ANPRM, EPA received a total of 67 comments from 30 commenters on the Chemical Manufacturing industry, Petroleum and Coal Products Manufacturing industry, and the Electric Power Generation, Transmission, and Distribution industry. In addition, EPA received five comments to the Hardrock Mining Proposed Rule that were related to the additional classes of facilities.

EPA received comments from the American Chemistry Council and the Society of Chemical Manufacturers and Affiliates, among others. Commenters indicated that EPA should concentrate on current practices and not legacy contamination. Commenters also said that EPA should not impose financial responsibility requirements on facilities that are already subject to other Federal laws. Lastly, many commenters believe that EPA placed too much emphasis on TRI data and RCRA BR data and expressed their opinions that these data sources are not designed or intended to provide risk-based information.

In its 2017 Notice of Intent to Proceed with Rulemakings [23] EPA acknowledged limitations on information that can be gained from TRI and BR data and announced its intention to use industry-specific and current sources of data to identify risk for the purposes of the rulemakings. EPA also analyzed those limitations in the final action for the Hardrock Mining rule.[24] Accordingly, in the analysis conducted to assess risk in the Chemical Manufacturing industry for this action, EPA chose not to rely on TRI and BR data. While, at the time of the 2010 ANPRM, the Agency found those data sources appropriate for identifying classes of facilities to examine further, the Agency does not find the data sources valuable for assessing current risk of a Fund-financed response action in the industry.

VI. Chemical Manufacturing Industry Overview

A. Identification of Chemical Manufacturing Industry

For this proposal and the associated analyses, EPA reviewed facilities classified under the North American Industry Classification System (NAICS) code 325. The most recent available census data lists the size of the industry at 13,480 establishments nationally.[25] Chemical Manufacturing facilities transform raw materials (*e.g.,* oil, natural gas, water, minerals, metals) into tens of thousands of different products, including pigments, synthetic fibers, bulk chemicals, plastics, pharmaceuticals, and consumer goods, as well as produce inputs to agriculture, manufacturing, and construction industries.

B. Overview of Current Industry Operation

As discussed in the approach section, to provide a backdrop for its analyses, EPA reviewed, and characterizes here, the operation of the chemical manufacturing industry from a broad perspective. Operational and decommissioning practices in industrial sectors and their associated firms can ultimately affect the ability of individual firms to responsibly minimize their impact on human health and the environment. Commodity chemical manufacturers create products in large quantities under continuous processing conditions, generally in large volumes in response to homogenous specifications. Specialty-batch chemical manufacturers develop products for focused markets, making complex products in small quantities that are then processed into higher value-added products. These manufacturers change their process lines several times a year, providing more opportunities for environmental improvements but also making environmental compliance more complicated. To consider the potential for releases as part of its decision making, EPA prepared a high-level review of industry practices and the environmental profile of the Chemical Manufacturing industry, which includes a summary of relevant operational and decommissioning materials and wastes in a background document, which is available in the docket for this rulemaking.[26]

Potentially hazardous materials are frequently used in this industry. These materials can include a large variety of chemicals and compounds. The many different processes used in the Chemical Manufacturing industry result in many different wastes. Typical wastes from Chemical Manufacturing facilities can include, for example, spent solvents, distillation bottoms and side-cuts, off-specification and unused chemicals, wastewater, wastewater treatment sludge, emission control sludges, filter cake, spent catalysts, byproducts, reactor cleanout wastes, and container residues. Chemical Manufacturing facilities typically handle large volumes of chemicals using above and below ground bulk storage tanks, transfer equipment, process piping, and raw material/final product storage areas. Due to the nature of this industry, it is not surprising that it generates high volumes of hazardous waste.[27]

Some wastes may be found on site in surface impoundments, bulk storage tanks, waste piles, and disposal pits. All these areas may contribute to soil and groundwater contamination. Decommissioning wastes can include all the chemicals and substances listed above, as well as contaminated soil and building materials, sludges, neutralization liquids, and cleaning solvents. If such wastes are hazardous, then they must be managed in accordance with RCRA regulations.

Industry practices in certain subsectors of the Chemical Manufacturing industry, including All Other Basic Organic Chemical Manufacturing (325199), Other Basic Inorganic Chemical Manufacturing (325180), Cyclic Crude, Intermediate, and Gum and Wood Chemical Manufacturing (325194), and Synthetic Dye and Pigment Manufacturing (325130), use more hazardous substances and generate larger volumes of hazardous waste. Several sectors use fewer hazardous substances and generate lower amounts of hazardous waste, including Custom Compounding of Purchased Resins (325991), Printing Ink Manufacturing (325910), Polish and other Sanitation Good Manufacturing (325612), Phosphatic Fertilizer Manufacturing (325312), and Ethyl Alcohol Manufacturing (325193). Further information on industry practices is provided in the background document for this section, which is available in the docket for this rulemaking.[28]

Sites contaminated by the industry contain a wide variety of contaminants, including but not limited to toxic organics, such as benzene, polychlorinated biphenyls (PCBs), phenol, and volatile organic hydrocarbons (VOCs); chemical substances, such as benzo(b)fluoranthene, carbon tetrachloride, methyl methacrylate, methylene chloride, nitroglycerin, phosphoric acid, and sodium hypochlorite; and metals, such as arsenic, barium, cadmium, chromium, iron, lead, manganese, mercury, thorium, and zinc.

Facilities in the Chemical Manufacturing industry are subject to a wide range of environmental regulation and enforcement oversight as discussed in Sections VII.B and VII.D below, and have adopted voluntary practices that can be effective at reducing pollution, as discussed in Section VII C.

[23] 82 FR 3512 (Jan. 11, 2017).

[24] 83 FR 7570 (Feb. 21, 2018).

[25] 2016 Economic Census of the United States, NAICS 325.

[26] *Chemical Manufacturing Industry Practices and Environmental Characterization.*

[27] According to the 2017 Hazardous Waste Report, facilities in this sector reported the generation of 21.7 million tons of hazardous waste. *https://rcrapublic.epa.gov/rcrainfoweb/action/modules/br/naics.*

[28] *Chemical Manufacturing Industry Practices and Environmental Characterization.*

C. Industry Economic Profile

Economic trends and financial health in industrial sectors and their associated firms can ultimately affect the ability of individual firms to responsibly address their environmental liabilities. Circumstances in which firms face financial stress can potentially contribute to the abandonment of facilities and the creation of orphan waste sites requiring cleanup. To consider the potential for firms to default on their financial obligations, EPA prepared a high-level economic profile of the Chemical Manufacturing industry, which includes a summary of relevant financial metrics, industry default statistics and trends, and a broad discussion outlining environmental liabilities under Chapter 11 of the Bankruptcy Code. This analysis, summarized in this section, looked at the industry as a whole and additionally focused on four subsectors individually, providing an industry profile, evaluation of the potential universe of regulated entities, and discussion of the subsectors' financial health and relative volatility. The full analysis is found in the background document for this section, and is available in the docket for this rulemaking.[29]

Generally, this analysis found the sector to be financially stable and able to pay off short-term obligations, though some subsectors experienced declining profitability and increased risk in recent years. Overall, financial ratios indicate healthy financial performance, despite an overall decrease in the total value of shipments and receipts for services in the sector. The report also notes that firms generally remain liable for environmental compliance obligations under Chapter 11 debt restructuring. Sections 101(5) and 1141(d) of the Bankruptcy Code only provide for a discharge of monetary rights to payment and not for compliance obligations where the Federal government has not sought the payment of money.

VII. Discussion of Cleanup Sites Analysis

A. Cleanup Site Evaluations

As described in the Approach to Developing the Proposed Rule, Section V above, to evaluate the need for financial responsibility regulations in the Chemical Manufacturing industry, EPA sought examples of pollution that occurred under a modern regulatory framework, and that required a taxpayer-funded CERCLA cleanup. In its evaluation, EPA focused first on identifying response actions at Superfund National Priorities List (NPL) sites and sites using the Superfund Alternative Approach (SAA),[30] as those are generally larger cleanups both in terms of amounts of contaminants removed and in terms of costs to carry out these cleanups. EPA also looked at Superfund removals at non-NPL sites.

To identify the relevant cleanup cases in the Chemical Manufacturing industry, EPA included the NPL sites already identified in the 2010 ANPRM,[31] and supplemented the dataset with additional NPL sites that had been identified since the ANPRM, sites using the SAA, and non-NPL sites identified in EPA's Superfund Enterprise Management System (SEMS) database. EPA collected information on the timing and nature of releases or threatened releases at these sites. Specifically, EPA sought to identify, as applicable, facility operation end dates, release dates, sources of contamination, NPL proposal dates, contaminated media, type of contaminant, cleanup lead, and information on Superfund expenditures at the site, as well as other information. For this collection, EPA relied on information previously collected as part of the ANPRM, information available in Superfund site documents (*e.g.,* NPL listing narratives, Records of Decision, Action Memos, Five-Year Reviews), and information in EPA's SEMS as of March 2018. The cleanup case identification and site information collection processes are described in greater detail in the relevant background documents, which are available in the docket for this rulemaking.[32]

After compiling information about the risks and history of each site, EPA sought to identify instances in which releases occurred under the modern regulatory framework that resulted in Fund-financed response actions. To do so, EPA's methodology applied sequenced screens to the identified sites. EPA first screened out any NPL sites or sites using the SAA where the contaminant release or cleanup activity occurred before 1980. EPA chose 1980 as the cutoff point to initially screen out legacy contamination because it was the year when CERCLA was enacted, as well as the date of the initial regulations under RCRA Subtitle C governing the generation, treatment, storage, and disposal of hazardous waste. EPA chose to give these significant RCRA and CERCLA milestones greatest consideration due to the large number of issues of waste management, land disposal, and soil contamination identified in the review of the NPL and SAA cases. EPA believes the 1980 cutoff date is a conservative screen (*i.e.,* retains more sites in the analysis) in that only the initial RCRA regulations were in place in 1980 and they were refined, expanded and enhanced several times over the next decades. Moreover, the Agency's enforcement authorities expanded in the 1980s as the RCRA program matured. Notably, the passage of the Hazardous and Solid Waste Amendments (HSWA) in 1984 resulted in many regulatory changes and enhanced enforcement mechanisms. More specifically, HSWA created the Land Disposal Restrictions (LDR) program, codified in 40 CFR part 268, which prohibits the land disposal of untreated hazardous wastes. HSWA also substantially expanded corrective action authorities for both permitted RCRA treatment, storage and disposal (TSD) facilities and facilities operating under interim status,[33] requiring facilities to address the release of hazardous wastes and demonstrate financial responsibility for completing the required corrective actions, further reducing the risks that sites would have to be addressed under CERCLA. For further detail on these requirements, see section VII. B below.

Next, EPA sought to remove from the analysis sites where significant Fund expenditures had not occurred, because response actions that were paid for by private parties do not support the need for CERCLA Section 108(b) financial responsibility regulations. Using the ''Action Lead'' field in SEMS associated with each site, EPA screened out the potentially responsible party (PRP) lead sites. This left only the Mixed Lead Construction or Government Performed Construction sites in the analysis, under the assumption that PRP Performed

[29] *CERCLA 108(b) Economic Sector Profile: Chemical Manufacturing Industry.*

[30] The Superfund Alternative Approach (SAA) uses the same CERCLA authority and investigation and cleanup process and standards that are used for NPL sites. The threshold criteria for using the SAA are: (1) The site must have contamination significant enough to make it eligible for listing on the NPL; (2) the site is anticipated to need remedial action; and, (3) there must be a cooperative, viable, capable PRP that will sign a CERCLA agreement with EPA to perform the necessary cleanup.

[31] 75 FR 816 (Jan. 6, 2010).

[32] *Identification and Evaluation of National Priorities List (NPL) Sites and Sites using the Superfund Alternative Approach (SAA) Cleanup Cases in the Chemical Manufacturing Industry and Identification and Evaluation of CERCLA 108(b) Chemical Manufacturing Industry non-National Priorities List (NPL) Removal Sites.*

[33] Interim status facilities are facilities that were in existence on the effective date of the regulations and subject to the requirement to have a RCRA permit.

Construction[34] sites did not present significant expenses to the Fund.

EPA then reviewed the remaining sites (*i.e.,* those with both pollution dates of 1980 or later and Mixed Lead Construction or Government Performed Construction designation in SEMS) individually in greater detail. Specifically, EPA considered the site history and each of the contamination sources at the site in the context of the regulations that would be applicable to that facility today. More information on the regulations EPA considered is available in Section VII.B.

Findings from EPA's analysis of the cleanup cases are discussed below, with more detailed information available in background documents available in the docket for this rulemaking.[35] These background documents provide the list of sites identified and remaining at each stage of the analysis, as well as the information considered in the screening and review process.

Using the data sources described above for the Chemical Manufacturing industry, EPA identified 199 NPL sites and eight sites using the SAA, as well as 290 non-NPL CERCLA removal action sites,[36] to evaluate according to the methodology described above. As explained further below, the majority of the contamination at NPL sites and sites using the SAA were ultimately considered to involve releases that occurred before the modern regulatory framework or they were cases where no taxpayer funds were used. Similarly, for the removal sites, the majority of cases, albeit to a lesser extent as compared to NPLs, showed no releases of hazardous substances under the modern regulatory framework or required minimal or no taxpayer-funded cleanups, as described below.

The 199 NPL sites and eight sites using the SAA that were evaluated include different industry groups within the Chemical Manufacturing sector. While multiple manufacturing activities can occur at a site, facilities that were engaged in manufacturing pesticides, fertilizers, and agricultural chemicals show up more prevalently on the Chemical Manufacturing NPL list (about 42%), closely followed by facilities engaged in basic Chemical Manufacturing (about 39%). Other manufacturing activities observed to a lesser extent include resin, synthetic rubber, and artificial synthetic fibers and filaments manufacturing, paint, coating, and adhesive manufacturing, and ''other'' types of Chemical Manufacturing activities.

A review of the history of environmental contamination at these NPL and NPL-like sites revealed that the most common types of environmental damage were contamination of soil and ground water (approximately 90%), while impacts to surface water bodies were also relatively common (nearly 60%). To a lesser extent, impact to air and sediments were also observed. The primary source of the contamination was contaminated soils (approximately 62% of sites) that resulted from inappropriate waste and material handling, leaks and spills, fires and explosions, lack of stormwater management, and poor housekeeping practices. Other significant sources include disposal into unlined ponds and wastewater lagoons (approximately 40%)[37] and the abandonment of hazardous waste and materials in drums and other containers (approximately 32%).[38] Detailed discussions of the impacted media and sources of contamination identified at these NPL and NPL-like sites are presented in supporting technical background documents, which are available in the docket for this rulemaking.[39]

After characterizing the industrial activities and contamination history at these sites, EPA applied the screens described above to remove PRP-Performed Construction sites and sites where the environmental releases occurred pre-1980 to the 199 NPL sites and the eight sites using the SAA approach. Based on these criteria, EPA screened out 127 sites. Additionally, EPA also excluded 46 sites from the analysis where, upon further review, the industrial activities were found to fall outside of the relevant class of facilities under consideration in this rulemaking. Thirty-four NPL sites remained after those screens that were either Government Performed Construction or Mixed Lead Construction (*i.e.,* a combination of Government and PRP) sites and had releases that arose in 1980 or later. None of the sites using SAA remained after those screens.

To assess the remaining 34 sites, EPA first conducted a detailed review to compare the environmental issues (*e.g.* contamination) at the sites against the regulations applicable today. Based on the detailed review, EPA concluded that notwithstanding the screens applied at earlier stages of the analysis, the releases at 30 of the 34 NPL sites resulted largely from legacy practices and contamination. An example of such a case is Baird & McGuire Inc., a 20-acre facility in Holbrook, Massachusetts, that operated as a chemicals manufacturing and batching company from 1912 to 1983. EPA did not initially screen out the site because case files on this site showed documented discharges of black oily substances into a nearby wetland between 1981 and 1982. Despite these releases, EPA concluded that the most significant contamination at the site occurred largely from legacy waste disposal practices (included direct discharge into the soil, lagoons, and wetlands) and improper storage of chemicals during the 70 years of operation that began in 1912. Because of these practices, on-site soil, ground water, surface water, and municipal water supplies were contaminated, which prompted EPA to list the site on the NPL in 1983. When these disposal practices were assessed against today's modern regulatory framework, the releases were all found to have occurred before the promulgation of RCRA Subtitle C regulations. Moreover, enforcement records further corroborate the presence of significant compliance issues at this site before 1980, as the owner and operator had been fined at least 35 times between 1954 and 1977 by various state and Federal agencies for numerous violations.[40] For discharges of oily substances into wetlands identified post-1980s, EPA's case file also showed Baird & McGuire had voluntarily taken actions, including removing the discharge pipes and applying absorbent pads to the wetland to soak up the oil. Appendix 4 of the background document provides more detailed discussions on this site and the 29 other NPL sites that EPA deemed as legacy issues after the detailed reviews.[41]

[34] These terms are used in the SEMS database to identify the party that had primary responsibility for construction at the sites.

[35] *Identification and Evaluation of National Priorities List (NPL) Sites and sites using the Superfund Alternative Approach (SAA) Cleanup Cases in the Chemical Manufacturing Industry* and *Identification and Evaluation of CERCLA 108(b) Chemical Manufacturing non-National Priorities List (NPL) Removal Sites.*

[36] None of these 290 removal sites are associated with an NPL site. Removal actions that have taken place at NPL sites or sites using the SAA, either before or after listing or designation, are tracked in SEMS as NPL or SAA level actions and not as separate removal records.

[37] The regulations covering management of hazardous waste in surface impoundments are in 40 CFR part 264/265 Subpart K. Also see discussion in Section VII.B of this notice.

[38] The regulations covering management of hazardous waste in containers are in 40 CFR part 264/265 Subpart I. Also see discussion in Section VII.B of this notice.

[39] *Identification and Evaluation of National Priorities List (NPL) Sites and Sites using the Superfund Alternative Approach (SAA)in the Chemical Manufacturing Industry.*

[40] The NPL Site Narrative for Baird & McGuire, *https://cumulis.epa.gov/supercpad/SiteProfiles/index.cfm?fuseaction=second.Cleanup&id=0100392#bkground.*

[41] *Identification and Evaluation of National Priorities List (NPL) Sites and Sites using the*

Regarding the four out of the 34 NPL sites that remained after the screens, EPA's detailed review indicated that these sites appeared to have significant releases or threatened releases of hazardous substances under the modern regulatory framework and required significant taxpayer-funded cleanups. The four sites are Diaz Chemical Corporation in Holley, New York (which operated from 1974 through 2002), Eldorado Chemical Company in Live Oak, Texas (which operated from 1978 through 2007), Mississippi Phosphates Corporation in Pascagoula, Mississippi (which operated from the 1950s through 2014), and White Chemical Corporation in Newark, New Jersey (which operated from 1983 through 1990).

In all four cases, the facilities had a long history of compliance issues and were cited numerous times for violations under various statutes, including CAA, CWA, and RCRA. At three of the four sites (Diaz Chemical, Mississippi Phosphates, and White Chemical Corp.), companies filed for bankruptcy before ceasing operations and abandoning their sites. EPA listed three of the four sites (Diaz Chemical, Eldorado Chemical, and Mississippi Phosphates) on the NPL post-2000.

In the cases of Diaz Chemical, Eldorado Chemical Company, and White Chemical Corp., poor housekeeping practices, spills, and improper handling of drums resulted in the release of a range of chemical substances to the air, water, soil, and ground water. In addition, when Diaz and White Chemical Corp. filed for bankruptcy and abandoned their facilities, the owner and operators left behind hundreds of hazardous drums and tanks containing hazardous chemicals and waste. These releases or threatened releases occurred at these sites despite the promulgation and implementation of applicable RCRA Subtitle C regulations in 1980 and HSWA in 1984. Evaluation of EPA's Fund expenditure data for these sites showed the Fund incurred over $28 million to address site contamination at Diaz Chemical and $47 million at White Chemical Company. Fund expenditures at Eldorado Chemical were relatively small at $568,000; however, the site was just listed on the NPL in 2016, and Fund expenditures at the site will likely continue.

Regarding Mississippi Phosphates, the plant ceased its operations in December 2014 following a bankruptcy. When the company abandoned the site, more than 700 million gallons of low-pH, contaminated wastewater was left behind in on-site ponds. Enforcement records also showed that during its years of operation, the facility received numerous Administrative Orders and Notices of Violation related to noncompliance with its National Pollutant Discharge Elimination System (NPDES) permit. The most severe violation occurred in August 2013, when the facility released 38 Mgal of acidic water to Bayou Casotte, killing an estimated 47,000 fish, and resulting in the company's entering a guilty plea to a criminal violation of the Clean Water Act. More information on this case is in the enforcement background document, which is available in the docket.[42]

EPA's review of Fund expenditures showed significant Fund expenditures at Mississippi Phosphates. Based on the limited expenditure data obtained from Superfund's Integrated Financial Management System (IFMS) database, EPA has spent $8.3 million as of Fall 2018. However, in an April 2018 Action Memorandum,[43] EPA indicated the total cost of the removal action at this site would be $132.6 million through December 2020. The memo also mentioned that EPA continued to treat 2 to 4 million gallons of contaminated water each day, which was estimated to cost $1 million a month. More detailed information can be found in the background document and supporting spreadsheets, which are available in the docket for this rulemaking.[44] The background document includes the list of sites identified for analysis, as well as the data and information considered in the screening and review process. The summary results of the analysis are presented in Table 1 below.

TABLE 1—EVALUATION RESULTS FOR NPL AND SAA SITES IN THE CHEMICAL MANUFACTURING INDUSTRY

Total NAICS 325 NPL & SAA sites evaluated	Number of NAICS 325 NPL & SAA sites screened out based on pre-1980, or PRP lead status	Detailed review concluded release occurred prior to the modern regulatory framework	Detailed review identified a possible modern regulation release but no significant taxpayer expenditures	Cases with release(s) under modern regulation that required taxpayer-funded response
207[45]	127(46)[46]	30	.....	4

Additionally, EPA looked at the major removal cases found in the SEMS database to supplement this analysis. For this sector, EPA identified 290 non-NPL removal sites. Applying the methodology, EPA screened out 148 sites because the environmental releases occurred before 1980 or PRPs led the response action. EPA also excluded an additional 81 sites deemed as out of the scope because EPA determined that the industrial activities that resulted in the release of hazardous substances were not Chemical Manufacturing. Twenty-seven other sites were also left out of the analysis because of insufficient documentation (*i.e.,* not enough to verify whether the sites included pollution attributable to a NAICS 325 facility, or the nature/date of the releases at the site).

To assess the 34 sites that remained after those screens, EPA first conducted a detailed review of case files to compare the environmental issues at the sites to the regulations applicable today. Based on this assessment, EPA concluded that the releases at four removal sites were one-time incidents (*e.g.,* drum spill, chemical plant fire, accidental releases to air). While these releases were all found to have occurred after contemporary regulations, according to site documents reviewed, the PRPs had responded to the emergencies, and none of these sites

Superfund Alternative Approach (SAA) in the Chemical Manufacturing Industry.

[42] *Enforcement, Court Settlements and Judgments in the Chemical Manufacturing Industry.*

[43] 2018 Action Memorandum for a Non-Time Critical Removal Action, Consistency Exemption Request and Ceiling Increase at Mississippi Phosphates Corporation National Priorities List Site, Pascagoula, Jackson County, Mississippi.

[44] *Identification and Evaluation of National Priorities List (NPL) Sites and Sites using the Superfund Alternative Approach (SAA) in the Chemical Manufacturing Industry.*

[45] Includes 8 sites addressed through Superfund Alternative Approach (SAA).

[46] The number in the parentheses indicates the sites that were also removed at this stage of the analysis because EPA determined the industrial activities did not involve chemical manufacturing.

required significant Fund expenditure; at one of the four sites, EPA spent $19,500 in Fund money to conduct an air assessment.

For the remaining 30 removal sites, the releases or threatened releases were associated mainly with the abandonment or improper storage of drums, tanks, and other containers that contained various chemicals, including hazardous substances and waste. In seven of these cases, chemical explosions or fires resulted from storing incompatible chemicals near one another. Most of these cases involved releases that occurred since the year 2000, which EPA determined to be releases that occurred under the modern regulatory framework that required taxpayer-funded cleanup.

As described in more detail in the Role of Federal and State Programs section below, the primary regulations governing the storage and handling of hazardous chemicals have been in place since the 1980s including: Occupational Safety and Health Act (OSHA) standards for storage and handling of flammable liquids (29 CFR 1910.106) and compressed gas (29 CFR 1910); Section 311 and 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA) requirements concerning reporting of hazardous chemical inventory to local and state emergency responders; and EPCRA Section 304 requirements for emergency release notification for ''reportable quantity.'' In addition, drums and tank systems used to store hazardous waste for more than 90 days, or stored at locations that are not the site of generation, have been regulated under RCRA (requirements found in 40 CFR parts 264 and 265) since 1981 for drums and other containers [47] and since 1986 for tank systems.[48]

Review of Fund expenditure data associated with these 30 sites indicates that the Fund incurred estimated costs ranging from $30,000 to $3 million for response and enforcement activities. For 19 of the 30 sites, the Fund incurred costs under $500,000 with an average cost of $218,000 per site. For the remaining 11 sites where the response actions resulted in Fund expenditures above $500,000 per site, the average cost was $1.4 million.

More detailed information can be found in the background document and supporting spreadsheets, which are available in the docket for this rulemaking.[49] The background document includes the list of sites identified for analysis, as well as the data and information considered in the screening and review process. Table 2 presents the summarized results of the analysis.

TABLE 2—EVALUATION RESULTS FOR SUPERFUND REMOVAL SITES IN THE CHEMICAL MANUFACTURING INDUSTRY

Total NAICS 325 superfund removal cases evaluated	Number of NAICS 325 superfund removal cases screened out based on pre-1980, or PRP lead status	Detailed review concluded release occurred prior to the modern regulatory framework	Detailed review identified a possible modern regulation release, but no significant taxpayer expenditures	Cases with release(s) under modern regulation that required taxpayer-funded response
290	148(108) [50]	.....	4	30

Prevalent Sources of Releases

EPA's analysis of cleanup cases compiled information, where discernable, on the root cause of releases. Across the industry overall, the most prevalent issue was contaminated soils that resulted from inappropriate waste and material handling, leaks and spills, fires and explosions, lack of stormwater management, and poor housekeeping practices. Other significant sources include disposal into unlined ponds and wastewater lagoons and the abandonment of hazardous waste and materials in drums and other containers. Beyond these, a common issue observed at removal sites but not as commonly at NPL sites, was abandonment and improper storage of drums, tanks, and other containers that contained various chemicals, including hazardous substances and waste. As discussed in the next section, there are regulations in place that address these types of releases.

B. Role of Federal and State Programs and Voluntary Protective Industry Practices at Facilities in the Chemical Manufacturing Industry

In the 2010 ANPRM, EPA recognized that the NPL data reflects releases arising from activity that, in some cases, predates CERCLA, RCRA, and other modern environmental requirements. The Agency welcomed information about current releases of hazardous substances to the environment to help inform EPA's future actions. As discussed in the Approach section of this proposal, to enable EPA to base its decision on risk posed by facilities operating under modern conditions, *i.e.,* the types of facilities to which financial responsibility requirements would apply, EPA developed an approach to identify and consider relevant state and Federal regulatory requirements and financial responsibility requirements that currently apply to operating facilities, as well as voluntary protective practices. EPA thus undertook an effort to gather information about Federal and state environmental programs and industry voluntary programs that have been implemented and are applicable to currently operating facilities within the Chemical Manufacturing industry today. EPA evaluated the extent to which activities that contributed to the risk associated with the production, transportation, treatment, storage, or disposal of hazardous substances are now regulated. EPA recognizes that substantial advances have been made in the development of manufacturing, pollution control, and waste management practices, as well as the implementation of Federal and state regulatory programs to prevent and address releases at these facilities. In part, EPA's proposed decision to not issue financial responsibility requirements for this industry is based on EPA's review and analysis of Federal regulations and complemented by state program regulations. EPA's proposed findings and conclusions about the impact of Federal and state environmental programs, along with industry voluntary programs, are discussed in the following section.

[47] 46 FR 2866 (Jan. 2, 1981).

[48] 51 FR 25472 (Jul. 14, 1986).

[49] *Identification and Evaluation of CERCLA 108(b) Chemical Manufacturing non-National Priorities List (NPL) Removal Sites.*

[50] The number in parentheses indicates the sites that were also removed at this stage in the analysis: 81 Sites for which EPA determined the industrial activities did not involve chemical manufacturing, and 27 sites for which there was not enough documentation to be included in the analysis.

Overview of Federal and State Regulatory Programs and Industry Voluntary Practices Applicable to Facilities in the Chemical Manufacturing Industry

EPA evaluated Federal and state regulations that address the potential for release of hazardous substances to the range of environmental media that may be affected by a release from a facility in the Chemical Manufacturing industry. EPA found that a comprehensive regulatory framework has developed since the enactment of CERCLA. Federal statutes such as the CAA, CWA, TSCA, RCRA, and EPCRA are applicable across the entire industry and lay the foundation for this regulatory framework. Specific regulations are discussed in the background document according to the affected media that the regulations address: Air pollution, water pollution, emergency planning and response, hazardous substances management, and hazardous and non-hazardous waste management and disposal. This background document is available in the docket for this rulemaking.[51]

Regulations Addressing Prevalent Sources of Releases Identified in Analysis of Cleanup Cases

EPA's analysis of the cleanup cases found that the most prevalent releases involved:

- Soil contamination from inappropriate handling of wastes and materials,
- Releases from leaks, spills, fires, and explosions,
- Lack of stormwater management,
- Disposal into unlined ponds and lagoons,
- Abandonment of hazardous substances and waste in drums, tanks or other containers,

The comprehensive regulations for the management and disposal of hazardous waste, promulgated under the authority of RCRA, were designed to prevent these types of releases and assure that past spills are cleaned up by facility owners and operators. Specifically, Subtitle C of RCRA required EPA to establish a hazardous waste management program, and EPA developed a ''cradle to grave'' approach to control the generation, transportation, treatment, storage, and disposal of hazardous waste.[52] EPA's regulatory approach under RCRA includes standards specific to types of hazardous wastes, types of hazardous waste disposal facilities, and types of hazardous waste disposal activities; EPA enforces these standards through permitting, reporting and inspection programs.[53]

In 1980, under the authority of RCRA Subtitle C, EPA promulgated the initial hazardous waste management and permitting regulations. These regulations included the identification of hazardous wastes that would be regulated under RCRA Subtitle C. Under Subtitle C, generators of hazardous waste are required to ensure and fully document that the hazardous waste they produce is properly identified, managed, tracked, and treated prior to recycling or disposal. The degree of regulation to which each generator is subject depends to a large extent on how much waste each generator produces every calendar month. Early in the development of the RCRA program, EPA recognized that a relatively small number of industrial facilities generated the majority of the nation's hazardous waste. EPA initially focused on these large quantity generators, *i.e.,* those that generate 1,000 kilograms or more of non-acute hazardous waste per month (or more than 1 kilogram of acute hazardous waste per month). These facilities must obtain an EPA identification number and report the quantities and types of hazardous waste they generate, as well as the intended receiving facility for treatment and disposal, unless the waste will be managed onsite. Large quantity generators who send their waste offsite are responsible for the proper packaging and labeling of the waste before transport and the tracking of the waste to the destination facility using the uniform hazardous waste manifest. Large quantity generators may store their waste on site for less than 90 days before transport to a treatment and disposal facility; that storage is subject to the same unit-specific standards (described below) applicable to treatment, storage, and disposal facilities.

RCRA Subtitle C also established standards for hazardous waste treatment, storage, and disposal facilities (TSDFs). Operators that handle or manifest hazardous waste at any point in its lifecycle, including generators and transporters, are required to notify EPA of these activities. To keep track, TSDF owners and operators must keep records and make reports to EPA. TSDFs are required to track hazardous waste they receive through EPA's hazardous waste manifest system, among other recordkeeping and reporting standards.

RCRA Subtitle C regulations created a permitting program for hazardous waste TSDFs. The TSDF permitting regulations include application procedures, permit approval conditions, and monitoring and reporting requirements. TSDFs must have permits for the entirety of the active life of the permitted units, including during closure of waste management units. New and existing hazardous waste TSDFs must submit a RCRA permit application at least 180 days before the commencement of construction and/or hazardous waste management activities.[54] Both permitted and interim status TSDFs must comply with general facility operating standards, preparedness and prevention, contingency plans and emergency procedures, as well as specific technical standards designed to insure that hazardous waste management units such as storage tanks and containers, landfill, surface impoundments, waste piles, land treatment of hazardous waste, and solid waste management units are operated in a manner that prevents releases. To minimize the potential for leachate to threaten human health and the environment, EPA developed design and operating standards that use a combination of different technologies and good operating practices to detect, contain, and clean up any leaks that might occur. To prevent releases of hazardous waste into the environment, containers holding liquid hazardous wastes at a permitted TSDF must have a secondary containment system. Secondary containment is emergency short-term storage designed to hold leaks from hazardous waste management units.

Slightly later in the 1980s, EPA promulgated regulations that set financial assurance requirements for TSDFs.[55] The TSDF standards eventually included air emission standards for process vents, equipment leaks, tank systems, surface impoundments, and containers. The regulations covering proper management of surface impoundments, found in 40 CFR parts 264/265, Subpart K, require facilities that store hazardous

[51] *Summary Report: Federal and State Environmental Regulations and Industry Voluntary Programs in Place to Address CERCLA Hazardous Substances at Chemical Manufacturing Facilities.*

[52] ''EPA History: Resource Conservation and Recovery Act,'' EPA, at: *https://www.epa.gov/history/epa-history-resource-conservation-and-recovery-act.*

[53] ''EPA History: Resource Conservation and Recovery Act,'' EPA, at: *https://www.epa.gov/history/epa-history-resource-conservation-and-recovery-act;* ''Summary of the Resource Conservation and Recovery Act,'' EPA, at: *https://www.epa.gov/laws-regulations/summary-resource-conservation-and-recovery-act.*

[54] 45 FR 33063 (May 19, 1980).

[55] 45 FR 33063 (May 19, 1980); 47 FR 15047 (Apr. 7, 1982).

waste in surface impoundments to meet specific design requirements, which include a double liner system, leachate collection, and removal systems and a leak detection system. The regulations for containers, found in 40 CFR parts 264/265, Subpart I, include provisions regarding design and operating requirements, and inspections. Certain 40 CFR part 265 standards also apply to hazardous waste containers at generator sites.

HSWA was enacted in 1984, largely in response to citizen concerns that existing methods of hazardous waste disposal, particularly land disposal, were not safe. With HSWA, Congress sought to minimize waste generation and phase out land disposal of hazardous waste. Accordingly, in 1986, EPA promulgated a suite of regulations that established standards and restrictions for land disposal of hazardous waste. While the regulations set stringent guidelines for the land disposal of hazardous waste, some hazardous wastes and some types of land disposal are prohibited altogether. Although there are exceptions, operators are generally prohibited from diluting hazardous waste as a substitute for treatment. In addition, operators can land dispose hazardous waste only following treatment and only in appropriate land treatment units, landfills and surface impoundments, Further, operators must meet testing, removal, recordkeeping, and design requirements. Additional standards, restrictions, and prohibitions are in place for hazardous waste that exhibit ignitability, corrosivity, reactivity, or toxicity.[56]

HSWA required that all landfills and surface impoundments install groundwater monitoring, comply with technical requirements, such as double liners and leachate collection, and obtain financial assurance. The HSWA amendments also added to RCRA's regulations for small quantity generators, facilities that generated between 100 to 1,000 kilograms per month of hazardous waste, which were previously exempt from RCRA rules. These small quantity generator rules took effect in 1986. Generators of less than 100 kilograms per month of hazardous waste (*i.e.,* conditionally-exempt small quantity generators) remained subject to significantly reduced requirements.[57] EPA amended the hazardous waste generator provisions in 2016, largely to clarify the requirements.[58]

HSWA also established closure and post-closure requirements for hazardous waste TSDF facilities. The regulations require facilities to develop closure plans for all hazardous waste management units. All TSDFs are required to prepare and submit written closure plans. A permitted facility submits this plan as part of its permit application. Once the plan is approved by the permitting agency, it becomes part of the facility's operating permit. Interim status facilities[59] must have written closure plans within six months of becoming subject to the closure regulations. Upon the completion of closure of a hazardous waste disposal unit, owners and operators must submit a certification of closure to the relevant state or EPA regional office. Following closure, facilities must implement a post-closure plan that abides by post-closure property use and care guidelines. The standard post-closure care period is 30 years, but this can be shortened or extended on a case-by-case basis by the permitting authority (*i.e.,* the EPA Region or the authorized state regulatory agency). Post-closure notification and security requirements remain in place so long as hazardous waste is present at the facility, even after the 30-year post-closure period.[60]

HSWA provided EPA with authority to develop a broader corrective action program. Under this program, EPA requires owners and operators of facilities that treat, store or dispose of hazardous waste to investigate and clean up hazardous releases into soil, groundwater, surface water and air, thus reducing the likelihood that these facilities would require cleanup under Superfund. RCRA permits issued to TSDFs must include provisions for both corrective action and financial assurance to cover the costs of implementing those cleanup measures. EPA also possesses additional authorities to order corrective action through enforcement orders, which are not contingent upon a facility's permit. In addition, facilities may voluntarily choose to clean up their contamination.

In addition to Subtitle C requirements, RCRA Subtitle D established a program for management and disposal of non-hazardous industrial and municipal solid waste through state solid waste management plans that conform with Federal guidelines. RCRA Subtitle I requires EPA to promulgate technical standards and corrective action requirements for owners and operators of underground storage tanks (USTs), including underground storage tanks that contain hazardous substances or petroleum products. The UST regulations include requirements for design, installation, notification, operational procedures, release reporting, release response, and corrective action procedures for underground storage tank systems that contain hazardous substances. The regulations also include financial responsibility requirements for underground storage tank owners and operators. In addition, EPA has established guidelines for the approval of state underground storage tank programs.[61]

In addition to the regulatory scheme that RCRA imposes on the management of hazardous waste in underground storage tanks that store chemicals, Chemical Manufacturing plants are subject to a number of additional regulatory provisions that reduce the potential for the plants to pose a risk for a Federally-financed response action. Catastrophic releases of hazardous substances and the use of toxic chemicals and other hazardous substances are additional environmental and safety concerns for Chemical Manufacturing facilities. Several environmental laws authorize regulations requiring the development of response plans for various emergencies in order to reduce the effects of a release, and to notify local emergency response personnel and facilitate cooperation. For example, EPA implements the Chemical Accident Prevention Provisions of Section 112(r) of the Clean Air Act Amendments, which require certain facilities to generate Risk Management Plans (RMPs) to mitigate the effects of a chemical accident and to coordinate with local response personnel. Emergency Action Plan (EAP) regulations under OSHA require that employers prepare a written EAP to create practices to follow during workplace emergencies. EPA implements regulations under the EPCRA that impose emergency planning, reporting, and notification requirements for hazardous and toxic chemicals.

The U.S. Chemical Safety Board (CSB), authorized by the CAA Amendments of 1990, is involved in investigating accidental releases at Chemical Manufacturing facilities. Specifically, the principal role of the CSB is to investigate accidents to determine the conditions and circumstances which led up to the event

[56] 51 FR 40572 (Nov. 7, 1986).

[57] Id.

[58] 81 FR 85732 (Nov. 28, 2016).

[59] Interim status facilities are facilities that were already in existence at the time of the enactment of the permitting regulations. Interim status facilities must comply with the requirements in 40 CFR part 265 until they receive their permit.

[60] 51 FR 16444 (May 2, 1986).

[61] 53 FR 37082 and 43322 (Nov. 27, 2018).

and to identify the cause or causes so that similar events might be prevented. Implementation of recommendations resulting from investigations can prevent future releases of hazardous substances to the environment. The CSB's investigative function is completely independent of the rulemaking, inspection, and enforcement authorities of both EPA and OSHA.[62]

Hazardous substances management regulations address the storage and transportation of hazardous substances. These regulations are implemented by EPA, OSHA, and the Pipeline and Hazardous Materials Safety Administration (PHMSA). The regulations address the registration and reporting of hazardous substances that are manufactured or produced through industrial processes; hazardous substance release prevention; mitigation of harm caused by hazardous substance releases; safety and catastrophe prevention for facilities that handle hazardous substances; and standards for the transportation of hazardous substances. EPA implements hazardous substances management regulations largely under the authority of the TSCA and the Pollution Prevention Act (PPA), while the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) applies to the manufacture and distribution of pesticides.

TSCA provides EPA with authority to issue rules requiring reporting, record-keeping, and testing of specific chemicals and to establish regulations that restrict the manufacturing (including import), processing, distribution in commerce, use, and disposal of chemicals and mixtures. TSCA authorizes EPA to prevent unreasonable risks by regulating chemicals and mixtures, ranging from requiring hazard warning labels to the outright ban on the manufacture, processing, distribution in commerce or use of certain chemicals and mixtures. TSCA and its amendments have also established specific programs for the management of certain chemicals—namely, PCBs, asbestos, radon, lead, mercury, and formaldehyde.

The PPA, passed in 1990, created a national policy framework to focus industry, government, and public attention on pollution and to prevent or reduce pollution at the source through technology modifications, modifications of production processes, product redesign, and improvements in maintenance, training, and inventory control. PPA regulations require, among other things, that facility owners and operators include toxic chemical source reduction and recycling reports with their annual toxic chemical release filing.

Pesticides are outside the scope of TSCA's regulatory authority; EPA explicitly regulates pesticides under the authority of FIFRA. The modern pesticide regulatory framework came into being with the 1972 Federal Environmental Pesticide Control Act, which further amended FIFRA. The amendments created registration procedures for pesticides, including data requirements, Agency review protocols, and classification procedures. In order to obtain registration, manufacturers and distributors must submit the pesticide's ingredients, its target crop, use practices, and storage and disposal practices. The review includes a determination regarding the pesticide's potential to cause unreasonable adverse effects on the environment. Classification procedures involve the categorization of pesticide components as active or inert. Manufacturers must renew their registration for each pesticide every 15 years. Following registration, EPA has the authority to initiate special review procedures if information comes to light indicating that the use of a pesticide may cause unreasonable adverse effects on the environment. Regulations under FIFRA also cover the management and disposal of pesticides through standards and requirements for containers, repackaging procedure, and the use of containment structures.[63] The amendments granted EPA authority to stop the distribution of, and to remove from use, any pesticide the Agency finds to be in violation of FIFRA.

In addition to registration and reporting requirements for pesticide products, FIFRA regulations also establish registration and reporting requirements for pesticide manufacturing facilities. Any establishment that produces pesticide products or substances used as active ingredients in pesticides must provide facility and company information to EPA upon registration. Relevant facilities must also submit annual reports to EPA that detail the amount of pesticide product produced and distributed each year, as well as production estimates for the following year. In connection with the compilation of annual reports, facilities must keep production, distribution and sale, shipment, inventory, and testing records.[64]

With respect to workplace management of hazardous substances, OSHA promulgated Process Safety Management (PSM) standards in 1992. The PSM standards address the potential for unexpected releases of toxic, reactive, or flammable liquids and gases in processes involving highly hazardous chemicals. Under PSM, processes include the use, storage, manufacture, handling, or transportation of hazardous chemicals. The standards identify approximately 130 toxic and reactive chemicals; they apply to facilities that manage quantities of those chemicals above a specific chemical's established threshold. PSM standards also apply to facilities that manage flammable liquids and gases in quantities of 10,000 pounds or greater. Facilities must compile information on the hazards of highly hazardous chemicals, including toxicity, reactivity data, corrosivity data, stability data, and permissible exposure limits. Facilities must also collect information on the technology used by each relevant industrial process. With this information, facilities must complete a process hazardous analysis (PHA) for each relevant process. The PHA for a facility is a review of possible releases of hazardous chemicals that may result from the process and safeguards that the facility will implement to prevent releases.[65]

In 2011, OSHA initiated the Chemical Plant National Emphasis Program (NEP) under its PSM regulations. Through the NEP, OSHA conducts inspections of randomly selected facilities that handle, manage, or store highly hazardous chemicals in quantities that meet the PSM threshold. The inspections include fact gathering related to PSM requirements and verification that employers have met PSM standards.[66]

Contamination of surface water is largely addressed by the CWA. Under CWA, EPA has implemented pollution control measures, including Federal

[62] *www.csb.org.*

[63] 53 FR 15975; 50 FR 49001; 40 FR 28268; 71 FR 47422; ''Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Federal Facilities,'' EPA, accessed October 17, 2018 at: *https://www.epa.gov/enforcement/federal-insecticide-fungicide-and-rodenticide-act-fifra-and-federal-facilities;* ''About Pesticide Registration,'' EPA, accessed November 26, 2018 at: *https://www.epa.gov/pesticide-registration/about-pesticide-registration.*

[64] 53 FR 35058; 45 FR 54338; ''Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Federal Facilities,'' EPA, accessed October 17, 2018 at: *https://www.epa.gov/enforcement/federal-insecticide-fungicide-and-rodenticide-act-fifra-and-federal-facilities.*

[65] ''Process Safety Management,'' OSHA, accessed September 19, 2018 at: *https://www.osha.gov/Publications/osha3132.html;* 57 FR 6403.

[66] ''OSHA Issues New National Emphasis Program for Chemical Facilities,'' OSHA, November 30, 2011, accessed November 29, 2018 at: *https://www.osha.gov/news/newsreleases/trade/11302011-0.*

water quality standards and industry wastewater and Effluent Limitation Guidelines (ELGs). These regulations set standards for industrial wastewater discharge to surface water on an industry-specific basis, identifying key processes and materials to regulate within each industry. The standards require industrial discharges to meet technological specifications in their treatment and discharge systems, rather than pollutant specific quality standards for discharges. ELGs may set one, all, or a combination of the following types of technological standards, which facilities within each industry must meet: Best practicable control technology currently available, best conventional pollutant control technology, best available technology economically achievable, new source performance standards, pretreatment standards for new sources, pretreatment standards for existing sources, and best management practices.[67]

EPA published industry-specific effluent guidelines for pesticides in 1978, for inorganic chemicals manufacturing in 1982, and for organic chemicals, plastics, and synthetic fibers in 1987.[68] The pesticide guidelines include even more specific standards for organic pesticide chemicals manufacturing and metallo-organic pesticide chemicals manufacturing.[69] With respect to organic chemicals manufacturing, EPA promulgated specific standards for facilities that manufacture benzene, polypropylene, polyvinyl chloride, rubber precursors, chlorinated solvents, toluene, rayon, nylon, and polyester.[70]

Additionally, the CWA established the NPDES permit program, which controls point source discharges to surface water, and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which sets a blueprint for responding to oil spills and hazardous substance releases. At its inception in 1968, the NCP provided a comprehensive Federal system of accident reporting, spill containment, and cleanup of oil spills. In 1972, the CWA expanded it to include hazardous substance releases.[71]

State Regulatory Programs

Some states impose requirements on the Chemical Manufacturing industry in addition to requirements related to Federal programs. These stricter or additional standards for emissions, spill prevention, emergency preparedness, and hazardous substance management on facilities that handle toxic or hazardous chemicals can reduce risk at facilities that manage hazardous substances. EPA researched state environmental regulations relevant to the Chemical Manufacturing industry for a representative sample of states. The states with the highest number of Chemical Manufacturing facilities include California, Texas, Illinois, Ohio, Florida, New Jersey, Pennsylvania, New York, and Georgia. A discussion of these state regulations, as well as the methodology EPA used in selecting the 11 states that it researched in a background document, is available in the docket for this rulemaking.[72]

One example of a state with standards for Chemical Manufacturing facilities that are stricter than Federal requirements is Illinois, which has separate standards for sewage discharges from Chemical Manufacturing facilities, and additional standards for solid waste landfills with chemical constituents. Another example is California, which requires a land covenant upon facility closure, corrective action, remedial or response action, or any other response action when hazardous materials, hazardous wastes or constituents, or hazardous substances remain at a property in levels exceeding suitable use standards.[73] California also requires financial responsibility for owners and operators of underground storage tanks, which includes an Underground Storage Tank Cleanup Fund that funds eligible corrective actions.[74] For producers of extremely hazardous waste, California also operates an Extremely Hazardous Waste Permit system.[75]

Industry Voluntary Practices

EPA reviewed facility RMPs, industry materials, governmental literature, and academic literature to locate voluntary programs that: (1) Attempt to address CERCLA hazardous substance management or disposal, and release prevention, mitigation, and response; (2) are relevant to Chemical Manufacturing facilities; and (3) in which Chemical Manufacturing facilities participate. Industry voluntary programs fall into three categories: Those sponsored by Federal, state or local governmental agencies; those fostered within industry associations or non-governmental organizations; and those implemented by individual firms. These programs set or publish environmental management and safety standards that facilities may follow to supplement Federal and state requirements with additional standards and may come with a certification from the government agency or industry group that establishes the standards. Voluntary programs may also serve as forums for coordination and collaboration among companies, facilities, and government agencies to develop best practice standards and improve emergency preparedness. EPA's review of available studies found that the industry voluntary programs can be effective at reducing both pollution and the frequency of government enforcement actions.

At the federal level, OSHA and FEMA sponsor or collect information about industry voluntary programs. National and international nonprofit organizations and industry associations, such as the International Organization for Standardization (ISO), International Electrotechnical Commission (IEC) and Global Environmental Management Initiative (GEMI), also provide environmental management and safety standards and procedures that facilities may follow, in addition to regulatory requirements, and certify facilities that meet these specifications.

The American Chemistry Council, an industry trade association for chemical companies, adopted the Responsible Care program, which is a global initiative to further the chemical manufacturing industry's environmental, health, safety, and security performance efforts, with a focus on safe chemicals management throughout chemical lifecycles. To obtain membership in the American Chemistry Council, a company must participate in the Responsible Care program. Responsible Care requires that companies commit to and are compliant with the program's guiding principles and requirements. Participants are subject to reporting requirements and mandatory facility audits under the program.[76] A discussion of industry voluntary practices, as well as the

[67] ''Industrial Effluent Guidelines,'' EPA at: *https://www.epa.gov/eg/industrial-effluent-guidelines;* ''Learn About Effluent Guidelines,'' EPA at: *https://www.epa.gov/eg/learn-about-effluent-guidelines;* 39 FR 4532 (Feb. 1, 1974).

[68] 43 FR 17776 (Apr. 25, 1978); 47 FR 28278 (Jun. 29, 1982); 52 FR 42522 (Nov. 5, 1987).

[69] 43 FR 17776 (Apr. 25, 1978).

[70] 52 FR 42522 (Nov. 5, 1987).

[71] ''National Oil and Hazardous Substances Pollution Contingency Plan (NCP) Overview,'' EPA at: *https://www.epa.gov/emergency-response/national-oil-and-hazardous-substances-pollution-contingency-plan-ncp-overview.*

[72] *Summary Report: Federal and State Environmental Regulations and Industry Voluntary Programs in Place to Address CERCLA Hazardous Substances at Chemical Manufacturing Facilities.*

[73] 22 California Code of Regulation (CCR) 67391.

[74] 23 CCR 2803.

[75] 22 CCR 67430.

[76] ''Responsible Care,'' American Chemistry Council, accessed October 16, 2018 at: *https://responsiblecare.americanchemistry.com/.*

methodology used by EPA, is available in the docket for this rulemaking.[77]

C. Existing State and Federal Financial Responsibility Programs

To help inform the level of risk of a Fund-financed response action associated with classes of facilities in the Chemical Manufacturing industry, EPA reviewed existing state and Federal financial responsibility programs that may be applicable to the industry and that cover a wide range of liabilities, including liabilities for closure, post-closure care, corrective action, third-party personal injury/property damage, and natural resource damages. EPA focused on these types of financial responsibility programs for two reasons. First, these categories of damages, actions and costs are like those that could be covered by CERCLA Section 108(b) rulemaking, and thus they help inform the need for CERCLA Section 108(b) financial responsibility for this industry. Secondly, the existence of financial responsibility requirements can help create incentives for sound practices, reducing the risk of releases requiring CERCLA response action. EPA also sought to identify state cleanup funds that are at least partially funded by industry (*e.g.,* through a tax on hazardous wastes generated), and that could cover future CERCLA liabilities that may arise at Chemical Manufacturing facilities. EPA's report focused on the 25 states reviewed in EPA's reports on existing state regulatory and voluntary programs (excluding financial responsibility programs) that may be applicable to Chemical Manufacturing facilities.

Finally, EPA reviewed existing financial responsibility requirements in the following Federal programs: (1) RCRA Subtitle C TSDFs; (2) TSCA commercial PCB waste facilities; and (3) EPA Safe Drinking Water Act Underground Injection Control wells. The RCRA Subtitle C regulations require all TSDFs to demonstrate that they will have the financial resources to properly close the facility or unit when its operational life is over, perform post-closure care (if necessary) and provide the appropriate corrective action in the case of a release. Additionally, the RCRA liability coverage regulations require all owners and operators of hazardous waste TSDFs to maintain accident liability insurance during the active life of their hazardous waste management units or facilities. These requirements would apply to facilities in the Chemical Manufacturing industry that treat store or dispose of a hazardous waste.

The TSCA regulations for PCB commercial storage facilities require all commercial storage facilities to demonstrate financial assurance for closure of the facility. Under the Safe Drinking Water Act regulations designed to protect underground sources of drinking water, owners or operators of underground injection control operations are required to maintain financial responsibility for plugging and abandonment of wells. These requirements apply to owners and operators of permit-authorized class I, II, III and geologic sequestration class VI wells. The report is available in the docket for this rulemaking.[78]

EPA identified a range of existing financial responsibility programs that may be applicable to facilities in the Chemicals Manufacturing industry. The programs include the Federal programs mentioned above as well as state programs related to:

- Financial Responsibility for petrochemical manufacturing facilities,
- Financial Responsibility for phosphate fertilizer manufacturing facilities,
- Financial Responsibility for hazardous waste TSDFs,
- Financial Responsibility for underground injection of hazardous wastes,
- Financial Responsibility for PCB storage or disposal facilities,
- Corrective action financial responsibility to address hazardous waste or hazardous constituents,
- Facility remediation financial responsibility associated with transfer in ownership or facility closure,
- Financial Responsibility for storage tanks containing hazardous substances, and
- Other authorities to require financial responsibility to assure compliance with orders.

The applicability of these programs will depend on a variety of facility-specific factors, for example, use of a specific piece of equipment (*e.g.,* an underground storage tank that contains regulated substances) or engaging in a specified activity (*e.g.,* a release of a hazardous substance). Furthermore, state financial responsibility programs vary by state and some types of financial responsibility programs exist only in limited subsets of the states reviewed. EPA believes that state and Federal financial responsibility programs help reduce risk of a Fund-financed response action at facilities where they are applicable. While financial responsibility programs vary in structure and function, they may reduce such risk in a myriad of ways. For example, they may help ensure undercapitalized firms do not engage in environmentally risky enterprises, reduce the incentive to abandon properties with extensive contamination, ensure compliance with protective requirements, and incentivize better environmental practices.

D. Compliance and Enforcement History

To understand the experience of court settlements and judgments, EPA looked at compliance and enforcement in the Chemical Manufacturing industry. EPA believes that compliance assistance, compliance monitoring, and enforcement are important components of the regulatory framework discussed above. Through inspections, compliance monitoring can identify noncompliance at regulated facilities. Enforcement actions may result in legal instruments that ensure correction of deficiencies to achieve compliance with environmental requirements. Some functions of compliance and enforcement actions are particularly pertinent to the risk determination for rulemaking under CERCLA Section 108(b). First, if noncompliance causes release of a hazardous substance, then EPA can ensure through negotiated agreements that the responsible party carries out or pays for the cleanup. Second, enforcement actions can result in orders and settlements that compel a responsible party to return to compliance. Third, the prospect of financial penalties that can accompany these enforcement instruments can encourage compliance. All of these functions support the regulatory structure in reducing risk of Fund expenditures.

EPA looked at enforcement activities as well as historical enforcement and compliance data in the development of this proposal. EPA obtained data from the EPA Enforcement and Compliance History Online (ECHO) system and provides a review of the Federal environmental enforcement settlements and judgments data from FY 1972 through FY 2017.[79] Facilities whose primary NAICS codes indicate Chemical Manufacturing sector activities (NAICS 325) were included in EPA's review.

[77] *Summary Report: Federal and State Environmental Regulations and Industry Voluntary Programs in Place to Address CERCLA Hazardous Substances at Chemical Manufacturing Facilities.*

[78] *Review of Existing Financial Responsibility Laws Potentially Applicable to Classes of Facilities in the Chemical Manufacturing Industry.*

[79] ECHO does not include all of EPA's compliance and enforcement activity because regions are not required to report ''informal actions,'' and it does not consistently capture all state actions.

ECHO data show that initiatives and normal review or inspection of facilities resulted in over 7700 civil enforcement cases in the Chemical Manufacturing industry from FY 1972 through FY 2017. CAA (32%) and FIFRA (17%) cases were the most common. There are a smaller number of cases in RCRA (12%), CERCLA (12%), CWA (11%), EPCRA (11%), and TSCA (6%). Further description of this review is in the background document, which is available in the docket for this rulemaking.[80]

As noted above, the Risk Management Program under Chemical Accident Prevention Provisions of Section 112(r) of the Clean Air Act Amendments requires certain facilities to generate Risk Management Plans (RMPs) to mitigate the effects of a chemical accident and coordinate with local response personnel. Assuring compliance with this program has been a priority of EPA's Office of Enforcement and Compliance Assurance since 2017.

Enforcement cases can include instances in which removal action, release reduction, or return to compliance include the removal of contaminated media by the responsible party. Measures to remove contamination may be required in enforcement orders under the range of environmental statutes and are negotiated to require activities aligned with return to compliance.[81] In this situation, enforcement action directly reduces risks to human health and the environment. During the period FY 2012 through FY 2017, 32 settled Chemical Manufacturing industry enforcement cases have been indicated as those where removal of contaminated media occurred. They are primarily CERCLA (50%) and RCRA (34%) cases. Two CWA, two TSCA and one Safe Drinking Water cases are also included.

The substances removed are generally categorized as hydrocarbons, hazardous chemicals, and metals. These cleanups resulting from Federal enforcement actions mitigated risks to human health and the environment by removing soils, groundwater, and sediments contaminated by a variety of substances, and reduced likelihood of impact to the Fund.

Settlements and judgments in enforcement cases can result in financial penalties, supplemental environmental projects (SEPs), and activities required to return to compliance.[82] Enforcement settlements and judgments can ensure that the responsible party conducts or pays for cleanup, can drive a return to compliance, and more generally can incentivize compliance.

As stated in the cleanup site evaluations in Section VII.A, particular consideration was given to CERCLA and RCRA regulations as relevant components of the modern regulatory framework that applies to the Chemical Manufacturing industry. There have been over 1800 CERCLA and RCRA civil cases in this industry, beginning in 1981. For context, there are approximately 13,480 establishments currently operating in the industry. The ten largest CERCLA or RCRA enforcement settlements and judgments for the Chemical Manufacturing industry each have 2017 inflation-adjusted total values ranging from over $51 million to $1.1 billion.

Further discussion of the details on the Federal actions for these and additional criminal cases can be found in the background document, which is available in the docket for this rulemaking.[83] This document identifies facilities where noncompliance was identified and was addressed by means of formal Federal enforcement. The background document does not include either facilities where noncompliance was addressed through informal enforcement or facilities where noncompliance was addressed by a state. In addition, it does not include facilities where noncompliance was not identified, either because those facilities were not inspected or because they were inspected and found in compliance.

The compliance and enforcement actions documented here and in the background document show that where noncompliance is identified, many industry responsible parties are conducting or paying for cleanups, returning to compliance, and improving public health and the environment. In this industry, the largest CERCLA and RCRA civil and judicial Federal cases are recently concluded and represent significant operational compliance requirements and/or financial penalties. Several major enforcement cases highlighted in the EPA chemical sector notebooks[84] evolved into decades of litigation, multiple Federal enforcement cases, risks to human health and the environment, and NPL sites. Enforcement actions alone do not completely supplant the need for Fund-financed response actions either at these highlighted sites or generally in the Chemical Manufacturing industry (as discussed in section VIII below). Active enforcement serves as an important component of the regulatory framework.

VIII. Decision To Not Propose Requirements

Based on consideration of the analyses described in the previous sections, as summarized below, EPA has reached a conclusion that the degree and duration of risk posed by the Chemical Manufacturing industry does not warrant financial responsibility requirements under CERCLA Section 108(b) and thus is proposing to not issue such requirements. The analysis and proposed finding in this proposal are not applicable to and do not affect, limit, or restrict EPA's authority (1) to take a response action or enforcement action under CERCLA at any facility in the Chemical Manufacturing industry, including any currently operating facilities or those described in this proposal and in the background documents for this proposal, and (2) to include requirements for financial responsibility as part of such response action. The set of facts in the rulemaking record related to the individual facilities discussed in this proposed rulemaking supports the Agency's proposal not to issue financial responsibility requirements under Section 108(b) for this class, but a different set of facts could demonstrate a need for a CERCLA response action at an individual site. This proposed rulemaking also does not affect the Agency's authority under other authorities that may apply to individual facilities, such as the CAA, the CWA, RCRA, and TSCA.

EPA believes the evaluation of the Chemical Manufacturing industry demonstrates significantly reduced risk of a Fund-financed response action at current operations. The reduction in risks due to the requirements of existing regulatory programs and voluntary practices combined with reduced costs to the taxpayer—demonstrated by EPA's

[80] *Enforcement, Court Settlements and Judgments in the Chemical Manufacturing Industry.*

[81] These ECHO enforcement removals are separate from the Superfund removals analyzed elsewhere. ECHO system data includes the combined value of total enforcement financial penalties, Supplemental Environmental Projects (SEPs), and associated compliance activity.

[82] Compliance actions ordered can include the removal of contaminated media, installation of new equipment, or implementation of compliant processes.

[83] *Enforcement, Court Settlements and Judgments in the Chemical Manufacturing Industry.*

[84] Profile of the Agricultural Chemical, Pesticide, and Fertilizer Industry, Sep 2000, EPA 310–R–00–003; Profile of the Organic Chemical Industry, 2nd Edition, Nov 2002, EPA 310–R–02–001; Profile of the Plastic Resin and Manmade Fiber Industries, Sep 1997, EPA 310–R–97–006; and Profile of the Pharmaceutical Manufacturing Industry, Sep 1997, EPA 310–R–97–005.

cleanup case analysis, existing financial responsibility requirements, and enforcement actions—has reduced the need for Federally-financed response action at facilities in the Chemical Manufacturing industry. EPA looked at current industry practices, market structure and economic performance of the industry; analyzed cleanup cases for facilities in the industry; and evaluated the extent to which the industry and sources of releases are covered by the modern regulatory framework, the degree to which taxpayers have been called upon to pay for cleanup, and EPA enforcement history in the industry.

As discussed in section VII.A, EPA identified the cleanup cases that occurred under the modern regulatory framework and also entailed some Fund expenditure. There were 34 sites that indicated the potential for a significant impact to the Fund while operating under the modern regulatory framework. For context, there are approximately 13,480 establishments currently operating in the industry. Thus, this is a relatively small number of cases in comparison to the size of the industry. Moreover, EPA estimates the total fund expenditure amount at the 34 sites (including 30 removal sites and 4 NPL sites) is approximately $104 million (through 2017).[85] This amount of expenditures is only a fraction of just one year's Superfund budgetary authority. For example, the FY 2018 Superfund budget authority was $1.057B.[86]

The language in Section 108(b) on determining the degree and duration of risk and on setting the level of financial responsibility confers a significant amount of discretion on EPA. In the past, some of the risks associated with spills resulted from, or were exacerbated by cleanups not being undertaken in a timely fashion. However, under the modern regulatory framework, requirements such as the Risk Management Plan under the CAA, the Emergency Action Plan under OSHA, and RCRA requirements for TSDFs to detect, contain, and clean up any leaks, including facility-wide corrective action—all help to ensure timely responses to releases. In addition to the requirements for facilities to respond to spills in a timely fashion, the public can alert the Federal government to releases by calling the National Response Center (NRC), which is a part of the Federally established National Response System and staffed 24 hours a day by the U.S. Coast Guard. The NRC is the designated Federal point of contact for reporting all oil, chemical, radiological, biological and etiological discharges into the environment, anywhere in the United States and its territories.

Only 34 sites (discussed in detail in Section VII.A) had significant releases or threatened releases of hazardous substances under the modern regulatory framework and required more than minimal taxpayer-funded cleanups. It is EPA's assessment that the small set of Federally-funded cleanup cases due to recent contamination, in view of the size of the industry, does not warrant the imposition of costly financial responsibility requirements on the entire Chemical Manufacturing industry under CERCLA Section 108(b).

EPA acknowledges that regulations do not always prevent releases, and the risk of a release is lessened but never eliminated by existing Federal and state environmental regulations. However, EPA believes that the network of Federal and state regulations applicable to the Chemical Manufacturing industry creates a comprehensive framework that applies to prevent releases that could result in a need for future cleanup. This is reflected in the relatively small Fund burden associated with a relatively small number of Fund financed cleanups at Chemical Manufacturing industry sites where pollution occurred under the modern regulatory framework. Numerous Federal programs have been established under several environmental statutes since CERCLA was enacted on December 11, 1980. These include programs under RCRA, which require proper management and disposal of hazardous wastes; under TSCA, which regulates the manufacture and sale of chemicals; under FIFRA, which require the proper handling and use of pesticides; and under both the CWA and the CAA, which address releases to water and air. In addition to these Federal programs, some states have stricter or additional standards beyond Federal requirements.

In addition to these Federal programs, some states with significant chemical manufacturing industries have stricter or additional standards beyond Federal requirements. These Federal and state programs are discussed in detail in Section VII.B and in the background document, which is available in the docket for this rulemaking.[87]

In addition, enforcement settlements and judgments that force return to compliance are important components of the applicable regulatory structure. EPA's analysis of enforcement history shows that enforcement of the applicable regulations provides a lever to monitor compliance, obtain responsible party cleanups, and recover financial penalties. Federal and state regulatory programs, backed up by enforcement and complemented by industry voluntary practices, have improved public health and the environment significantly since CERCLA's initial adoption nearly 40 years ago. EPA believes that within the Chemical Manufacturing industry, this framework provides effective controls which protect public health, welfare, and the environment.

Examination of market structures for the Chemical Manufacturing industry further indicates comparatively low likelihood of default on environmental obligations at the expense of taxpayers and the government by companies in this industry. This economic performance, combined with the low impact to the Fund by facilities with releases that happened under the modern regulatory framework, suggests that the degree of risk to the Fund by this industry does not rise to a level that warrants imposing CERCLA Section 108(b) financial responsibility requirements.

In summary, EPA has analyzed the need for financial responsibility based on risk of taxpayer funded cleanups at facilities in the Chemical Manufacturing Industry operating under modern management practices and modern environmental regulations, *i.e.,* the type of facilities to which financial responsibility regulations would apply. That risk is identified by examining Superfund cleanup cases associated with the industry, the management of hazardous substances at facilities in the industry, as well as by examining Federal and state regulatory controls on that management and Federal and state financial responsibility requirements.

Based on that examination, EPA is proposing that, in the context of CERCLA section 108(b), the degree and duration of risk associated with the modern production, transportation, treatment, storage or disposal of hazardous substances by the Chemical Manufacturing Industry does not

[85] This expenditure figure reflects only expenditures from the Hazardous Substances Response Trust Fund (aka Superfund) designated as non-special account expenditures through 2017. For example, the projected costs through 2020 for Mississippi Phosphate is $133 million (according to the April 2018 Action Memorandum), compared to the $8 million expended through 2017. It is anticipated that significant additional expenditures will occur at some of these sites. As such, the ultimate taxpayer burden may be significantly higher.

[86] See U.S. EPA. May 2017. Fiscal Year 2018 Budget in Brief. Accessed April 2019. Available: *https://www.epa.gov/sites/production/files/2017-05/documents/fy-2018-budget-in-brief.pdf.*

[87] *Summary Report: Federal and State Environmental Regulations and Industry Voluntary Programs in Place to Address CERCLA Hazardous Substances at Chemical Manufacturing Facilities.*

present a level of risk of taxpayer funded response actions that warrant imposition of financial responsibility requirements for this sector. For these reasons, EPA is proposing today to not issue financial responsibility requirements under CERCLA Section 108(b) for this industry.

A. Solicitation of Public Comment on This Proposal

EPA solicits comments on all aspects of today's proposal. EPA is specifically interested in receiving comments on several issues and requests the following information:

- Examples of Chemical Manufacturing industry related response actions for releases which took place under the modern regulatory framework, for which potentially responsible parties (PRPs) did not lead the response at the facility.
- Examples of Chemical Manufacturing industry related response actions for releases which took place under the modern regulatory framework, for which PRPs have not taken financial responsibility for their environmental liabilities.
- Information on state-lead or other Federal agency cleanups or instances of natural resource damages associated with this industry that may supplement the information on cleanups gathered and analyzed for this proposal.
- Information about existing Federal, state, tribal, and local environmental requirements applicable to the Chemical Manufacturing industry relevant to the prevention of releases of hazardous substances that were not evaluated as part of this proposal.
- Information about financial responsibility requirements applicable to Chemical Manufacturing industry that were not evaluated as part of this proposal.

IX. Statutory and Executive Order Reviews

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

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review, because it may raise novel legal or policy issues [3(f)(4)]. Any changes made in response to OMB recommendations have been documented in the docket for this rulemaking. EPA did not prepare an economic analysis for the proposed rule, since this action proposes no regulatory requirements.

B. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

This proposed rule is not subject to the requirements of Executive Order 13771 (82 FR 9339, February 3, 2017) because this proposed rule would not result in additional cost.

C. Paperwork Reduction Act (PRA)

This action does not propose an information collection burden under the PRA, because this action does not propose any regulatory requirements.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action does not propose any new requirements for small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments, because this action does not propose any regulatory requirements.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the various levels of government, since this action proposes no new regulatory requirements.

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

This action does not have tribal implications as specified in Executive Order 13175, because this action proposes no regulatory requirements. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children, since this action proposes no regulatory requirements.

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

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy, since this action proposes no regulatory requirements.

J. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

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

EPA believes that this action is not subject to Executive Order 12898 because it does not establish an environmental health or safety standard, since this action proposes no regulatory requirements.

List of Subjects in 40 CFR Part 320

Environmental protection, Financial responsibility, Hazardous substances, Chemicals.

Dated: February 10, 2020.

Andrew R. Wheeler,

Administrator.

[FR Doc. 2020–03401 Filed 2–20–20; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 85, No. 35
Friday, February 21, 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.

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting Notice

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of Commission public business meeting.

DATES: February 28, 2020, 10 a.m. ET.

ADDRESSES: Meeting to take place by telephone.

FOR FURTHER INFORMATION CONTACT: Mauro Morales: 202–376–7796; TTY 202–376–8116; *publicaffairs@usccr.gov.*

SUPPLEMENTARY INFORMATION: This business meeting is open to the public by telephone only: 1–800–667–5617, Conference ID–769–4649 Persons with disabilities who need accommodation should contact Pamela Dunston at (202) 376–8105 or at *access@usccr.gov* at least seven (7) business days before the scheduled date of the meeting.

Meeting Agenda

I. Approval of Agenda
II. Business Meeting
  A. Discussion and vote on timeline, discovery plan, and outline for Commission project on bail reform
  B. Management and Operations
  • Staff Director's Report
III. Adjourn Meeting

Dated: February 18, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–03539 Filed 2–19–20; 11:15 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Census Bureau

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

Agency: U.S. Census Bureau.

Title: Annual Business Survey.

OMB Control Number: 0607–1004.

Form Number(s): ABS–L1—Initial Letter; ABS–L1R—Due Date Reminder; ABS–L2—1st Follow-up; ABS–L3—2nd Follow-up; ABS–L3F—3rd Follow-up; ABS–1 Worksheet.

Type of Request: Revision of a currently approved collection.

Number of Respondents: 300,000.

Average Hours per Response: 52 minutes.

Burden Hours: 260,000.

Needs and Uses: In an effort to improve the measurement of business dynamics in the United States, the Census Bureau is conducting the Annual Business Survey (ABS). The ABS combines Census Bureau firm-level collections to reduce respondent burden, increase data quality, reduce operational costs, and operate more efficiently. The ABS replaced the five-year Survey of Business Owners (SBO) for employer businesses, the Annual Survey of Entrepreneurs (ASE), and the Business Research and Development (R&D) and Innovation for Microbusinesses (BRDI–M) surveys. The ABS provide information on selected economic and demographic characteristics for businesses and business owners by sex, ethnicity, race, and veteran status. Further, the survey measures research and development for microbusinesses, new business topics such as innovation and technology, as well as other business characteristics. The ABS is sponsored by the National Center for Science and Engineering Statistics (NCSES) within the National Science Foundation (NSF) and conducted by the Census Bureau for five years (2018–2022).

The ABS includes all nonfarm employer businesses filing Internal Revenue Service (IRS) tax forms as individual proprietorships, partnerships, or any other type of corporation, with receipts of $1,000 or more. The ABS sampled approximately 850,000 employer businesses for survey year 2018. Starting with survey year 2019, the sample was reduced to approximately 300,000 employer businesses annually (survey years 2019–2022) to reduce the burden on the respondents. The sample size should yield summary-level estimates for women-, minority-, and veteran-owned businesses at the 2-digit NAICS, U.S., state and metropolitan statistical area (MSA) levels. The Census Bureau uses administrative data to estimate the probability that a firm is minority- or women-owned. Each firm is then placed in one of nine frames for sampling. The sampling frames are as follows: American Indian or Alaskan Native, Asian, Black or African American, Hispanic, Non-Hispanic White Men, Native Hawaiian and Other Pacific Islander, Other, Publicly Owned, and Women. The sample is stratified by state, industry, and frame. The Census Bureau selects some companies with certainty based on volume of sales, payroll, and number of paid employees or NAICS. All certainty cases are sure to be selected and represent only themselves.

The ABS is designed to incorporate new content each survey year based on topics of relevance. Each year the new module of questions is submitted to the Office of Management and Budget (OMB) for approval. The table below shows the proposed ABS content for each survey year.

PROPOSED CONTENT FOR THE ANNUAL BUSINESS SURVEY

	Collection year				
Topic modules	2018	2019	2020	2021	2022
A. Owner Characteristics	Full	Reduced	Reduced	Full	Reduced.
B. Innovation	Full	Reduced	Full.		
C. Research & Development (1–9 employees only).	Full	Full	Full	Full	Full.

PROPOSED CONTENT FOR THE ANNUAL BUSINESS SURVEY—Continued

Topic modules	Collection year				
	2018	2019	2020	2021	2022
D. Technology and Intellectual Property	Reduced (digital).	Full (automation).	Full (technology TBD).	Full (digital)	Full (automation).
E. Financing	Full			Full.	
F. Globalization			Full.		
G. Business Structure	Full	Full	Full	Full	Full.

The ABS primary collection method is via an electronic instrument. Those selected for the survey receive an initial letter informing the respondents of their requirement to complete the survey as well as instructions on accessing the survey. The 2020 ABS initial mailing is scheduled for July 2020. Responses will be due approximately 30 days from initial mailing. Respondents will also receive a due date reminder approximately one week before responses are due. The Census Bureau plans to conduct two follow-up mailings and an optional third follow-up if deemed necessary based on check-in. Nonrespondents may receive a certified mailing for the second and third follow-up mailings. The Census Bureau may also plan to conduct an email follow-up to select nonrespondents reminding them to submit their report in the electronic instrument. The optional third follow-up may include a paper questionnaire to assist with collecting data from select nonrespondents. Closeout of mail operations is scheduled for December 2020 but may be extended to allow ample time to receive returned forms if necessary. Response data will be processed as they are received. Upon the close of the collection period, data processing will continue, and records will be edited, reviewed, tabulated, and released publicly.

The ABS uses the collection year in the survey name rather than a single reference year. The ABS include questions from multiple reference periods; therefore, the 2019 survey data is referred to as the 2020 ABS (rather than the 2019 ABS).

Statistics from the ABS will be used by government program officials, industry organization leaders, economic and social analysts, business entrepreneurs, and domestic and foreign researchers in academia, business, and government. Estimates produced on owner demographic data may be used to assess business assistance needs, allocate available program resources, and create a framework for planning, directing, and assessing programs that promote the activities of disadvantaged groups; to assess minority-owned businesses by industry and area and to educate industry associations, corporations, and government entities; to analyze business operations in comparison to similar firms, compute market share, and assess business growth and future prospects. Estimates produced on research and development and innovation may be used to compare R&D costs across industries, determine where R&D activity is conducted geographically, and identify the types of businesses with R&D; to contribute to the Bureau of Economic Analysis (BEA) system of national accounts; to increase investments in research and development, strengthen education, and encourage entrepreneurship; and to compare business innovation in the United States to other countries, including those in the European Union.

Additional examples of data use include:

- The Small Business Administration (SBA) and the Minority Business Development Agency (MBDA) to assess business assistance needs and allocate available program resources.
- Local government commissions on small and disadvantaged businesses to establish and evaluate contract procurement practices.
- Federal, state and local government agencies as a framework for planning, directing and assessing programs that promote the activities of disadvantaged groups.
- The National Women's Business Council to assess the state of women's business ownership for policymakers, researchers, and the public at large.
- Consultants and researchers to analyze long-term economic and demographic shifts, and differences in ownership and performance among geographic areas.
- Individual business owners to analyze their operations in comparison to similar firms, compute their market share, and assess their growth and future prospects.

New questions on the 2020 ABS collect data on globalization and the relationship between domestic and foreign activities.

Affected Public: Business or other for-profit.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, United States Code, Sections 8(b), 131, and 182; Title 42, United States Code, Section 1861–76 (National Science Foundation Act of 1950, as amended); and Section 505 within the America COMPETES Reauthorization Act of 2010 authorize this collection. Sections 224 and 225 of Title 13, United States Code, require response from sampled firms.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2020–03457 Filed 2–20–20; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Regulations and Procedures Technical Advisory Committee; Notice of Partially Closed Meeting

The Regulations and Procedures Technical Advisory Committee (RPTAC) will meet March 10, 2020, 9:00 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues NW, Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

Agenda

Public Session

1. Opening remarks by the Chairman

2. Opening remarks by the Bureau of Industry and Security
3. Presentation of papers or comments by the Public
4. Export Enforcement Update
5. Regulations Update
6. Working Group Reports
7. Automated Export System Update

Closed Session

8. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3)

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov,* no later than March 3, 2020.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 19, 2020, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and the U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 § § 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2020–03483 Filed 2–20–20; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials and Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials and Equipment Technical Advisory Committee will meet on March 12, 2020, 10:00 a.m., Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues NW, Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials and related technology.

Agenda

Open Session

1. Introductions and Opening Remarks by Senior Management.

2. Presentation by Eric Levine, Department of Homeland Security on Novichoks.

3. Presentation by Dr. Rocco Casagrande, METAC member.

Closed Session

4. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov,* no later than March 5, 2020.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the materials should be forwarded prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on April 19, 2019, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and the U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 § § 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2020–03481 Filed 2–20–20; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Transportation and Related Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

The Transportation and Related Equipment Technical Advisory Committee will meet on March 11, 2020, 9:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues NW, Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to transportation and related equipment or technology.

Agenda

Public Session

1. Welcome and Introductions.

2. Status reports by working group chairs.

3. Public comments and Proposals.

Closed Session

4. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than March 4, 2020.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on April 19, 2019, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § (10)(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and

10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2020–03480 Filed 2–20–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–484–803]

Large Diameter Welded Pipe From Greece: Initiation of Antidumping Duty Changed Circumstances Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is initiating a changed circumstances review (CCR) of the antidumping duty (AD) order on large diameter welded pipe from Greece.

DATES: Applicable February 21, 2020.

FOR FURTHER INFORMATION CONTACT: Brittany Bauer, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3860.

SUPPLEMENTARY INFORMATION:

Background

On May 2, 2019, Commerce published the AD order on large diameter welded pipe from Greece.[1] On January 3, 2020, Corinth Pipeworks Pipe Industry S.A. (Corinth), a Greek producer of large diameter welded pipe, filed a CCR request, including as an attachment the CCR request filed in the companion Indian cases by nine members of the domestic industry, including the petitioners from the underlying investigations (individually and as members of the American Line Pipe Producers Association) and Welspun Global Trade LLC.[2] In that CCR request, the domestic industry requested that Commerce initiate CCRs to revoke, in part, the AD and countervailing duty (CVD) orders on large diameter welded pipe from India, with respect to certain large diameter welded pipe products within four specific groups of grades, outside diameters, and wall thicknesses.[3] Corinth stated that, because the domestic industry expressed no interest in these products from India, and because the same groups of products are produced and exported from Greece, the domestic industry's statement of no interest should also apply to large diameter welded pipe from Greece.[4] Corinth requests that we change the scope of the AD order on large diameter pipe from Greece by adding the exclusion language provided in the Attachment to this notice.

Scope of the Order

The merchandise covered by this order is welded carbon and alloy steel line pipe (other than stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded line pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases.

Large diameter welded line pipe is used to transport oil, gas, or natural gas liquids and is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded line pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All line pipe meeting the physical description set forth above, including any dual- or multiple-certified/stenciled pipe with an API (or comparable) welded line pipe certification/stencil, is covered by the scope of the order.

Subject merchandise also includes large diameter welded line pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the order if performed in the country of manufacture of the in-scope large diameter welded line pipe.

Excluded from the scope of the order is structural pipe, which is produced only to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, or comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards. Also excluded is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

The large diameter welded line pipe that is subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, and 7305.19.5000. Merchandise currently classifiable under subheadings 7305.31.4000, 7305.31.6090, 7305.39.1000 and 7305.39.5000 and that otherwise meets the above scope language is also covered. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Initiation of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216(d), Commerce will conduct a CCR of an AD or CVD order when it receives information which shows changed circumstances sufficient to warrant such a review. Section 782(h)(2) of the Act and 19 CFR 351.222(g)(1)(i) provide that Commerce may revoke an order (in whole or in part) if it determines that producers accounting for substantially all of the production of the domestic like product have no further interest in the order, in whole or in part. For the reasons discussed below, we find that such sufficient information exists to warrant initiation of a CCR.

The ten domestic producers who filed the request on the Indian orders asserted that they account for ''substantially all''[5] of the domestic production of large diameter welded pipe.[6] Because there is no record information that contradicts this claim, in accordance with section 751(b) of the Act and 19 CFR 351.222(g)(1)(i), we find that the ten domestic producers comprise

[1] *See Large Diameter Welded Pipe from Greece: Amended Final Affirmative Antidumping Determination and Antidumping Duty Order,* 84 FR 18769 (May 2, 2019) (*Order*).

[2] *See* Corinth's Letter, ''Large Diameter Welded Pipe from Greece: Request for Changed Circumstances Review and Revocation, In Part,'' dated January 3, 2020 (Corinth CCR Request).

[3] *Id.* at Exhibits 2 to 5. Exhibit 2 is the Petitioner's Letter, ''Large Diameter Welded Pipe from India: Petitioners' Request for Changed Circumstances Review and Partial Revocation,'' dated October 18, 2019 (Petitioner's Indian LDWP CCR Request).

[4] *Id.* at 5–8 and Exhibits 1 and 2 (citing *Large Diameter Welded Pipe from India: Initiation and Expedited Preliminary Results of Antidumping Duty and Countervailing Duty Changed Circumstances Reviews,* 84 FR 69356 (December 18, 2019) (*Indian Welded Pipe CCR*).

[5] In its administrative practice, Commerce has interpreted ''substantially all'' to mean at least 85 percent of the total production of the domestic like product covered by the order. *See, e.g., Supercalendered Paper from Canada: Final Results of Changed Circumstances Review and Revocation of Countervailing Duty Order,* 83 FR 32268 (July 12, 2018).

[6] *See* Corinth CCR Request at Exhibit 2; *see also Indian Welded Pipe CCR,* 84 FR at 69357.

substantially all of the production of the domestic like product.

Because this CCR request was filed less than 24 months after the date of publication of notices of the final determinations in the investigations, pursuant to 19 CFR 351.216(c), Commerce must determine whether ''good cause'' exists to initiate this CCR. We find that the ten domestic producers' affirmative statement of no interest with respect to certain specific large diameter welded pipe products, coupled with the circumstances described below, constitute good cause for the initiation of this review.[7] Specifically, the domestic industry stated on the record of the *Indian Welded Pipe CCR* that it does not currently produce the particular large diameter welded pipe products subject to this CCR request.[8] Furthermore, the domestic producers also stated on the record of the *Indian Welded Pipe CCR* that the investment needed for the industry to produce these products far exceeds the potential benefit of such an investment, given that the U.S. market for deep offshore projects, *i.e.,* the primary market for the large diameter welded pipe product groups at issue, is relatively small.[9] In addition, the domestic producers provided an explanation on the record of the *Indian Welded Pipe CCR* indicating that the commercial reality of welded pipe production has changed since the *Orders* were put in place.[10]

On February 5, 2020, we informed counsel to the domestic industry of the CCR request and notified them of the timing for initiation of a review.[11] Counsel to the domestic industry stated that they did not intend to file comments prior to the deadline for initiation.[12]

Public Comment

We are inviting interested parties to file comments and new factual information not later than 14 days after the date of publication of this notice. Rebuttal comments and factual information may be filed not later than seven days after the due date for affirmative comments. Specifically, we are requesting that domestic interested parties who expressed no interest regarding certain products in the AD and CVD orders on large diameter welded pipe from India provide comments with respect to those statements in the context of this case, and identify any considerations that distinguish those factors from the AD order on large diameter welded pipe from Greece. All submissions must be filed electronically using Enforcement and Compliance's AD and CVD 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. An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the due date set forth in this notice.

Commerce intends to publish in the **Federal Register** a notice of preliminary results of the antidumping duty changed circumstances review, in accordance with 19 CFR 351.221(b)(4) and 351.221(c)(3)(i), which will set forth Commerce's preliminary factual and legal conclusions. Commerce will issue its final results of the review in accordance with the time limits set forth in 19 CFR 351.216(e).

Notification to Interested Parties

This notice is published in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216 and 351.221(c)(3).

Dated: February 13, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Attachment

Proposed Revision to the Scope of the Order

Excluded from the scope of the antidumping duty order are large diameter welded pipe products in the following combinations of grades, outside diameters, and wall thicknesses:

- Grade X60, X65, or X70, 18″ outside diameter, 0.688″ or greater wall thickness;
- Grade X60, X65, or X70, 20″ outside diameter, 0.688″ or greater wall thickness;
- Grade X60, X65, X70, or X80, 22″ outside diameter, 0.750″ or greater wall thickness; and
- Grade X60, X65, or X70, 24″ outside diameter, 0.750″ or greater wall thickness.

[FR Doc. 2020–03473 Filed 2–20–20; 8:45 am]

BILLING CODE 3510–DS–P

[7] *See, e.g., Certain Cold-Rolled Steel Flat Products from Japan: Initiation and Preliminary Results of Changed Circumstances Review, and Intent to Revoke Order in Part,* 82 FR 821 (January 4, 2017) (finding that ''Petitioners' affirmative statement of no interest in the order . . . constitutes good cause for the conduct of this review.'').

[8] *See* Petitioner's Indian LDWP CCR Request.

[9] *See* Petitioner's Indian LDWP CCR Request.

[10] *See* Petitioner's Indian LDWP CCR Request.

[11] *See* Memorandum, ''Phone Call with the Petitioner's Counsel in Large Diameter Welded Pipe from Greece,'' dated February 5, 2020.

[12] *Id.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–824]

Certain Cold-Rolled Steel Flat Products From the United Kingdom: Rescission of Antidumping Duty Administrative Review; 2018–2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty order on certain cold-rolled steel flat products (CR Steel) from the United Kingdom (UK) for the period September 1, 2018, through August 31, 2019, based on the timely withdrawal of the request for review.

DATES: Applicable February 21, 2020.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0410.

SUPPLEMENTARY INFORMATION:

Background

On September 3, 2019, Commerce published a notice of opportunity to request an administrative review of the antidumping duty order on CR Steel from the UK for the period of review (POR) September 1, 2018, through August 31, 2019.[1] On September 30, 2019, the petitioners [2] timely requested an administrative review of the antidumping duty order with respect to Liberty Performance Steels Ltd., and Tata Steel UK Ltd.[3] On November 12, 2019, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the order on CR Steel from the UK with respect to Liberty Performance Steels Ltd. and Tata Steel UK Ltd.[4] On January 21, 2020, the petitioners timely withdrew their request for an administrative review of Liberty

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 84 FR 45949 (September 3, 2019).

[2] The petitioners are AK Steel Corporation, Steel Dynamics Inc., Nucor Corporation, and United States Steel Corporation.

[3] *See* the petitioners' Letter, ''Cold-Rolled Steel Flat Products from the United Kingdom/Request For Administrative Review,'' dated September 30, 2019.

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 61011 (November 12, 2019) (*Initiation Notice*).

Performance Steels Ltd. and Tata Steel UK Ltd.[5] Commerce received no other requests for an administrative review of this antidumping duty order.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review ''in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review.'' The petitioners withdrew their request for review within 90-days of the publication date of the *Initiation Notice*. Because we received no other requests for review of Liberty Performance Steels Ltd. and Tata Steel UK Ltd., and no other requests for the review of the order on CR Steel from the UK with respect to other companies subject to the order, we are rescinding the administrative review of the order in its entirety, in accordance with 19 CFR 351.213(d)(1).

Assessment

Commerce intends to instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of CR Steel products from the UK during the POR at rates equal to the cash deposit rate of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice in the **Federal Register**.

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 Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: February 18, 2020.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2020–03501 Filed 2–20–20; 8:45 am]

BILLING CODE 3510–DS–P

[5] *See* the petitioners' Letter, ''Cold-Rolled Steel Flat Products from the United Kingdom/ Withdrawal Of Request For Administrative Review,'' dated January 21, 2020.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Alaska Region Gear Identification Requirements.

OMB Control Number: 0648–0353.

Form Number(s): None.

Type of Request: Regular (request for extension of an approved information collection).

Number of Respondents: 827.

Average Hours per Response: Marking longline pot gear marker buoys and groundfish hook-and-line marker buoys, 15 minutes per buoy; 1 hour each for the Vessel Registration and Request for IFQ Sablefish Pot Gear Tags form and for the Request for Replacement of Longline Pot Gear Tags form.

Burden Hours: 1,586.

Needs and Uses: Regulations pertaining to gear markings are set forth at 50 CFR part 679 and in the annual management measures published in the **Federal Register** pursuant to 50 CFR 300.62. This information collection contains the following gear identification requirements for participants in the groundfish fisheries in the Exclusive Economic Zone off Alaska and for vessels using longline pot gear to fish for individual fishing quota (IFQ) sablefish in the Gulf of Alaska (GOA).

Marker Buoys

All hook-and-line, longline pot, and pot-and-line marker buoys carried on board or used by any vessel regulated under 50 CFR part 679 must be marked with the vessel's Federal Fisheries Permit number or Alaska Department of Fish and Game vessel registration number. Regulations that marker buoys be marked with identification information are essential to facilitate fisheries enforcement and actions concerning damage, loss, and civil proceedings. The ability to link fishing gear to the vessel owner or operator is crucial to enforcement of regulations.

Longline Pot Gear Vessel Registration and Tags

A vessel owner using longline pot gear to fish for IFQ sablefish in the GOA must annually register their vessel with the National Marine Fisheries Service (NMFS) and be assigned pot tags for that vessel. Vessel registration and the use of pot tags provide NMFS with an additional enforcement tool to ensure that the pot limits are not exceeded. The use of pot tags requires a uniquely identified tag to be securely affixed to each pot, which allows at-sea enforcement and post-trip verification of the number of pots fished. NMFS uses information obtained from respondents applying for replacement tags to enforcement of pot limits and enhance tracking of lost fishing gear.

Vessel owners submit the form ''Vessel Registration and Request for IFQ Sablefish Pot Gear Tags'' to annually register their vessels and to request new pot tags if a vessel does not have previously issued tags. Tags assigned to a vessel in previous years are valid as long as the tag can be secured to a pot and the serial number is legible. Vessel owners submit the form ''Request for Replacement of Longline Pot Gear Tags'' if previously issued tags have been lost, stolen, or mutilated and need to be replaced.

Affected Public: Individuals or households; Business or other for-profit organizations.

Frequency: Annually; On occasion.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this

notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2020–03461 Filed 2–20–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XR095]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the South Quay Wall Recapitalization Project, Mayport, Florida

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

ACTION: Notice; issuance of incidental harassment authorization.

SUMMARY: NMFS has received a request from the United States Navy (Navy) for the re-issuance of a previously issued incidental harassment authorization (IHA) with the change being a minor modification to the effective dates. The initial IHA authorizes take of one species of marine mammal, by Level B harassment only, incidental to pile driving associated with the South Quay Wall Recapitalization Project, Naval Station Mayport, Florida. The project has been delayed and none of the work covered in the initial IHA has been conducted. The initial IHA has an effective period from February 15, 2020, through February 14, 2021. The Navy has requested re-issuance with new effective dates of July 1, 2020 through June 30, 2021. The scope of the activities and anticipated effects remain the same, authorized take numbers are not changed, and the required mitigation, monitoring, and reporting remains the same as included in the initial IHA. Therefore, NMFS re-issued the IHA.

DATES: This authorization is effective from July 1, 2020, through June 30, 2021.

ADDRESSES: An electronic copy of the initial IHA, the Navy's initial IHA's application, and the **Federal Register** notices proposing and issuing the initial IHA may be obtained by visiting *https://www.fisheries.noaa.gov/action/incidental-take-authorization-south-quay-wall-recapitalization-project-naval-station-mayport*. In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Jaclyn Daly, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Summary of Request

On July 26, 2019, NMFS issued an IHA authorizing take of marine mammals incidental to the South Quay Wall Recapitalization Project, Mayport, Florida (84 FR 37841; August 2, 2019). The effective dates of that IHA are February 15, 2020 through February 14, 2021. On December 2, 2019, the Navy informed NMFS that the project was delayed such that work would not begin until July 2020 (*i.e.,* no work would occur between February and July 2020). As such, the Navy requested NMFS re-issue the IHA with a new effective period of July 1, 2020, through June 30, 2021. No other changes to the IHA were requested.

However, with the reissuance request, the Navy notified us that they intend to use a different pile type to construct the new South Quay wall. For reasons described below, we verified use of this pile type will result in a smaller ensonified area during vibratory pile driving and the same ensonified area for impact pile driving (resulting in the same or fewer takes than previously authorized in the initial IHA). All of the other aspects of the activity (*e.g.,* number of pile driving days) would remain identical and, therefore, no changes to take numbers, species taken, or monitoring, mitigation, or reporting measures are necessary. That is, the potential impacts to marine mammals from the proposed work are the same as were previously analyzed. As such, NMFS determined reissuance is appropriate and NMFS has re-issued the IHA. The reissued IHA is identical to the one issued previously, with the exception of the effective dates, and all of the necessary MMPA findings have been made.

Summary of Specified Activity and Anticipated Impacts

The specified activity for which take is authorized in the reissued IHA remains the same as the initial IHA (*i.e.,* vibratory and impact pile driving). All mitigation, monitoring, and reporting measures, amount of authorized incidental take, and anticipated impacts on the affected stocks are the same as those analyzed and authorized through the previously issued IHA.

The purpose of the project is to support the existing bulkhead wall that has been weakened by the formation of voids within the wall. To construct the new wall, the Navy initially proposed it would install 240 individual sheet piles over the course of 35 days, averaging 7 to 10 sheet piles installed per day, with a maximum of 15 individual piles installed per day. The Navy has since notified NMFS they have changed the design from an all sheet-pile bulkhead to an alternating sheet pile/king pile bulkhead. The king piles are comparable to the king piles installed at Mayport's C–2 Wharf and monitored during sound source verification tests for that work.

Based on the Navy's 2017 acoustic monitoring report (found at *https://www.navymarinespeciesmonitoring.us/files/4814/9089/8563/Pile-driving_Noise_Measurements_Final_Report_12Jan2017.pdf*), the Navy assumed the source level during vibratory driving of king piles would be 149 decibel root mean square (dB rms). During impact driving (proofing only), the Navy estimated a 180 dB sound exposure level (SEL) source level (Caltrans, 2015). These source levels are less than or equal to sheet pile installation with a vibratory and impact hammer (156 dB rms and 180 dB SEL, respectively) analyzed in the initial IHA request. The Navy indicated sheet pile driving would occur the same days as king pile driving. The previously analyzed sheet pile driving remains an appropriate representation of the modified work that will be conducted under this IHA. The Navy indicated the number of days of pile driving would not change from the initial IHA despite the design modification. Further, the re-issued IHA contains the identical mitigation, monitoring and reporting measures as the initital IHA.

The only species of marine mammal expected to be taken by the planned activity is the bottlenose dolphin (*Tursiops truncatus*). The data inputs and methods of estimating take are identical to those used in the initial IHA. As such, the manner and amount of authorized take in the reissued IHA is identical to that in the initial IHA. NMFS has reviewed recent Stock Assessment Reports, information on relevant Unusual Mortality Events, and recent scientific literature, and determined that no new information affects our initial analysis of impacts or take estimate under the initial IHA.

We refer to the documents related to the previously issued IHA, which include the **Federal Register** notice of the issuance of the initial IHA for the Navy's construction work (84 FR 37841, August 2, 2019), the Navy's application, the **Federal Register** notice of the proposed IHA (84 FR 23024, May 21, 2019), and all associated references and documents.

Determinations

The Navy will conduct activities that have impacts less than or equal to those analyzed in the initial IHA. As described above, the number of authorized takes of the same species and stocks of marine mammals is identical to the number that we found met the small numbers standard for issuance of the initial IHA. There are no changes to the status of the stock or the conditions under which the taking would occur. Further, the re-issued IHA includes identical required mitigation, monitoring, and reporting measures as the initial IHA. For the initial IHA, NMFS found the authorized take would result in a negligible impact to the affected stocks of bottlenose dolphins. No new information has emerged that would suggest we should change or analysis or findings.

Based on the information contained here and in the referenced documents, NMFS has determined the following: (1) The required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; and (4) the Navy's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action with respect to environmental consequences on the human environment.

Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review. This action is consistent with categories of activities identified in CE B4 of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Because the only change to the IHA are effective dates, the CE on record for issuance of the initial IHA applies to this action.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species. No incidental take of ESA-listed species is anticipated or authorized in the IHA as none occur in the action area. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Authorization

NMFS has issued an IHA to the Navy for in-water construction activities associated with the specified activity from July 1, 2020, through June 30, 2021. All previously described mitigation, monitoring, and reporting requirements from the initial IHA are incorporated.

Dated: February 18, 2020.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2020–03486 Filed 2–20–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Educational Partnership Program with Minority Serving Institutions (EPP/MSI), Undergraduate Scholarship Program (USP), Cooperative Science Centers (CSCs), and Ernest F. Hollings Undergraduate Scholar.

OMB Control Number: 0648–0568.

Form Number(s): None.

Type of Request: Regular (request for a revision and extension of a currently information collection).

Number of Respondents: 2,304.

Average Hours per Response: Undergraduate Scholarship Program (USP) application: 12 hours; Undergraduate Scholarship Program references: 1 hour; Alumni Update form: 6 minutes; Student & Performance Measures Tracking System (SPMTS) form: 28 hours; Student Training Record form: 0.5 hours.

Burden Hours: 11,129.

Needs and Uses: The Administrator of the National Oceanic and Atmospheric Administration (NOAA) is authorized by section 4002 of the America

COMPETES Act, Public Law 110–69, to establish and administer a Graduate Sciences Program and two undergraduate scholarship programs to enhance understanding of ocean, coastal, Great Lakes, and atmospheric science and stewardship by the general public and other coastal stakeholders, including underrepresented groups in ocean and atmospheric science and policy careers. In addition, NOAA's Administrator is authorized by section 214 of the Consolidated Appropriations Act, 2005, Public Law 108–447, to establish and administer the Ernest F. Hollings Undergraduate Scholarship Program to support undergraduate studies in oceanic and atmospheric science, research, technology, and education that support NOAA's mission and programs.

The National Oceanic and Atmospheric Administration (NOAA) Office of Education (OEd) collects, evaluates, and assesses student data and information for the purpose of selecting successful candidates, generating internal NOAA reports, and articles to demonstrate the success of its program.

The purpose of the OEd Educational Partnership Program (EPP) with Minority Serving Institutions is to educate, train and graduate students in NOAA-mission sciences. OEd EPP is strongly committed to broadening the participation of Minority Serving Institutions (MSIs) such as Historically Black Colleges and Universities, Hispanic Serving Institutions, Indian Tribally Controlled Colleges and Universities, Alaska Native-Serving Institutions, and Native Hawaiian-Serving Institutions. NOAA's OEd EPP/MSI partnership is comprised of four program components: The Undergraduate Scholarship Program (USP); the Graduate Sciences Program (GSP); the Environmental Entrepreneurship Program (EEP); and the Cooperative Science Center (CSC).

The OEd requires applicants to NOAA's Undergraduate Scholarship Programs to complete an application in order to be considered. The application package requires two faculty and/or academic advisors to complete a NOAA student scholar reference form in support of the scholarship application. The Dr. Nancy Foster Scholarship Program and the NMFS Recruiting, Training and Research Program also collect student data for their programs and are also covered by this notice. Undergraduate scholarship recipients are required to complete a Student Scholarship Training Record to track their time, attendance, and accomplishments during their internships. NOAA OEd student scholar alumni are also requested to provide information to NOAA for internal tracking purposes. This information informs NOAA whether NOAA-funded students pursue and complete post-graduate NOAA-related science degrees, are employed by NOAA or a NOAA contractor, or in fields related to NOAA's mission. NOAA OEd grant recipients are required to update the student tracker database with the required student information in order to assess compliance with NOAA OEd's performance measures.

The collected data supports NOAA OEd's program performance measures. To measure the impact of OEd programs, the data collected are compared to the available data in the national education databases (*e.g.,* National Science Foundation and National Center for Education Statistics) and NOAA workforce management database. Furthermore, the student data collection identifies degree pipeline areas (BS, MS, or Ph.D.) and where OEd and its academic partners may target recruitment for its' NOAA-related science educational and training programs. NOAA scholarship programs produce a pool of qualified candidates that may be hired by NOAA and help to sustain a world-class NOAA organization.

Affected Public: Individuals or households; Business or other for-profit; Not-for-Profit institutions; and State, Local or Tribal Government.

Frequency: Annually: USP application and references; On occasion: Alumni Update form; Semi-annually: SPMTS form; Bi-weekly during the summer: Student Training Record form.

Respondent's Obligation: Voluntary: USP application and references, and Alumni Update form; Mandatory: SPMTS form and Student Training Record form.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2020–03455 Filed 2–20–20; 8:45 am]

BILLING CODE 3510–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA052]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Atlantic Mackerel, Squid, and Butterfish (MSB) Advisory Panel will hold two meetings.

DATES: The meetings will be held on Tuesday, March 3, 2020 and Tuesday March 17, 2020. Both will begin at 3 p.m. and conclude by 5 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meetings will be held via webinar with a telephone-only audio connection: *http://mafmc.adobeconnect.com/illex-wg/*. Telephone instructions are provided upon connecting, or the public can call direct: 800–832–0736, Rm: *7833942#.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331 or on their website at *www.mafmc.org*.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to gather Advisory Panel input on analysis related to possible changes to the *Illex* squid quota. An agenda and background documents will be posted at the Council's website (*www.mafmc.org*) prior to the meeting.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to any meeting date.

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

Dated: February 14, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–03446 Filed 2–20–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA046]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) Bering Sea Fishery Ecosystem Plan Team will meet March 3, 2020 through March 5, 2020.

DATES: The meeting will be held on Tuesday, March 3, 2020, from 9 a.m. to 5 p.m., March 4, 2020, from 9 a.m. to 5 p.m., and on March 5, 2020, from 9 a.m. to 1 p.m., Pacific Standard Time.

ADDRESSES: The meeting will be held in the MML Room (2039), March 3–4, 2020 and in the Traynor Room (2076) on March 5, 2020 at the Alaska Fisheries Science Center, 7600 Sand Point Way NE, Seattle, WA 98115. Teleconference number is (907) 271–2896.

Council address: North Pacific Fishery Management Council, 605 W 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone: (907) 271–2809.

FOR FURTHER INFORMATION CONTACT: Diana Evans, Council staff; telephone: (907)–271–2815.

SUPPLEMENTARY INFORMATION:

Agenda

Tuesday, March 3, 2020 Through Thursday, March 5, 2020

The agenda will include (a) update on action modules; (b) workplans for future action modules; (c) ecosystem health report card progress; (d) outreach and communication update; (e) research priorities; and (f) other business. The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/1323* prior to the meeting, along with meeting materials.

Public Comment

Public comment letters will be accepted and should be submitted either electronically to *https://meetings.npfmc.org/Meeting/Details/1323* or through the mail: North Pacific Fishery Management Council, 605 W 4th Ave., Suite 306, Anchorage, AK 99501–2252.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shannon Gleason at 907–271–2809 at least 7 working days prior to the meeting date.

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

Dated: February 18, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–03491 Filed 2–20–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA051]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting via webinar.

SUMMARY: The Gulf of Mexico Fishery Management Council will hold a meeting via webinar of its Standing, Reef Fish, Mackerel, Shrimp and Socioeconomic Scientific and Statistical Committees (SSC).

DATES: The webinar will convene on Wednesday, March 11, 2020, from 9 a.m. to 11:30 a.m., EST.

ADDRESSES: You may register for the webinar by visiting *www.gulfcouncil.org* and clicking on the SSC meeting on the calendar.

Council address: Gulf of Mexico Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Ryan Rindone, Fishery Biologist, Gulf of Mexico Fishery Management Council; *ryan.rindone@gulfcouncil.org,* telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Wednesday, March 11, 2020; 9 a.m.–11:30 a.m.

The meeting will begin with introductions, adoption of agenda, and approval of minutes from the January 9, 2020 meeting; along with a review of the scope of work and selection of an SSC Representative to attend the March/April Council meeting in Gulf Shores, AL. The Committees will review the shrimp stock assessments, the landings and effort for Gulf of Mexico (GOM) shrimp, and an index of landings for royal red shrimp. Council staff will review scope of work for both the GOM Yellowedge Grouper Operational Assessment and for the GOM Migratory Group Spanish Mackerel Operational Assessment. The SSC will review an update on SEDAR 49: Lane Snapper with Marine Recreational Information Program-Fishing Effort Survey (MRIP–FES) Data including overfishing limit (OFL) and acceptable biological catch (ABC) recommendations, excluding discards. The SSC will also discuss the revised Optimum Yield options in Reef Fish 48/Red Drum 5.

Lastly, the SSC will discuss any Other Business items.

—Meeting Adjourns

The meeting will be broadcast via webinar. You may register for the webinar by visiting *www.gulfcouncil.org* and clicking on the SSC meeting on the calendar.

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on *www.gulfcouncil.org* as they become available.

Although other non-emergency issues not on the agenda may come before the Scientific and Statistical Committees for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Scientific and Statistical Committee will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Gulf Council Office (see **ADDRESSES**), at least 5 working days prior to the meeting.

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

Dated: February 18, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–03499 Filed 2–20–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: South Pacific Tuna Act.

OMB Control Number: 0648–0218.

Form Number(s): None.

Type of Request: Revision and Extension (of a currently approved information collection).

Number of Respondents: 41.

Average Hours per Response: License application, 1 hour; VMS registration application, 45 minutes; catch report, 1 hour; unloading logsheet, 30 minutes; expression of interested, 2 hours; and renewal, 15 minutes.

Burden Hours: 536.

Needs and Uses: The National Oceanic and Atmospheric Administration (NOAA) collects vessel license, vessel registration, catch, and unloading information from operators of U.S. purse seine vessels fishing under the provisions of the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America (Treaty). The Treaty provides access for U.S. purse seine vessels to fish in the exclusive economic zones (EEZs) of Pacific Island Parties to the Treaty (PIPs). The PIPs include Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu. This collection of information is required to meet U.S. obligations under the Treaty. This collection of information also includes purse seine net sharing reporting requirements and purse seine whale shark encirclement reporting requirements, pursuant to regulations implementing decision of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC).

The South Pacific Tuna Act of 1988 (16 U.S.C. 973–973r) and U.S. implementing regulations (50 CFR part 300, subpart D) authorize the collection of information from U.S. purse seine vessels fishing in the EEZs of PIPs under the Treaty. Vessel operators must submit annual vessel license and registration (including registration of vessel monitoring system (VMS) units) applications and periodic written reports of catch and unloading of fish from licensed vessels. They are also required to ensure the continued operation of VMS units on board licensed vessels, which is expected to require periodic maintenance of the units. The information collected is submitted to the Pacific Islands Forum Fisheries Agency (FFA) through the U.S. government, NOAA's National Marine Fisheries Service (NMFS). The license and registration application information is used by the FFA to determine the operational capability and financial responsibility of a vessel operator interested in fishing under the Treaty. Information obtained from vessel catch and unloading reports is used by the FFA to assess fishing effort and fishery resources in the region and to track the amount of fish caught within each PIP's EEZ. Maintenance of VMS units is needed to ensure the continuous operation of the VMS units, which, as part of the VMS administered by the FFA, are used as an enforcement tool. If the information is not collected, the U.S. government will not meet its obligations under the Treaty, and the lack of fishing information will result in poor management of the fishery resources.

Similarly, the Western and Central Pacific Fisheries Convention Implementation Act (WCPFCIA; 16 U.S.C. 6901 *et seq.*) and U.S. implementing regulations (50 CFR part 300 subpart O) authorize the collection of information from U.S. vessels fishing for highly migratory species in the WCPFC's area of competence. The net sharing and whale shark encirclement reporting requirements under this collection of information is needed for fisheries management and enforcement purposes. If the information is not collected, the U.S. government will not meet its obligations as a member of the WCPFC, and the lack of fishing information will result in poor management of the fishery resources.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2020–03456 Filed 2–20–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Wage Mariner Hiring Portal (WMHP)

OMB Control Number: 0648–xxxx.

Form Number(s): None.

Type of Request: Regular submission (new collection).

Number of Respondents: 1,000 estimated per year.

Average Time per Response: 1 hour.

Burden Hours: 1,000 hours.

Needs and Uses: The Wage Mariner Hiring Portal (WMHP) system is used to facilitate federal wage mariner employees. The WMHP is an internet-based system (website) that is designed to allow an applicant to apply for a ''wage mariner'' position within the National Oceanic and Atmospheric Administration (NOAA) fleet of maritime vessels. The WMHP system collects basic user information, wage mariner licensing, certifications, and relevant current and or past work history. Applicants fill out basic personal, licensure, and work history information into a profile resume. Once their basic profile is complete, applicants can submit this resume to available wage mariner positions as shown on the WMHP website. Application information includes: First and last name, contact number and email address, wage mariner licenses and certifications, relevant work history.

Affected Public: Any public citizen that is interested and intent on applying for position as a NOAA federal wage mariner employee.

Frequency: Once per applicant.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *reginfo.gov.* Follow

the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2020–03460 Filed 2–20–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA028]

Fisheries of the Gulf of Mexico and the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 68 Data Workshop for Gulf of Mexico and Atlantic scamp grouper.

SUMMARY: The SEDAR 68 assessment process of Gulf of Mexico and Atlantic scamp will consist of a Data Workshop, and a series of assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 68 Data Workshop will be held from 1 p.m. on March 16, 2020, until 1 p.m. on March 20, 2020.

ADDRESSES:

Meeting address: The SEDAR 68 Data Workshop will be held at the Town and County Inn, 2008 Savannah Highway, Charleston, SC 29407, 1–843–571–1000.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366. Email: *Julie.neer@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data/Assessment Workshop, and (2) a series of webinars. The product of the Data/Assessment Workshop is a report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses, and describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion in the Data/Assessment Workshop are as follows:

1. An assessment data set and associated documentation will be developed during the workshop.

2. Participants will evaluate proposed data and select appropriate sources for providing information on life history characteristics, catch statistics, discard estimates, length and age composition, and fishery dependent and fishery independent measures of stock abundance.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: February 18, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–03497 Filed 2–20–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA050]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will hold a meeting of its Law Enforcement Technical Committee (LETC), in conjunction with the Gulf States Marine Fisheries Commission's Law Enforcement Committee (LEC).

DATES: The meeting will convene on Wednesday, March 11, 2020; beginning at 8:30 a.m. and adjourn no later than 5 p.m.

ADDRESSES:

Meeting address: The meeting will be held at The Lodge at Gulf State Park, located at 21196 East Beach Boulevard, Gulf Shores, AL 36542; telephone: (251) 540–4000.

Council address: Gulf of Mexico Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Dr. Ava Lasseter, Anthropologist, Gulf of Mexico Fishery Management Council; *ava.lasseter@gulfcouncil.org,* telephone: (813) 348–1630, and Mr. Steve VanderKooy, Inter-jurisdictional Fisheries (IJF) Coordinator, Gulf States Marine Fisheries Commission; *svanderkooy@gsmfc.org,* telephone: (228) 875–5912.

SUPPLEMENTARY INFORMATION: The items of discussion on the agenda are as follows:

Joint Gulf Council's Law Enforcement Technical Committee (LETC) and Gulf States Marine Fisheries Commission's Law Enforcement Committee (LEC) Meeting Agenda, Wednesday, March 11, 2019, 8:30 a.m. Until 5 p.m.

The joint meeting will begin with introductions, adoption of agenda, and approval of minutes from the Joint LEC/LETC meeting on October 16, 2019.

The Gulf Council LETC will review nominations for the Officer/Team of the Year Award in a brief CLOSED SESSION. They will discuss coordinating responses regarding the federal report that negatively identified Mexico for Illegal, Unreported, and Unregulated (IUU) fishing; receive an update on the Southeast For-Hire Integrated Electronic Reporting (SEFHIER) implementation timeline; and discuss illegal charters. LETC will discuss a proposal to close the Madison-Swanson and Steamboat Lumps MPAs to trolling; review information on the proposal for the Florida Keys National Marine Sanctuary Proposed Expansion; and discuss enforcement of Red Snapper state management. And, discuss any Other Business items.

The GSMFC LEC will outline revisions to the LETC/LEC 2021–22 Operations Plan; and review the IJF Program Activity for the status of the Red Drum Profile, law enforcement membership for the Mangrove Snapper Profile, Annual License and Fees, and Law Summary (red book).

The committee will present the State Report Highlights from Florida, Alabama, Mississippi, Louisiana, Texas, U.S. Coast Guard (USCG), NOAA Office of Law Enforcement (OLE), and U.S. Fish and Wildlife Service (USFWS); and will discuss any Other Business items.

—Meeting Adjourns

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on *www.gulfcouncil.org* as they become available.

The Law Enforcement Technical Committee consists of principal law enforcement officers in each of the Gulf States, as well as the NOAA OLE, USFWS, the USCG, and the NOAA Office of General Counsel for Law Enforcement.

Although other non-emergency issues not on the agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Gulf Council office (see **ADDRESSES**), at least 5 working days prior to the meeting.

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

Dated: February 18, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–03496 Filed 2–20–20; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed addition to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add a service to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes a product and services previously furnished by such agencies.

DATES: Comments must be received on or before: March 22, 2020.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice will be required to procure the service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following service is proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Service

Service Type: Mess Attendant Service
Mandatory for: US Air Force, Barksdale Air Force Base, LA
Mandatory Source of Supply: Global Connections to Employment, Inc., Pensacola, FL
Contracting Activity: DEPT OF THE AIR FORCE, Air Force Nonappropriated Funds Purchasing Office, San Antonio, TX

Deletions

The following product and services are proposed for deletion from the Procurement List:

Product

NSN—Product Name:
7530–01–515–7899—Paper, Printer, Ink Jet, Photo Quality, Glossy, Letter, 89 Bright White
Mandatory Source of Supply: Wiscraft, Inc., Milwaukee, WI
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

Services

Service Type: Switchboard Operation
Mandatory for: Veterans Affairs Medical Center: 3601 South 6th Avenue, Tucson, AZ
Mandatory Source of Supply: Southern Arizona Association for the Visually Impaired deleted, Tucson, AZ
Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, NAC

Service Type: Janitorial/Custodial
Mandatory for: Hoffman I Building: 2461 Eisenhower Avenue, Alexandria, VA
Mandatory Source of Supply: Melwood Horticultural Training Center, Inc., Upper Marlboro, MD
Contracting Activity: DEPT OF DEFENSE, DOD/OFF OF SECRETARY OF DEF (EXC MIL DEPTS)

Service Type: Janitorial/Custodial
Mandatory for: U.S. Army Reserve Center: 5300 Jack Gibb Blvd., Columbus, OH
Mandatory Source of Supply: Licking-Knox Goodwill Industries, Inc., Newark, OH
Contracting Activity: DEPT OF THE ARMY, W6QM MICC FT MCCOY (RC)

Service Type: Janitorial/Grounds Maintenance
Mandatory for: U.S. Army Reserve Center: Hilo, Hilo, HI
Mandatory Source of Supply: The ARC of Hilo, Hilo, HI
Contracting Activity: DEPT OF THE ARMY, 0413 AQ HQ

Service Type: Administrative Services
Mandatory for: U.S. Federal Building and Courthouse: Poff, Roanoke, VA
Mandatory Source of Supply: Goodwill Industries of the Valleys, Inc., Roanoke, VA
Contracting Activity: PUBLIC BUILDINGS SERVICE, GSA/PBS/R03 REGIONAL CONTRACTS SUPPORT SERVICES SECTION

Service Type: Shadow Boarding
Mandatory for: Anniston Army Depot: 7 Frankford Avenue, Bldg 221, Anniston, AL

Mandatory Source of Supply: UNKNOWN
Contracting Activity: DEPT OF THE ARMY, W0LX ANNISTON DEPOT PROP DIV

Service Type: Grounds Maintenance
Mandatory for: U.S. Army Reserve Center: Caesar Creek Lake, Caesar Creek Lake, OH
Mandatory Source of Supply: UNKNOWN
Contracting Activity: DEPT OF THE ARMY, W40M RHCO–ATLANTIC USAHCA

Service Type: Janitorial/Custodial
Mandatory for: Special Mental Health Clinic, Grand Rapids, MI
Mandatory for: VA, Grand Rapids Community Based Outpatient Clinic, Grand Rapids, MI
Mandatory Source of Supply: Hope Network Services Corporation, Grand Rapids, MI
Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, 610–MARION

Service Type: Management Services
Mandatory for: Department of Housing & Urban Development, Seattle, WA
Mandatory Source of Supply: Pacific Coast Community Services, Richmond, CA
Contracting Activity: HOUSING AND URBAN DEVELOPMENT, DEPARTMENT OF, DEPT OF HOUSING AND URBAN DEVELOPMENT

Service Type: Janitorial/Custodial
Mandatory for: Greensburg AMSA, Greensburg, PA
Mandatory for: AMSA #106, Punxsutawney, PA
Contracting Activity: DEPT OF THE ARMY, W6QM MICC CTR–FT DIX (RC)

Service Type: Janitorial/Custodial
Mandatory for: James A. Haley Veterans Hospital, Tampa, FL
Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, NAC

Service Type: Mailroom Operation, Operation of Supply Room
Mandatory for: US Army Corps of Engineers, Estes Kefauver Building, Nashville, TN
Contracting Activity: DEPT OF THE ARMY, W072 ENDIST NASHVILLE

Service Type: Mailroom Operation
Mandatory for: US Army Corps of Engineers, Estes Kefauver Bldg, Nashville, TN
Contracting Activity: DEPT OF THE ARMY, W072 ENDIST NASHVILLE
Service Type: Mailroom Operations
Mandatory for: U.S. Geological Survey, Menlo Park Science Center, Menlo Park, CA
Mandatory Source of Supply: Hope Services, San Jose, CA
Contracting Activity: GEOLOGICAL SURVEY, OFFICE OF ACQUISITION AND GRANTS—SACRAMENTO

Service Type: Laundry Service
Mandatory for: James H. Quillen VA Medical Center, Mountain Home, TN
Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, NAC
Service Type: Janitorial/Custodial
Mandatory for: Kennesaw National Battlefield Park Visitor Center, Kennesaw, GA
Mandatory Source of Supply: Nobis Enterprises, Inc., Marietta, GA
Contracting Activity: OFFICE OF POLICY, MANAGEMENT, AND BUDGET, NBC ACQUISITION SERVICES DIVISION

Service Type: Grounds Maintenance
Mandatory for: District Ranger Office Building & Wahweap Housing: Unit, Glen Canyon National Recreation Area, Page, AZ
Contracting Activity: OFFICE OF POLICY, MANAGEMENT, AND BUDGET, NBC ACQUISITION SERVICES DIVISION

Service Type: Janitorial/Custodial
Mandatory for: Biscayne National Park, Dade County, FL
Contracting Activity: OFFICE OF POLICY, MANAGEMENT, AND BUDGET, NBC ACQUISITION SERVICES DIVISION

Service Type: Warehousing & Distribution Service
Mandatory for: Internal Revenue Service Business Operations Offices: 333 Market Street, San Francisco, CA
Mandatory Source of Supply: Bobby Dodd Institute, Inc., Atlanta, GA
Contracting Activity: TREASURY, DEPARTMENT OF THE, DEPT OF TREAS

Service Type: Grounds Maintenance
Mandatory for: U.S. Army Reserve Facility: 8801 N Chautauqua Boulevard Sharff Hall, West, Portland, OR
Mandatory Source of Supply: Relay Resources, Portland, OR
Contracting Activity: DEPT OF THE ARMY, W40M RHCO–ATLANTIC USAHCA

Service Type: Grounds Maintenance
Mandatory for: U.S. Army Reserve Facility: 2731 SW Multnomah Boulevard, Sears Hall, South, Portland, OR
Mandatory Source of Supply: Relay Resources, Portland, OR
Contracting Activity: DEPT OF THE ARMY, W40M RHCO–ATLANTIC USAHCA

Service Type: Janitorial/Custodial
Mandatory for: U.S. Army Reserve Center: 4th & Hiller Street, Brownsville, PA
Mandatory Source of Supply: UNKNOWN
Contracting Activity: DEPT OF THE ARMY, W6QM MICC CTR–FT DIX (RC)

Service Type: Janitorial/Custodial
Mandatory for: U.S. Army Reserve Center: 254 McClellandtown Road, Uniontown, PA
Contracting Activity: DEPT OF THE ARMY, W6QM MICC CTR–FT DIX (RC)

Service Type: Janitorial/Custodial
Mandatory for: U.S. Army Reserve Center: 900 Armory Drive, Greensburg, PA
Contracting Activity: DEPT OF THE ARMY, W6QM MICC CTR–FT DIX (RC)

Service Type: Janitorial/Custodial
Mandatory for: Veterans Affairs Medical Center: Outpatient Clinic, Orlando, FL
Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, NAC

Service Type: Administrative Services
Mandatory for: Department of Veterans Affairs, James A. Quillen VA Medical Center, Mountain Home, TN
Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, 621–MOUNTAIN HOME

Service Type: Mailroom Operation
Mandatory for: Immigration & Customs Enforcement, 1100 Center Parkway, Atlanta, GA
Mandatory Source of Supply: Bobby Dodd Institute, Inc., Atlanta, GA
Contracting Activity: U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, MISSION SUPPORT ORLANDO

Service Type: Mailroom Operation
Mandatory for: Immigration & Customs Enforcement, 180 Spring Street SW, Atlanta, GA
Mandatory Source of Supply: Bobby Dodd Institute, Inc., Atlanta, GA
Contracting Activity: U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, MISSION SUPPORT ORLANDO

Service Type: Mailroom Operation
Mandatory for: Immigration & Customs Enforcement, 2150 Park Lake Drive, Atlanta, GA
Mandatory Source of Supply: Bobby Dodd Institute, Inc., Atlanta, GA
Contracting Activity: U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, MISSION SUPPORT ORLANDO

Service Type: Administrative Support
Mandatory for: USDA Forest Service: 4931 Broad River Road, Columbia, SC
Mandatory Source of Supply: UNKNOWN
Contracting Activity: FOREST SERVICE, DEPT OF AGRIC/FOREST SERVICE

Service Type: Janitorial/Custodial
Mandatory for: Tupelo Visitors Center and Headquarters: Natchez Trace Parkway, Tupelo, MS
Contracting Activity: OFFICE OF POLICY, MANAGEMENT, AND BUDGET, NBC ACQUISITION SERVICES DIVISION

Service Type: Food Service Attendant
Mandatory for: Veterans Affairs Medical Center: Corner of Lamont and Sydney Streets, Mountain Home, TN
Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, 249P–NETWORK CONTRACT OFFICE 9

Service Type: Administrative Services
Mandatory for: Building 8–1078, 1–3571, C–7417, 8–6643, Fort Bragg, NC
Mandatory Source of Supply: ServiceSource, Inc., Oakton, VA
Contracting Activity: DEPT OF THE ARMY, W6QM MICC FDO FT BRAGG

Service Type: Janitorial/Custodial
Mandatory for: Illinois Waterway Visitor Center: Dee Bennett Road, Utica, IL
Mandatory Source of Supply: UNKNOWN
Contracting Activity: DEPT OF THE ARMY, W40M RHCO–ATLANTIC USAHCA

Service Type: Grounds Maintenance
Mandatory for: U.S. Army Reserve Center: 271 Hedges Street, Scouten, Mansfield, OH
Contracting Activity: DEPT OF THE ARMY, W6QM MICC FT MCCOY (RC)

Service Type: Janitorial/Custodial
Mandatory for: Vice President Living Quarters: Naval Observatory, Washington, DC
Mandatory Source of Supply: Melwood Horticultural Training Center, Inc., Upper Marlboro, MD
Contracting Activity: FEDERAL PRISON SYSTEM, TERMINAL ISLAND, FCI

Service Type: Janitorial/Custodial
Mandatory for: Defense National Stockpile Depot: Hoyt Avenue, Binghamton, NY

Contracting Activity: DEFENSE LOGISTICS AGENCY, DEFENSE NATIONAL STOCKPILE CENTER
Service Type: Laundry Service
Mandatory for: Yakima Training Center, Yakima, WA
Mandatory Source of Supply: Yakima Specialties, Inc., Yakima, WA
Contracting Activity: DEPT OF THE ARMY, W40M RHCO–ATLANTIC USAHCA

Michael R. Jurkowski,
Deputy Director, Business & PL Operations.
[FR Doc. 2020–03498 Filed 2–20–20; 8:45 am]
BILLING CODE 6353–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting Notice

TIME AND DATE: Wednesday, February 26, 2020; 1:30 p.m.

PLACE: Hearing Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, MD 20814.

STATUS: Commission Meeting—Open to the Public.

MATTER TO BE CONSIDERED: Briefing Matter: Micromobility.

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.

Dated: February 19, 2020.

Alberta E. Mills,
Secretary.
[FR Doc. 2020–03593 Filed 2–19–20; 4:15 pm]
BILLING CODE 6355–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2020–SCC–0033]

Agency Information Collection Activities; Comment Request; Measuring Educational Gain in the National Reporting System for Adult Education

AGENCY: Office of Career, Technical, and Adult Education (OCTAE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before April 21, 2020.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2020–SCC–0033. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W–208D, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Braden Goetz, 202–245–7405.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Measuring Educational Gain in the National Reporting System for Adult Education.

OMB Control Number: 1830–0567.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 15.

Total Estimated Number of Annual Burden Hours: 600.

Abstract: Title 34 of the Code of Federal Regulations part 462 establishes procedures the Secretary uses to consider literacy tests for use in the National Reporting System (NRS) for adult education. This information is used by the Secretary to determine the suitability of published literacy tests to measure and report educational gain under the NRS.

Dated: February 18, 2020.

Kathy Axt,
PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer.
[FR Doc. 2020–03487 Filed 2–20–20; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register.**

DATES: Wednesday, March 11, 2020; 6:00 p.m.

ADDRESSES: DOE Information Center, Office of Science and Technical Information, 1 Science.gov Way, Oak Ridge, Tennessee 37831.

FOR FURTHER INFORMATION CONTACT: Melyssa P. Noe, Alternate Deputy Designated Federal Officer, U.S. Department of Energy, Oak Ridge Office of Environmental Management (OREM), P.O. Box 2001, EM–942, Oak Ridge, TN 37831. Phone (865) 241–3315; Fax (865) 241–6932; E-Mail: *Melyssa.Noe@orem.doe.gov.* Or visit the website at *https://www.energy.gov/orem/services/community-engagement/oak-ridge-site-specific-advisory-board.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

- Welcome and Announcements
- Comments from the Deputy Designated Federal Officer (DDFO)
- Comments from the DOE, Tennessee Department of Environment and Conservation, and Environmental Protection Agency Liaisons
- Presentation: Input on Reuse and Historic Preservation at the East Tennessee Technology Park
- Public Comment Period
- Motions/Approval of February 12, 2020 Meeting Minutes
- Status of Outstanding Recommendations
- Alternate DDFO Report
- Committee Reports
- Adjourn

Public Participation: The meeting is open to the public. The EM SSAB, Oak Ridge, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Melyssa P. Noe at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda item should contact Melyssa P. Noe at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Melyssa P. Noe at the address and phone number listed above. Minutes will also be available at the following website: *https://www.energy.gov/orem/listings/oak-ridge-site-specific-advisory-board-meetings.*

Signed in Washington, DC, on February 14, 2020.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2020–03431 Filed 2–20–20; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2020–0073; FRL–10005–61–OAR]

Alternative Methods for Calculating Off-Cycle Credits Under the Light-Duty Vehicle Greenhouse Gas Emissions Program: Applications From Hyundai Motor Company and Kia Motors Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is requesting comment on applications from Hyundai Motor Company (''Hyundai'') and Kia Motors Corporation (''Kia'') for off-cycle carbon dioxide (CO_2) credits under EPA's light-duty vehicle greenhouse gas emissions standards. ''Off-cycle'' emission reductions can be achieved by employing technologies that result in real-world benefits, but where that benefit is not adequately captured on the test procedures used by manufacturers to demonstrate compliance with emission standards. EPA's light-duty vehicle greenhouse gas program acknowledges these benefits by giving automobile manufacturers several options for generating ''off-cycle'' CO_2 credits. Under the regulations, a manufacturer may apply for CO_2 credits for off-cycle technologies that result in off-cycle benefits. In these cases, a manufacturer must provide EPA with a proposed methodology for determining the real-world off-cycle benefit. Hyundai and Kia have submitted applications that describe methodologies for determining off-cycle credits from technologies described in their applications. Pursuant to applicable regulations, EPA is making these off-cycle credit calculation methodologies available for public comment.

DATES: Comments must be received on or before March 23, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ-OAR–2020–0073, to the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. 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: Roberts French, Environmental Protection Specialist, Office of Transportation and Air Quality, Compliance Division, U.S. Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105. Telephone: (734) 214–4380. Fax: (734) 214–4869. Email address: *french.roberts@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

EPA's light-duty vehicle greenhouse gas (GHG) program provides three pathways by which a manufacturer may accrue off-cycle carbon dioxide (CO_2) credits for those technologies that achieve CO_2 reductions in the real world but where those reductions are not adequately captured on the test used to determine compliance with the CO_2 standards, and which are not otherwise reflected in the standards' stringency. The first pathway is a predetermined list of credit values for specific off-cycle technologies that may be used beginning in model year 2014.[1] This pathway allows manufacturers to use conservative credit values established by EPA for a wide range of technologies, with minimal data submittal or testing requirements, if the technologies meet EPA regulatory definitions. In cases where the off-cycle technology is not on the menu but additional laboratory testing can demonstrate emission benefits, a second pathway allows manufacturers to use a broader array of emission tests (known as ''5-cycle'' testing because the methodology uses five different testing procedures) to demonstrate and justify off-cycle CO_2

[1] See 40 CFR 86.1869–12(b).

credits.[2] The additional emission tests allow emission benefits to be demonstrated over some elements of real-world driving not adequately captured by the GHG compliance tests, including high speeds, hard accelerations, and cold temperatures. These first two methodologies were completely defined through notice and comment rulemaking and therefore no additional process is necessary for manufacturers to use these methods. The third and last pathway allows manufacturers to seek EPA approval to use an alternative methodology for determining the off-cycle CO_2 credits.[3] This option is only available if the benefit of the technology cannot be adequately demonstrated using the 5-cycle methodology. Manufacturers may also use this option to demonstrate reductions that exceed those available via use of the predetermined list.

Under the regulations, a manufacturer seeking to demonstrate off-cycle credits with an alternative methodology (*i.e.,* under the third pathway described above) must describe a methodology that meets the following criteria:

- Use modeling, on-road testing, on-road data collection, or other approved analytical or engineering methods;
- Be robust, verifiable, and capable of demonstrating the real-world emissions benefit with strong statistical significance;
- Result in a demonstration of baseline and controlled emissions over a wide range of driving conditions and number of vehicles such that issues of data uncertainty are minimized;
- Result in data on a model type basis unless the manufacturer demonstrates that another basis is appropriate and adequate.

Further, the regulations specify the following requirements regarding an application for off-cycle CO_2 credits:

- A manufacturer requesting off-cycle credits must develop a methodology for demonstrating and determining the benefit of the off-cycle technology and carry out any necessary testing and analysis required to support that methodology.
- A manufacturer requesting off-cycle credits must conduct testing and/or prepare engineering analyses that demonstrate the in-use durability of the technology for the full useful life of the vehicle.
- The application must contain a detailed description of the off-cycle technology and how it functions to reduce CO_2 emissions under conditions not represented on the compliance tests.
- The application must contain a list of the vehicle model(s) which will be equipped with the technology.
- The application must contain a detailed description of the test vehicles selected and an engineering analysis that supports the selection of those vehicles for testing.
- The application must contain all testing and/or simulation data required under the regulations, plus any other data the manufacturer has considered in the analysis.

Finally, the alternative methodology must be approved by EPA prior to the manufacturer using it to generate credits. As part of the review process defined by regulation, the alternative methodology submitted to EPA for consideration must be made available for public comment.[4] EPA will consider public comments as part of its final decision to approve or deny the request for off-cycle credits.

II. Off-Cycle Credit Applications

A. Active Climate Control Seats

Hyundai and Kia are applying for off-cycle GHG credits for the use of active climate control seat technologies. Climate Control Seats (CCS) are a seat technology that utilizes motorized blowers, thermoelectric devices, and seating surfaces designed for high airflow to move chilled air through the seat and onto the occupant. In Hyundai and Kia vehicle applications, the CCS contains two thermoelectric chillers: One in the seat back, one in the seat cushion. The seat cushion contains one blower motor with air ducts to direct blower air flow through both the seat cushion and seat back. The technology provides active cooling, which occurs when the blower motor passes ambient cabin air across the integrated thermoelectric chillers; the chilled air then moves through the seating surfaces and onto the vehicle occupant. The technology allows vehicle occupants to reach equivalent thermal comfort at a higher cabin ambient temperature compared to a baseline seat, and therefore has the potential to reduce A/C system fuel use more than ventilated seats.

General Motors (GM) previously applied for credits for this technology, and EPA approved these credits for GM in 2018.[5] GM's methodology referenced a 2017 study conducted by the National Renewable Energy Laboratory (NREL) in partnership with Gentherm, the manufacturer of the CCS system.[6] This study found that the CCS technology reduced air conditioner loads by 17%, substantially more than the 7.5% reduction for the older technology tested by NREL in 2005 and used to derive the menu-based credit in the regulations. Applying this 17% reduction to the EPA baseline A/C emissions (13.8 for cars and 17.2 for trucks) results in off-cycle credit for CCS systems of 2.3 grams/mile for passenger cars and 2.9 grams/mile for trucks (instead of the default credits of 1.0 and 1.3 grams/mile, respectively). EPA considers the CCS system to be a thermal control technology that, if approved, will be subject to the maximum per vehicle limits of 3.0 g/mi for passenger automobiles and 4.3 g/mi for light trucks specified in the regulations.[7]

Hyundai and Kia use the Gentherm seat technology, thus they similarly referenced the NREL report and have requested credits identical to those already approved for GM. Their requests are for 2012 and later model year vehicles using this technology. If approved, these credits would be for vehicles using this technology in both front seating locations, consistent with the NREL evaluation and the credits granted to GM.

B. Air Conditioning Compressor With Variable Orifice Valve Technology

Hyundai and Kia are applying for off-cycle GHG credits for the use of the Hanon air conditioner compressor with variable orifice valve technology. The Hanon compressor design improves the internal valve system to reduce the internal refrigerant flow necessary throughout the range of displacements that the compressor uses during its operating cycle. This is achieved through the addition of a variable orifice valve. Conventional compressors have a fixed orifice, so the flow of refrigerant exiting the crankcase is fixed. The sizing of the orifice is a compromise among the conditions when either a high or low rate of flow would be more ideal. However, variable orifice valve technology can provide a larger mass flow under maximum capacity and compressor start-up conditions by opening the valve, when high flow is ideal; it can then reduce to smaller openings with reduced mass flow in

[2] See 40 CFR 86.1869–12(c).

[3] See 40 CFR 86.1869–12(d).

[4] See 40 CFR 86.1869–12(d)(2).

[5] ''EPA Decision Document: Off-cycle Credits for General Motors and Toyota Motor Corporation.'' Compliance Division, Office of Transportation and Air Quality, U.S. Environmental Protection Agency. EPA–420–R–18–014, June 2018.

[6] ''Impact of Active Climate Control Seats on Energy Use, Fuel Use, and CO_2 Emissions: Test and Analysis.'' Cory Kreutzer, John Rugh, Bidzina Kekelia, Gene Titov, Strategic Partnership Project Report, Contract No. DE–AC36–08GO28308, May 2017.

[7] See 40 CFR 86.1869–12(b)(1)(viii).

mid or low capacity conditions. Thus, overall, the refrigerant exiting the crankcase is optimized across the range of operating conditions, improving system efficiency and therefore lowering indirect CO_2 emissions due to use of the air conditioning system.

Hyundai and Kia are applying for credits for the 2021 and later model years for vehicles sold in the U.S. and equipped with the Hanon A/C compressor with variable orifice valve technology. The credits requested range from 1.5 g/mi to 1.8 g/mi, depending on the specifics of the A/C system. EPA considers this compressor technology to be a technology that, if approved, will be subject to the maximum limits for an A/C system of 5.0 g/mi for passenger automobiles and 7.2 g/mi for light trucks specified in the regulations.[8] Details of the testing and analysis can be found in the manufacturer's applications.

III. EPA Decision Process

EPA has reviewed the applications for completeness and is now making the applications available for public review and comment as required by the regulations. The off-cycle credit applications submitted by the manufacturers (with confidential business information redacted) have been placed in the public docket (see **ADDRESSES** section above) and on EPA's website at *https://www.epa.gov/vehicle-and-engine-certification/compliance-information-light-duty-greenhouse-gas-ghg-standards*.

EPA is providing a 30-day comment period on the applications for off-cycle credits described in this document, as specified by the regulations. The manufacturers may submit a written rebuttal of comments for EPA's consideration, or may revise an application in response to comments. After reviewing any public comments and any rebuttal of comments submitted by manufacturers, EPA will make a final decision regarding the credit requests. EPA will make its decision available to the public by placing a decision document (or multiple decision documents) in the docket and on EPA's website at the same manufacturer-specific pages shown above. While the broad methodologies used by these manufacturers could potentially be used for other vehicles and by other manufacturers, the vehicle specific data needed to demonstrate the off-cycle emissions reductions would likely be different. In such cases, a new application would be required, including an opportunity for public comment.

Dated: February 11, 2020.

Byron J. Bunker,

Director, Compliance Division, Office of Transportation and Air Quality, Office of Air and Radiation.

[FR Doc. 2020–03510 Filed 2–20–20; 8:45 am]

BILLING CODE 6560–50–P

[8] See 40 CFR 86.1868–12(b).

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9049–5]

Environmental Impact Statements; Notice of Availability

Weekly receipt of Environmental Impact Statements filed February 10, 2020 10 a.m. EST through February 17, 2020 10 a.m. EST pursuant to 40 CFR 1506.9.

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa/*.

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20200039, Final, DOE, OR, ADOPTION—Jordan Cove Energy Project, Contact: Brian Lavoie 202–586–2459.

The Department of Energy (DOE) has adopted the Federal Energy Regulatory Commission's Final EIS No. 20190276, filed 11/15/2019 with the EPA. DOE was a cooperating agency on this project. Therefore, recirculation of the document is not necessary under Section 1506.3(c) of the CEQ regulations.

EIS No. 20200040, Final Supplement, DOE, LA, ADOPTION—Magnolia LNG Production Capacity Amendment, Contact: Brian Lavoie 202–586–2459.

The Department of Energy (DOE) has adopted the Federal Energy Regulatory Commission's Final EIS No. 20200018, filed 1/24/2020 with the EPA. DOE was a cooperating agency on this project. Therefore, recirculation of the document is not necessary under Section 1506.3(c) of the CEQ regulations.

EIS No. 20200041, Final, FERC, NC, Southgate Project, Review Period Ends: 03/23/2020, Contact: Office of External Affairs 866–208–3372.

EIS No. 20200042, Draft Supplement, BLM, ID, Idaho Greater Sage-Grouse 2020 Draft Supplemental EIS, Comment Period Ends: 04/06/2020, Contact: Jon Beck 208–373–3841.

EIS No. 20200043, Final, USACE, NY, Fire Island Inlet to Montauk Point Reformulation Study, Review Period Ends: 03/23/2020, Contact: Robert J Smith 917–790–8729.

EIS No. 20200044, Final, BLM, WY, Moneta Divide Natural Gas and Oil Development Project, Review Period Ends: 03/23/2020, Contact: Holly Elliot 307–347–5100.

EIS No. 20200045, Draft Supplement, BLM, CO, Colorado Greater Sage-Grouse 2020 Draft Supplemental EIS, Comment Period Ends: 04/06/2020, Contact: Jon Beck 208–373–3841.

EIS No. 20200046, Draft Supplement, BLM, NV, Nevada/California Greater Sage-Grouse 2020 Draft Supplemental EIS, Comment Period Ends: 04/06/2020, Contact: Jon Beck 208–373–3841.

EIS No. 20200047, Draft Supplement, BLM, OR, Oregon Greater Sage-Grouse 2020 Draft Supplemental EIS, Comment Period Ends: 04/06/2020, Contact: Jon Beck 208–373–3841.

EIS No. 20200048, Draft Supplement, BLM, UT, Utah Greater Sage-Grouse 2020 Draft Supplemental EIS, Comment Period Ends: 04/06/2020, Contact: Jon Beck 208–373–3841.

EIS No. 20200049, Draft Supplement, BLM, WY, Wyoming Greater Sage-Grouse 2020 Draft Supplemental EIS, Comment Period Ends: 04/06/2020, Contact: Jon Beck 208–373–3841.

Dated: February 18, 2020.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2020–03495 Filed 2–20–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update listing of financial institutions in liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institution effective as of the Date Closed as indicated in the listing.

SUPPLEMENTARY INFORMATION:

This list (as updated from time to time in the **Federal Register**) may be relied upon as ''of record'' notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992, issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation website at *www.fdic.gov/bank/individual/failed/banklist.html,* or contact the Manager of Receivership Oversight at *RO@fdic.gov* or at Division of Resolutions and Receiverships, FDIC, 1601 Bryan Street, Suite 34100, Dallas, TX 75201–3401.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC ref. No.	Bank name	City	State	Date closed
10535	Ericson State Bank	Ericson	NE	02/14/20

Dated: February 18, 2020.

Federal Deposit Insurance Corporation.

Annmarie H. Boyd,

Assistant Executive Secretary.

[FR Doc. 2020–03514 Filed 2–20–20; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL TRADE COMMISSION

Granting of Requests for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS GRANTED
JANUARY 1, 2020 THRU JANUARY 31, 2020

01/02/2020		
20200428	G	Arcosa, Inc.; Leonard L. Cherry; Arcosa, Inc.
20200429	G	Tiptree Inc.; Peter Masi; Tiptree Inc.
20200430	G	Thoma Bravo Fund XIII–A, L.P.; Instructure, Inc.; Thoma Bravo Fund XIII–A, L.P.
20200432	G	CETP IV Partcipations S.a.r.l; WorkandCo International, Inc.; CETP IV Partcipations S.a.r.l.
20200434	G	Aqua America, Inc.; SteelRiver Infrastructure Fund North America LP; Aqua America, Inc.
20200435	G	Center Rock Capital Partners, LP; Gary D. Wilt; Center Rock Capital Partners, LP.
20200436	G	Center Rock Capital Partners, LP; Albert T. Wilt; Center Rock Capital Partners, LP.
20200437	G	Jay Alix; CPC Mikawaya Holdings, LLC; Jay Alix.
20200440	G	Humana Inc.; Consonance Private Equity, L.P.; Humana Inc.
20200443	G	DTE Energy Company; South Jersey Industries, Inc.; DTE Energy Company.
20200444	G	Bain Capital Fund XII, L.P.; DWH Equity Investors, L.P.; Bain Capital Fund XII, L.P.
20200445	G	GFL Environmental Holdings, Inc.; Michael Ascione; GFL Environmental Holdings, Inc.
20200446	G	GFL Environmental Holdings, Inc.; Edward Ascione; GFL Environmental Holdings, Inc.
20200452	G	BCP CC Holdings L.P.; THLP Debt Partners, L.P.; BCP CC Holdings L.P.
20200457	G	Drinker Biddle & Reath LLP; Faegre Baker Daniels LLP; Drinker Biddle & Reath LLP.
01/03/2020		
20200392	G	PS Holdings Independent Trust; Agilent Technologies, Inc.; PS Holdings Independent Trust.
20200395	G	AP IX Sherwood Holdings, L.P.; S&S VENTURE, LLC; AP IX Sherwood Holdings, L.P.
20200451	G	GS Acquisition Holdings Corp.; PE Vertiv Holdings, LLC; GS Acquisition Holdings Corp.
20200453	G	ZMC III, L.P.; Welsh Carson Anderson & Stowe XII, L.P.; ZMC III, L.P.
01/07/2020		
20200403	G	Stephane Courbit; The Walt Disney Company; Stephane Courbit.
20200404	G	Stephane Courbit; AIF VII Euro Holdings , L.P.; Stephane Courbit.
20200448	G	Verisk Analytics, Inc.; NewCo; Verisk Analytics, Inc.
20200449	G	NewCo; Verisk Analytics, Inc.; NewCo.
20200458	G	Riverstone/Carlyle Global Energy and Power Fund IV (RW), L.P; Talos Energy Inc.; Riverstone/Carlyle Global Energy and Power Fund IV (RW), L.P.
20200459	G	Riverstone Global Energy and Power Fund V (RW II), L.P.; Talos Energy Inc.; Riverstone Global Energy and Power Fund V (RW II), L.P.
20200460	G	Partners Group Client Access 32, L.P.; EyeCare Partners, LLC; Partners Group Client Access 32, L.P.
20200469	G	FS Equity Partners VIII, L.P.; AEA Investors Small Business Fund II LP; FS Equity Partners VIII, L.P.

EARLY TERMINATIONS GRANTED—Continued
JANUARY 1, 2020 THRU JANUARY 31, 2020

20200483	G	iA Financial Corporation Inc.; Genstar Capital Partners V, L.P.; iA Financial Corporation Inc.
20200484	G	PTC Holding Company, LLC; Housatonic Equity Investors V, L.P.; PTC Holding Company, LLC.
20200486	G	Kris Kibak; H.I.G. Capital Partners V, L.P.; Kris Kibak.
20200488	G	Altaris Health Partners IV, L.P.; 3M Company; Altaris Health Partners IV, L.P.
20200489	G	Sanofi; Nurix Therapeutics, Inc.; Sanofi.
20200490	G	LMI Holdings, L.P.; LogMeIn, Inc.; LMI Holdings, L.P.
01/08/2020		
20200493	G	Cornell Capital Partners LP; Clare Rose Thorpe; Cornell Capital Partners LP.
20200494	G	Clare Rose Thorpe; Cornell Capital Partners LP; Clare Rose Thorpe.
20200495	G	Gryphon Partners V, L.P.; Mainsail Partners IV, L.P.; Gryphon Partners V, L.P.
20200496	G	Amneal Pharmaceuticals, Inc.; AvKare Holdings, Inc.; Amneal Pharmaceuticals, Inc.
20200497	G	Amneal Pharmaceuticals, Inc.; Rondo Top Holdings, LLC; Amneal Pharmaceuticals, Inc.
20200498	G	NBSH Acquisition, LLC; Almanac Realty Investors, LP; NBSH Acquisition, LLC.
20200500	G	PAI Europe VII–1 SCSp; Blackstone Capital Partners (Cayman) VI L.P.; PAI Europe VII–1 SCSp.
20200502	G	JFL Equity Investors V, L.P.; Industrial Growth Partners IV, L.P.; JFL Equity Investors V, L.P.
20200506	G	Palladium Equity Partners V, LP; J.H. Whitney VII–A, L.P.; Palladium Equity Partners V, LP.
20200507	G	ABRY Partners IX, L.P.; Centauri Holdings, LLC; ABRY Partners IX, L.P.
20200508	G	B. Riley Principal Merger Corp.; Ryan Greenawalt; B. Riley Principal Merger Corp.
20200511	G	LS Power Equity Partners, IV, LP; Sustainable Asset Fund, L.P.; LS Power Equity Partners, IV, LP.
20200513	G	Gryphon Partners V, L.P.; Mainsail Partners III, L.P.; Gryphon Partners V, L.P.
01/09/2020		
20200230	G	American Industrial Partners Capital Fund V, L.P.; Masco Corporation; American Industrial Partners Capital Fund V, L.P.
20200394	G	Spirit AeroSystems Holdings, Inc.; Edgewater Capital Partners III, L.P.; Spirit AeroSystems Holdings, Inc.
20200397	G	Eagle Materials, Inc.; Cemex S.A. de C.V.; Eagle Materials, Inc.
20200454	G	Carlyle FRL, L.P.; American International Group, Inc.; Carlyle FRL, L.P.
20200465	G	Helen of Troy Limited; Drybar Holdings LLC; Helen of Troy Limited.
20200509	G	Advanced Semiconductor Engineering Technology Holding Co.,; Robert Miller; Advanced Semiconductor Engineering Technology Holding Co.
01/13/2020		
20200510	G	Atos SE; Maven Wave Partners LLC; Atos SE.
20200516	G	MayFlower Investors LP; Qatar Holding, LLC; MayFlower Investors LP.
20200517	G	MayFlower Investors LP; American Express Company; MayFlower Investors LP.
20200518	G	Veolia Environnement S.A.; Alcoa Corporation; Veolia Environnement S.A.
20200523	G	F5 Networks, Inc.; Shape Security, Inc.; F5 Networks, Inc.
20200526	G	CITIC Capital China Partners IV, L.P.; Parthenon Investors IV, L.P.; CITIC Capital China Partners IV, L.P.
20200535	G	New Mountain Partners V, L.P.; Behrman Capital PEP L.P.; New Mountain Partners V, L.P.
20200540	G	Incline Equity Partners IV, L.P.; Foundation Source Philanthropic Services, Inc.; Incline Equity Partners IV, L.P.
20200541	G	Apergy Corporation; ChampionX Holding Inc.; Apergy Corporation.
01/14/2020		
20200447	G	Huntsman Corporation; Friedman Fleischer & Lowe Capital Partners III, L.P.; Huntsman Corporation.
20200521	G	TPG Growth IV DE AIV II, L.P.; American Residuals Group, LLC; TPG Growth IV DE AIV II, L.P.
20200525	G	Ousland Holdings, Inc.; Robert Richard Eustace & Elsa Marie Eustace; Ousland Holdings, Inc.
20200527	G	Orix Corporation; Hastings Equity Fund III, L.P.; Orix Corporation.
20200543	G	TPG Partners VIII, L.P.; Susquehanna Growth Equity Fund IV, LLLP; TPG Partners VIII, L.P.
20200544	G	Nomura Holdings, Inc.; Greentech Capital, LLC; Nomura Holdings, Inc.
20200548	G	The Rubicon Project, Inc.; Telaria, Inc.; The Rubicon Project, Inc.
20200557	G	Verizon Communications Inc.; GTE Mobilnet of Indiana RSA #6 Limited Partnership; Verizon Communications Inc.
01/16/2020		
20200554	G	Kolmar Korea Co. Ltd.; RaQualia Pharma Inc.; Kolmar Korea Co. Ltd.
20200564	G	Cineworld Group plc; Cineplex Inc.; Cineworld Group plc.
20200567	G	VS Holding I Inc.; VS Successor, LLC; VS Holding I Inc.
01/21/2020		
20200545	G	TiVo Corporation; Xperi Corporation; TiVo Corporation.
20200546	G	Xperi Corporation; TiVo Corporation; Xperi Corporation.
20200550	G	Asbury Automotive Group, Inc.; Mr. Kenneth L.Schnitzer; Asbury Automotive Group, Inc.
20200551	G	Asbury Automotive Group, Inc.; Mr. Douglas W. Schnitzer; Asbury Automotive Group, Inc.
20200552	G	Milliken & Company; The Resolute Fund III, L.P.; Milliken & Company.
20200555	G	Investors AB; EQT Mid Market US Limited Partnership; Investors AB.
20200558	G	Act II Global Acquisition Corp.; Ronald O. Perelman; Act II Global Acquisition Corp.
20200568	G	LKCM Headwater Investments III, L.P.; Rexel S.A.; LKCM Headwater Investments III, L.P.
20200572	G	EnCap Energy Capital Fund X, L.P.; WPX Energy, Inc.; EnCap Energy Capital Fund X, L.P.
20200573	G	WPX Energy, Inc.; EnCap Energy Capital Fund X, L.P.; WPX Energy, Inc.

EARLY TERMINATIONS GRANTED—Continued
JANUARY 1, 2020 THRU JANUARY 31, 2020

20200575	G	IAC/InterActiveCorp.; Care.com, Inc.; IAC/InterActiveCorp.
20200579	G	Axium Infrastructure NA IV L.P.; PSP Investments Holding Europe Ltd.; Axium Infrastructure NA IV L.P.
20200580	G	Axium Infrastructure NA IV L.P.; BAIF–CREZ US Feeder L.P.; Axium Infrastructure NA IV L.P.
20200587	G	Scopely, Inc.; The Walt Disney Company; Scopely, Inc.
20200590	G	SDCL Energy Efficiency Income Trust plc; PERC Holdings 1, LLC; SDCL Energy Efficiency Income Trust plc.
01/22/2020		
20200409	G	CVS Health Corporation; Centene Corporation; CVS Health Corporation.
20200547	G	Crane Co.; CIRCOR International, Inc.; Crane Co.
20200561	G	CLEVELAND-CLIFFS INC; AK Steel Holding Corporation; CLEVELAND-CLIFFS INC.
20200588	G	Harren Investors III, L.P.; Christopher Lavin; Harren Investors III, L.P.
01/24/2020		
20200203	G	Alexion Pharmaceuticals, Inc.; Achillion Pharmaceuticals, Inc.; Alexion Pharmaceuticals, Inc.
20200559	G	Banpu Public Company Limited; Devon Energy Corporation; Banpu Public Company Limited.
20200582	G	B. Riley Principal Merger Corp.; Thomas R. Holmes and Mary L. Holmes; B. Riley Principal Merger Corp.
01/27/2020		
20200542	G	Starboard Value and Opportunity Fund Ltd.; Box, Inc.; Starboard Value and Opportunity Fund Ltd.
20200566	G	Accenture plc; Broadcom Inc.; Accenture plc.
20200592	G	YUM! Brands, Inc.; The Habit Restaurants, Inc.; YUM! Brands, Inc.
20200593	G	Colliers International Group Inc.; Michael E. Dougherty; Colliers International Group Inc.
20200597	G	RELX PLC; NortonLifeLock Inc.; RELX PLC.
20200601	G	L. John Doerr; Amyris, Inc.; L. John Doerr.
20200609	G	PolyOne Corporation; Clariant AG; PolyOne Corporation.
20200610	G	Quad-C Partners IX, L.P.; HaystackID Holdings LLC; Quad-C Partners IX, L.P.
20200613	G	Diamond Eagle Acquisition Corp.; DraftKings, Inc.; Diamond Eagle Acquisition Corp.
01/28/2020		
20191560	G	PBF Energy Inc.; Royal Dutch Shell plc; PBF Energy Inc.
20200385	G	Baxter International Inc.; Sanofi; Baxter International Inc.
20200530	G	Leidos Holdings, Inc.; Dynetics, Inc. Employee Stock Ownership Trust; Leidos Holdings, Inc.
20200598	G	Al Aqua (Cayman) Holdings Limited; AquaVenture Holdings Ltd.; Al Aqua (Cayman) Holdings Limited.
20200618	G	Insight Partners XI, L.P.; Armis Security Ltd.; Insight Partners XI, L.P.
01/29/2020		
20200599	G	Equinix, Inc.; Packet Host, Inc.; Equinix, Inc.
20200602	G	Seven & i Holdings Co., Ltd.; Brown-Thompson General Partnership; Seven & i Holdings Co., Ltd.
20200603	G	Seven & i Holdings Co., Ltd.; W.C.B., L.L.C.; Seven & i Holdings Co., Ltd.
20200606	G	Thompson Street Capital Partners V, L.P.; Leonard Bush; Thompson Street Capital Partners V, L.P.
01/31/2020		
20200556	G	Titan DI Holdings, Inc.; RS Energy Group Topco, Inc.; Titan DI Holdings, Inc.
20200605	G	Windjammer Senior Equity Fund V, L.P.; Mehta Family Partners L.P.; Windjammer Senior Equity Fund V, L.P.
20200612	G	Stanley Black and Decker, Inc.; Tinicum L.P.; Stanley Black and Decker, Inc.
20200614	G	General Atlantic Partners AIV–1 B, L.P.; Kristin Farmer; General Atlantic Partners AIV–1 B, L.P.
20200624	G	The Veritas Capital Fund VI, L.P.; Leeds Equity Partners IV–A, L.P.; The Veritas Capital Fund VI, L.P.
20200625	G	The Veritas Capital Fund VI, L.P.; Leeds Equity Partners V, L.P.; The Veritas Capital Fund VI, L.P.
20200630	G	GPA Global Holding; H. Anthony DiRico; GPA Global Holding.
20200631	G	Barry Diller; IAC/InterActive Corp; Barry Diller.
20200633	G	Tencent Holdings Limited; Vivendi S.E.; Tencent Holdings Limited.

FOR FURTHER INFORMATION CONTACT: Theresa Kingsberry (202–326–3100), Program Support Specialist, Federal Trade Commission Premerger Notification Office, Bureau of Competition, Room CC–5301, Washington, DC 20024.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2020–03445 Filed 2–20–20; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–4620]

Agency Information Collection Activities; Proposed Collection; Comment Request; Medical Devices; Reports of Corrections and Removals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the submission of reports of corrections and removals that are associated with medical and radiation emitting products regulated by FDA's Center for Devices and Radiological Health.

DATES: Submit either electronic or written comments on the collection of information by April 21, 2020.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 21, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 21, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–N–4620 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Medical Devices; Reports of Corrections and Removals.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.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.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB

for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Medical Devices; Reports of Corrections and Removals—21 CFR Part 806

OMB Control Number 0910–0359—Extension

FDA is requesting approval for the collection of information regarding reports of corrections and removals required under part 806 (21 CFR part 806), which implements section 519(g) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360i(g)), as amended by the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115). A description of the information collection requirements is provided as follows:

Under § 806.10 (21 CFR 806.10), within 10 working days of initiating any action to correct or remove a device to reduce a risk to health posed by the device or to remedy a violation of the FD&C Act caused by the device that may present a risk to health, device manufacturers or importers must submit a written report to FDA of the correction or removal.

Under § 806.20(a) (21 CFR 806.20(a)), device manufacturers or importers that initiate a correction or removal that is not required to be reported to FDA must keep a record of the correction or removal.

The information collected in the reports of corrections and removals will be used by FDA to identify marketed devices that have serious problems and to ensure that defective devices are removed from the market. This will assure that FDA has current and complete information regarding these corrections and removals to determine whether recall action is adequate. Failure to collect this information would prevent FDA from receiving timely information about devices that may have a serious effect on the health of users of the devices.

Reports of corrections and removals may be submitted to FDA via mail or using FDA's Electronic Submission Gateway (ESG). We estimate that approximately 50 percent of submitters will use the ESG. Our estimate of the reporting and recordkeeping burden is based on Agency records and our experience with this program, as well as similar programs that utilize FDA's ESG.

For respondents who submit corrections and removals using the electronic process, the operating and maintenance costs associated with this information collection are approximately $50 per year to purchase a digital verification certificate (certificate must be valid for 1 to 3 years). This burden may be minimized if the respondent has already purchased a verification certificate for other electronic submissions to FDA. However, FDA is assuming that all respondents who submit corrections and removals using the electronic process will be establishing a new WebTrader account and purchasing a digital verification certificate. We therefore estimate the total operating and maintenance costs to be $25,850 annually (517 respondents × $50).

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity (21 CFR part)	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours [2]	Total operating and maintenance costs
Electronic process setup [3]	517	1	517	3.08	[4] 1,592	$25,850
Submission of corrections and removals (part 806)	1,033	1	1,033	10	10,330	

[1] There are no capital costs associated with this collection of information.
[2] Totals may not sum due to rounding.
[3] We estimate that approximately 50 percent of respondents will submit corrections and removals using the electronic process. The actual burden hours for setup of the electronic process listed in the reporting burden table are divided by 3 to avoid double counting in the Office of Information and Regulatory Affairs Consolidated Information System. However, the one-time Average Burden per Response is 9.25 hours, resulting in a total one-time burden of 4,782 hours for the setup of the electronic process.
[4] Total is rounded to the nearest hour.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity (21 CFR part)	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Records of corrections and removals (part 806)	93	1	93	10	930

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

New information technology applications have allowed us to more accurately calculate the number of registrants of medical device facilities that submit information electronically. We have therefore revised the number of respondents to the information collection. This adjustment has resulted in a 1,556-hour decrease of the estimated burden.

Dated: February 10, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–03458 Filed 2–20–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0598]

Agency Information Collection Activities; Proposed Collection; Comment Request; Current Good Manufacturing Practice Regulations for Type A Medicated Articles

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the recordkeeping requirements for Type A Medicated Articles.

DATES: Submit either electronic or written comments on the collection of information by April 21, 2020.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 21, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 21, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2010–N–0598 for ''Current Good Manufacturing Practice Regulations for Type A Medicated Articles.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.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.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4)

ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Current Good Manufacturing Practice Regulations for Type A Medicated Articles, 21 CFR Part 226

OMB Control Number 0910–0154—Extension

Under section 501 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351) (the FD&C Act), FDA has the statutory authority to issue current good manufacturing practice (cGMP) regulations for drugs, including Type A medicated articles. A Type A medicated article is a feed product containing a concentrated drug diluted with a feed carrier substance. A Type A medicated article is intended solely for use in the manufacture of another Type A medicated article or a Type B or Type C medicated feed. Medicated feeds are administered to animals for the prevention, cure, mitigation, or treatment of disease or for growth promotion and feed efficiency.

Statutory requirements for cGMPs for Type A medicated articles have been codified in part 226 (21 CFR part 226). Type A medicated articles which are not manufactured in accordance with these regulations are considered adulterated under section 501(a)(2)(B) of the FD&C Act (21 U.S.C. 351(a)(2)(B). Under part 226, a manufacturer is required to establish, maintain, and retain records for Type A medicated articles, including records to document procedures required under the manufacturing process to assure that proper quality control is maintained. Such records would, for example, contain information concerning receipt and inventory of drug components, batch production, laboratory assay results (*i.e.,* batch and stability testing), and product distribution.

The required records are used by both the respondents and FDA. The records are used by manufacturers of Type A medicated articles to verify that appropriate control measures have been maintained, or that appropriate corrective actions were taken if the control measures were not maintained. Such verification activities are essential to ensure that the cGMP system is working as planned. We review the records during the conduct of periodic plant inspections. This information is needed so that we can monitor drug usage and possible misformulation of Type A medicated articles. The information could also prove useful to us in investigating product defects when a drug is recalled. In addition, we will use the cGMP criteria in part 226 to determine whether or not the systems used by manufacturers of Type A medicated articles are adequate to ensure that their medicated articles meet the requirements of the FD&C Act as to safety and also meet the article's claimed identity, strength, quality, and purity, as required by section 501(a)(2)(B) of the FD&C Act.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

21 CFR part	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
226.42; requires records be prepared and maintained for 2 years with respect to components (drug and nondrug), used in the manufacture of the medicated premixes.	65	260	16,900	0.75 (45 minutes)	12,675
226.58; requires recordkeeping for establishment of laboratory controls to ensure that adequate specifications and test procedures for the drug components and Type A medicated articles conform to appropriate standards of identity, strength, quality and purity.	65	260	16,900	1.75	29,575
226.80; requires maintenance of records for packaging and labeling of Type A medicated articles.	65	260	16,900	0.75 (45 minutes)	12,675
226.102; requires maintenance of master-formula and batch-production records for Type A medicated articles.	65	260	16,900	1.75	29,575
226.110; requires maintenance of distribution records (2 years), for each shipment of Type A medicated articles for recall purposes.	65	260	16,900	0.025 (15 minutes)	4,225
226.115; requires maintenance of complaint files for Type A medicated articles for 2 years.	65	10	650	0.5 (30 minutes)	325
Total					89,050

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: February 12, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–03463 Filed 2–20–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0017]

Agency Information Collection Activities; Proposed Collection; Comment Request; Voluntary National Retail Food Regulatory Program Standards

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of the Voluntary National Retail Food Regulatory Program Standards.

DATES: Submit either electronic or written comments on the collection of information by April 21, 2020.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 21, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 21, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2011–N–0017 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Voluntary National Retail Food Regulatory Program Standards.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.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.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice

of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Voluntary National Retail Food Regulatory Program Standards

OMB Control Number 0910–0621—Extension

This information collection request supports implementation of FDA's Voluntary National Retail Food Regulatory Program Standards (the Program Standards). The Program Standards define nine essential elements of an effective regulatory program for retail food establishments, establish basic quality control criteria for each element, and provide a means of recognition for the State, local, territorial, tribal and Federal regulatory programs that meet the Program Standards. The program elements addressed by the Program Standards are: (1) Regulatory foundation; (2) trained regulatory staff; (3) inspection program based on Hazard Analysis and Critical Control Point (HACCP) principles; (4) uniform inspection program, (5) foodborne illness and food defense preparedness and response; (6) compliance and enforcement; (7) industry and community relations; (8) program support and resources; and (9) program assessment. Each standard includes a list of records needed to document conformance with the standard (referred to in the Program Standards document as ''quality records'') and has one or more corresponding forms and worksheets to facilitate the collection of information needed to assess the retail food regulatory program against that standard. The respondents are State, local, territorial, tribal, and potentially other Federal regulatory agencies. Regulatory agencies may use existing available records or may choose to develop and use alternate forms and worksheets that capture the same information.

In the course of their normal activities, State, local, territorial, tribal, and Federal regulatory agencies already collect and keep on file many of the records needed as quality records to document compliance with each of the Program Standards. Although the detail and format in which this information is collected and recorded may vary by jurisdiction, records that are kept as a usual and customary part of normal Agency activities include inspection records, written quality assurance procedures, records of quality assurance checks, staff training certificates and other training records, a log or database of food-related illness or injury complaints, records of investigations resulting from such complaints, an inventory of inspection equipment, records of outside audits, and records of outreach efforts (*e.g.,* meeting agendas and minutes, documentation of food safety education activities). No new recordkeeping burden is associated with these existing records, which are already a part of usual and customary program recordkeeping activities by State, local, territorial, tribal and Federal regulatory agencies, and which can serve as quality records under the Program Standards.

State, local, territorial, tribal and Federal regulatory agencies that enroll in the Program Standards and seek listing in the FDA National Registry are required to report to FDA on the completion of the following three management tasks outlined in the Program Standards: (1) Conducting a program self-assessment; (2) conducting a risk factor study of the regulated industry; and (3) obtaining an independent outside audit (verification audit). The results are reported on FDA's website at: *https://www.fda.gov/food/voluntary-national-retail-food-regulatory-program-standards/voluntary-national-retail-food-regulatory-program-standards-november-2019.* If a regulatory agency follows all the recordkeeping recommendations in the individual standards and their sample worksheets, it will have all the information needed to complete the reports.

Recordkeeping

FDA's recordkeeping burden estimate includes time required for a state, local, territorial, tribal, or Federal agency to review the instructions in the Program Standards, compile information from existing sources, and create any records recommended in the Program Standards that are not already kept in the normal course of the agency's usual and customary activities. Sample worksheets are provided to assist in this compilation. In estimating the time needed for the program self-assessment (Program Standards 1 through 8, shown in table 1), FDA considered responses from four State and three local jurisdictions that participated in an FDA Program Standards Pilot study. Table 2 shows the estimated recordkeeping burden for the completion of the baseline data collection, and table 3 shows the estimated recordkeeping burden for the verification audit.

FDA estimates the burden of this collection of information as follows:

TABLE 1—SELF ASSESSMENT

Standard	Recordkeeping activity	Hours per record
No. 1: Regulatory Foundation	Self-Assessment: Completion of worksheet recording results of evaluations and comparison on worksheets [1].	16
No. 2: Trained Regulatory Staff	Self-Assessment: Completion of CFP Field Training Manual and Documentation of Successful Completion—Field Training Process; completion of summary worksheet of each employee training records [1 2].	19.3
No. 3: HACCP Principles	Self-Assessment: Completion of worksheet documentation [1]	4
No. 4: Uniform Inspection Program	Self-Assessment: Completion of worksheet documentation of jurisdiction's quality assurance procedures [1 2].	19
No. 5: Foodborne Illness Investigation	Self-Assessment: Completion of worksheet documentation [1]	5
No. 6: Compliance Enforcement	Self-Assessment: Selection and review of 20 to 70 establishment files at 25 minutes per file. Estimate is based on a mean number of 45. Completion of worksheet [1].	19
No. 7: Industry & Community Relations	Self-Assessment: Completion of worksheet [1]	2

TABLE 1—SELF ASSESSMENT—Continued

Standard	Recordkeeping activity	Hours per record
No. 8: Program Support and Resources ..	Self-Assessment: Selection and review of establishment files [1]	8
Total		92.3

[1] Or comparable documentation.
[2] Estimates will vary depending on number of regulated food establishments and the number of inspectors employed by the jurisdiction.

TABLE 2—RISK FACTOR STUDY DATA COLLECTION

Standard	Recordkeeping activity	Hours per record
No. 9: Program Assessment	Risk Factor Study and Intervention Strategy [1]	333

[1] Calculation based on mean sample size of 39 and average FDA inspection time for each establishment type. Estimates will vary depending on number of regulated food establishments within a jurisdiction and the number of inspectors employed by the jurisdiction.

TABLE 3—VERIFICATION AUDIT

Standard	Recordkeeping activity	Hours per record
Administrative Procedures	Verification Audit [1]	46.15

[1] We estimate that no more than 50 percent of time spent to complete self-assessment of all nine standards is spent completing verification audit worksheets. Time will be considerably less if less than nine standards require verification audits.

TABLE 4—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Recordkeeping for FDA Worksheets [2]	500	1	500	94.29	47,145

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Or comparable documentation.

FDA bases its estimates of the number of recordkeepers and the hours per record on its experience with the Program Standards over the past 16 years. Based upon the level of ongoing support provided by FDA to enrolled jurisdictions and the number of forms submitted annually, FDA estimates that no more than 500 jurisdictions actively participate in the Program Standards during any given year. There are approximately 3,000 jurisdictions in the United States and its territories that have retail food regulatory programs. Enrollment in the Program Standards is voluntary and, therefore, FDA does not expect all jurisdictions to participate.

FDA bases its estimate of the hours per record on the recordkeeping estimates for the management tasks of self-assessment, risk factor study, and verification audit (tables 1, 2, and 3 of this document) that enrolled jurisdictions must perform a total of 471.45 hours (92.3 + 333 + 46.15 = 471.45). Enrolled jurisdictions must conduct the work described in tables 1, 2, and 3 over a 5-year period. Therefore, FDA estimates that, annually, 500 recordkeepers will spend 94.29 hours (471.45 ÷ 5 = 94.29) performing the required recordkeeping for a total of 47,145 hours as shown in table 4.

Reporting

Form FDA 3958, ''*Voluntary National Retail Food Regulatory Program Standards FDA National Registry Report,*'' used for reporting to FDA, consists of four parts. Part 1 requires the name and address of the jurisdiction; name and contact information for the contact person for this jurisdiction; the jurisdiction's website address and if the jurisdiction is willing to serve as an auditor for another jurisdiction. Part 2 requires information about enrollment, whether this jurisdiction is a new enrollee and the date of enrollment; indication whether this jurisdiction would like to be removed from the jurisdiction listing; indication of updated findings to the self-assessment or verification audit. Part 3 requires information about self-assessment findings and verification audit findings; dates when self-assessment was completed; which standards have been met as determined by the self-assessment; which standards have been met as verified by a verification audit including the completion dates. Part 4 requires permission to publish information on FDA's website by checking the appropriate box(es) to indicate what information FDA may publish on the website.

The reporting burden in table 5 includes only the time necessary to complete a report, as compiling the underlying information (including self-assessment reports, Risk Factor Study data collection, outside audits, and supporting documentation) is accounted for under the recordkeeping estimates in table 4.

FDA estimates the reporting burden for this collection of information as follows:

TABLE 5—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Submission of "Voluntary National Retail Food Regulatory Program Standards FDA National Registry Report".	500	1	500	0.1 (6 minutes)	50
Request for documentation of successful completion of staff training.	500	3	1,500	0.1 (6 minutes)	150
Total	.....	.....	.....	.....	200

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA bases its estimates of the number of respondents and the hours per response on its experience with the Program Standards. As explained previously in this document, FDA estimates that no more than 500 regulatory jurisdictions will participate in the Program Standards in any given year. FDA estimates a total of 6 minutes annually for each enrolled jurisdiction to complete the form. FDA bases its estimate on the small number of data elements on the form and the ease of availability of the information. FDA estimates that, annually, 500 regulatory jurisdictions will submit one Form FDA 3598 for a total of 500 annual responses. Each submission is estimated to take 0.1 hour (or 6 minutes) per response for a total of 50 hours. In addition, FDA estimates that, annually, 500 regulatory jurisdictions will submit three requests for documentation of successful completion of staff training using the CFP Training Plan and Log for a total of 1,500 annual responses. Each submission is estimated to take 0.1 hour (or 6 minutes) per response for a total of 150 hours. Thus, the total reporting burden for this information collection is 200 hours.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: February 10, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–03464 Filed 2–20–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–1066]

Agency Information Collection Activities; Proposed Collection; Comment Request; Annual Reporting for Custom Device Exemption

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection associated with the annual reporting for custom devices.

DATES: Submit either electronic or written comments on the collection of information by April 21, 2020.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 21, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 21, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–N–1066 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Annual Reporting for Custom Device Exemption.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as

''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.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.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Annual Reporting for Custom Device Exemption

OMB Control Number 0910–0767—Extension

The custom device exemption is set forth at section 520(b)(2)(B) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360j(b)(2)(B)). A custom device is in a narrow category of device that, by virtue of the rarity of the patient's medical condition or physician's special need the device is designed to treat, it would be impractical for the device to comply with premarket review regulations and performance standards.

The Food and Drug Administration Safety and Innovation Act (FDASIA) implemented changes to the custom device exemption contained in section 520(b) of the FD&C Act. The new provision amended the existing custom device exemption and introduced new concepts and procedures for custom devices, such as:

• Devices created or modified to comply with the order of an individual physician or dentist;

• the potential for multiple units of a device type (limited to no more than five units per year) qualifying for the custom device exemption; and

• annual reporting requirements by the manufacturer to FDA about devices manufactured and distributed under section 520(b) of the FD&C Act.

Under FDASIA, ''devices'' that qualify for the custom device exemption contained in section 520(b) of the FD&C Act were clarified to include no more than ''five units per year of a particular device type'' that otherwise meet all the requirements necessary to qualify for the custom device exemption.

In the **Federal Register** of September 24, 2014 (79 FR 57112), FDA announced the availability of the guidance entitled ''Custom Device Exemption.'' FDA has developed this document to provide guidance to industry and FDA staff about implementation of the custom device exemption contained in the FD&C Act. The intent of the guidance is to define terms used in the custom device exemption, explain how to interpret the ''five units per year of a particular device type'' language contained in the FD&C Act, describe information that FDA proposes manufacturers should submit in the custom device annual report, and provide recommendations on how to submit an annual report for devices distributed under the custom device exemption. FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Annual reporting for custom devices	34	1	34	40	1,360

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Our estimated burden for the information collection reflects an overall increase of 40 hours and a corresponding increase of one response/record. We attribute this adjustment to an increase in the number of submissions we received over the last few years.

Dated: February 12, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–03459 Filed 2–20–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–6083]

Hospira, Inc., et al.; Withdrawal of Approval of 15 Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is withdrawing approval of 15 abbreviated new drug applications (ANDAs) from multiple applicants. The applicants notified the Agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

DATES: Approval is withdrawn as of March 23, 2020.

FOR FURTHER INFORMATION CONTACT: Martha Nguyen, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1676, Silver Spring, MD 20993–0002, 240–402–6980, *Martha.Nguyen@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: The applicants listed in the table have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications under the process described in § 314.150(c) (21 CFR 314.150(c)). The applicants have also, by their requests, waived their opportunity for a hearing. Withdrawal of approval of an application or abbreviated application under § 314.150(c) is without prejudice to refiling.

Application No.	Drug	Applicant
ANDA 040372	Promethazine Hydrochloride (HCl) Injection, 25 milligrams (mg)/milliliter (mL) and 50 mg/mL.	Hospira, Inc., 275 North Field Dr., Bldg. H1, Lake Forest, IL 60045.
ANDA 062791	Cephalexin Capsules, Equivalent to (EQ) 250 mg base and 500 mg base.	Sun Pharmaceutical Industries, Inc., 2 Independence Way, Princeton, NJ 08540.
ANDA 065226	Cefazolin Sodium for Injection, EQ 500 mg base/vial and EQ 1 gram (g) base/vial.	Hospira, Inc.
ANDA 065244	Cefazolin Sodium for Injection, EQ 1 g base/vial	Do.
ANDA 065375	Cefotetan Disodium for Injection, EQ 10 g base/vial	Fresenius Kabi USA, LLC., Three Corporate Dr., Lake Zurich, IL 60047.
ANDA 065386	Piperacillin Sodium and Tazobactam Sodium for Injection, EQ 2 g base/vial; EQ 250 mg base/vial, EQ 3 g base/vial; EQ 375 mg base/vial, EQ 4 g base/vial; EQ 500 mg base/vial.	Hospira, Inc.
ANDA 065446	Piperacillin Sodium and Tazobactam Sodium for Injection, EQ 36 g base/vial; EQ 4.5 g base/vial.	Do.
ANDA 075955	Amiodarone HCl Injection, 50 mg/mL	Do.
ANDA 076124	Ranitidine HCl Syrup, EQ 15 mg base/mL	Actavis Mid Atlantic, LLC., Subsidiary of Teva Pharmaceuticals USA, Inc., 400 Interpace Pkwy., Morris Corporate Center III, Bldg. A, Third Floor, Parsippany, NJ 07054.
ANDA 076722	Ketorolac Tromethamine Injection, 15 mg/mL, 30 mg/mL, and 60 mg/mL.	INC Research, LLC., 4800 Falls of Neuse Rd., Suite 600, Raleigh, NC 27609.
ANDA 080700	Chlorpheniramine Maleate Tablets, 4 mg	Sun Pharmaceutical Industries, Inc.
ANDA 083201	Hydrocortisone Lotion, 1%	Crown Laboratories, Inc., 349 Lafe Cox Dr., Johnson City, TN 37604.
ANDA 201654	Cefazolin Sodium for Injection, EQ 1 g base/vial	Hospira, Inc.
ANDA 203950	Oxacillin Sodium for Injection, EQ 1 g base/vial and EQ 2 g base/vial.	Do.
ANDA 207731	Nystatin and Triamcinolone Acetonide Ointment, 100,000 units/g; 0.1%.	Crown Laboratories, Inc.

Therefore, approval of the applications listed in the table, and all amendments and supplements thereto, is hereby withdrawn as of March 23, 2020. Approval of each entire application is withdrawn, including any strengths or products inadvertently missing from the table. Introduction or delivery for introduction into interstate commerce of products without approved new drug applications violates section 301(a) and (d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(a) and (d)). Drug products that are listed in the table that are in inventory on March 23, 2020 may continue to be dispensed until the inventories have been depleted or the drug products have reached their expiration dates or otherwise become violative, whichever occurs first.

Dated: February 18, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–03512 Filed 2–20–20; 8:45 am]

BILLING CODE 4164–01–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: Jenish Patel, Ph.D., 240–669–2894; *jenish.patel@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.

Monoclonal Antibodies Against Bacillus Anthracis Antigens

Description of Technology: Anthrax, whether resulting from natural or bioterrorist-associated exposure, is a constant threat to human health. Bacillus anthracis is the causative agent of anthrax. It is surrounded by a polypeptide capsule of poly-gamma-D-glutamic acid (gamma-D-PGA), which is essential for virulence, is poorly immunogenic and has anti-phagocytic properties. Antibodies to the capsule have been shown to enhance phagocytosis and killing of encapsulated bacilli. The lethality of anthrax is primarily the result of the effects of anthrax toxin, which has 3 components: A receptor-binding protein known as ''protective antigen'' (PA) and 2 catalytic proteins known as ''lethal factor'' (LF) and ''edema factor'' (EF). Although production of an efficient anthrax vaccine is an ultimate goal, the benefits of vaccination can be expected only if a large proportion of the population at risk is immunized. The low incidence of anthrax suggests that large-scale vaccination may not be the most efficient means of controlling this disease. In contrast, passive administration of neutralizing human or chimpanzee monoclonal antibody to a subject at risk for anthrax or exposed to anthrax could provide immediate efficacy for emergency prophylaxis against or treatment of anthrax.

Several monoclonal antibodies (mAbs) against gamma-D-PGA, PA, LF and EF of anthrax were isolated from a phage display library generated from immunized chimpanzees. Two anti-PA, and two anti-LF mAbs efficiently neutralized the cytotoxicity of lethal toxin in a macrophage lysis assay. One anti-EF mAb efficiently neutralized edema toxin in cell culture. All of these five neutralizing mAbs protected animals from anthrax toxin challenge. There are two anti-gamma-D-PGA mAbs that showed strong opsonophagocytic killing of bacilli in vitro assays. These two mAbs were also tested for protection of mice challenged with virulent anthrax spores and results showed that both mAbs provided full or nearly full protection. Since chimpanzee immunoglobulins are virtually identical to human immunoglobulins, these chimeric chimpanzee mAbs may have clinically useful applications.

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:

- Prophylaxis, therapeutics or diagnostics against B. anthracis antigens

Competitive Advantages:

- Strongly neutralizing antibodies
- Known regulatory pathway
- Potential for use as both a prophylaxis and therapy

Development Stage:

- In vivo (animal)

Inventors:

Anti-PGA mAbs: Zhaochun Chen (NIAID), Robert Purcell (NIAID), Rachel Schneerson (NIACHD), Joanna Kubler-kielb (NICHD), Lily Zhongdong Dai (NICHD).

All other mAbs: Zhaochun Chen (NIAID), Stephen Leppla (NIAID), Suzanne Emerson (NIAID), Robert Purcell (NIAID), and Mahtab Moayeri (NIDCR).

Publications:

- Z Chen et al. Efficient neutralization of anthrax toxin by chimpanzee monoclonal antibodies against protective antigen. J Infect Dis. 2006 Mar 1;193(5): 625–633.
- Z Chen et al. Bacillus anthracis Capsular Conjugates Elicit Chimpanzee Polyclonal Antibodies That Protect Mice from Pulmonary Anthrax. Clin Vaccine Immunol. 2015 Aug; 22(8): 902–908.

Intellectual Property: HHS Reference Nos. E–146–2004, E–123–2007 and E–125–2008.

Licensing Contact: To license this technology, please contact Jenish Patel, Ph.D., 240–669–2894; *jenish.patel@nih.gov.*

Dated: February 7, 2020.

Wade W. Green,

Acting Deputy Director, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases.

[FR Doc. 2020–03443 Filed 2–20–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 Institute on Drug Abuse Special Emphasis Panel; The National Drug Abuse Treatment Clinical Trials Network (UG1 Clinical Trial Required).

Date: March 5, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center Building, 6001 Executive Blvd., Rockville, MD 20852.

Contact Person: Gerald L. McLaughlin, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Blvd., Room 4235, MSC 9550, Bethesda, MD 20892–9550, 301–827–5819, *gm145a@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: February 14, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–03444 Filed 2–20–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2020–0043]

National Commercial Fishing Safety Advisory Committee; Initial Solicitation for Members

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Request for applications.

SUMMARY: The Coast Guard is requesting applications from persons interested in serving in membership on the National Commercial Fishing Safety Advisory Committee (''Committee''). This recently established Committee will advise the Secretary of the Department of Homeland Security on matters relating to national commercial fishing safety. Please read this notice for a description of the 18 Committee positions we are seeking to fill.

DATES: Your completed application should reach the Coast Guard on or before April 21, 2020.

ADDRESSES: Applicants should send a cover letter expressing interest in an appointment to the National Commercial Fishing Safety Advisory Committee and a resume detailing the applicant's experience. We will not accept a biography. Applications should be submitted via one of the following methods:

- *By Email: CGfishsafe@uscg.mil* (preferred).
- *By Mail:* Commandant (CG–CVC–3), Attn: CFSAC ADFO, U.S. Coast Guard Stop 7501, 2703 Martin Luther King Jr. Avenue SE, Washington, DC 20593–7501.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Wendland, Alternate Designated Federal Officer of the National Commercial Fishing Safety Advisory Committee; Telephone 202–372–1245 or Email at *CGfishsafe@uscg.mil.*

SUPPLEMENTARY INFORMATION: The National Commercial Fishing Safety Advisory Committee is a federal advisory committee. It will operate under the provisions of the *Federal Advisory Committee Act,* 5 U.S.C. Appendix, and the administrative provisions contained in Section 601 of the *Frank LoBiondo Coast Guard Authorization Act of 2018* (specifically, 46 U.S.C. 15109).

The Committee was established on December 4, 2018, by the *Frank LoBiondo Coast Guard Authorization Act of 2018,* which added section 15102, National Commercial Fishing Safety Advisory Committee, to Title 46 of the U.S. Code (46 U.S.C. 15102). The Committee will advise the Secretary of Homeland Security on matters relating to national commercial fishing safety.

In accordance with 46 U.S.C section 15109(a), the Committee is required to hold meetings at least once a year, but it may meet more frequently as needs may require. The meetings are held at a location selected by the U.S. Coast Guard.

All members will serve at their own expense and receive no salary or other compensation from the Federal Government, with the exception that members may be reimbursed for travel and per diem in accordance with Federal Travel Regulations.

Under 46 U.S.C. 15109 (f) (6), membership terms expire on December 31 of the third full year after the effective date of your appointment. The Secretary may require an individual to have passed an appropriate security background examination before appointment to the Committee, 46 U.S.C. 15109(f)(4). In this initial solicitation for Committee members, we will consider applications for all 18 positions:

(A) Ten members shall represent the commercial fishing industry and—

(i) as a group, shall together reflect a regional and representational balance; and (ii) as individuals each shall have experience—

(I) in the operation in which chapter 45 of this title applies; or

(II) as a crew member or processing line worker on a fish processing vessel.

(B) One member shall represent naval architects and marine engineers.

(C) One member shall represent manufacturers of equipment for vessels to which

Chapter 45 of this title applies.

(D) One member shall represent education and training professionals related to fishing vessels, fish processing vessels, and fish tender vessels safety and personnel qualifications.

(E) One member shall represent underwriters that insure vessels to which chapter 45 of this title applies.

(F) One member shall represent owners of vessels to which chapter 45 of this title applies.

(G) Three members shall represent the general public and to the extent possible, shall include—

(i) an independent expert or consultant in maritime safety,

(ii) a marine surveyor who provides services to vessels to which chapter 45 of this title applies; and

(iii) a person familiar with issues affecting fishing communities and the families of fishermen.

Each member of the Committee must have particular expertise, knowledge, and experience in matters relating to the function of the Committee, which is to advise the Secretary of Homeland Security on matters related to national commercial fishing safety.

If you are selected as a member drawn from the general public, you will be appointed and serve as a Special Government Employee as defined in 18 U.S.C. 202(a). Applicants for appointment as a Special Government Employee are required to complete a Confidential Financial Disclosure Report (OGE Form 450) for new entrants and if appointed as a member must submit Form 450 annually. The Coast Guard may not release the reports or the information in them to the public except under an order issued by a Federal Court or as otherwise provided under the Privacy Act (5 U.S.C 552a). Only the Designated U.S. Coast Guard Ethics Official or his or her designee may release a Confidential Financial Disclosure Report. Applicants can obtain this form by going to the website of the Office of Government Ethics (*www.oge.gov*), or by calling or emailing the individual listed above in the **FOR FURTHER INFORMATION CONTACT** section. Applications for member drawn from the general public must be accompanied by a completed OGE Form 450.

Registered lobbyists are not eligible to serve on Federal Advisory Committees in an individual capacity. See ''Revised Guidance on Appointment of Lobbyists to Federal Advisory Committees, Boards and Commissions'' (79 FR 47482, August 13, 2014). Registered lobbyists are ''lobbyists,'' as defined in 2 U.S.C. 1602, who are required by 2 U.S.C. 1603 to register with the Secretary of the Senate and the Clerk of the House of Representatives.

The Department of Homeland Security does not discriminate in selection of Committee members on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disabilities and genetic information, age, membership in an employee organization, or any other non-merit factor. The Department of Homeland Security strives to achieve a

widely diverse candidate pool for all of its recruitment selections.

If you are interested in applying to become a member of the Committee, send your cover letter and resume to Mr. Jonathan Wendland, Alternate Designated Federal Officer of the National Commercial Fishing Safety Advisory Committee via one of the transmittal methods in the **ADDRESSES** section by the deadline in the **DATES** section of this notice.

If you send your application to us via email, we will send you an email confirming receipt of your application.

Dated: February 14, 2020.

David C. Barata,

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2020–03492 Filed 2–20–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0012]

Agency Information Collection Activities: Lien Notice

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted (no later than March 23, 2020) to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/*.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (84 FR 63888) on November 19, 2019, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Lien Notice.

OMB Number: 1651–0012.

Form Number: CBP Form 3485.

Abstract: Section 564, Tariff Act of 19, as amended (19 U.S.C. 1564) provides that the claimant of a lien for freight, charges, or contribution in general average can notify CBP in writing of the existence of a lien, and CBP shall not permit delivery of the merchandise from a public store or a bonded warehouse until the lien is satisfied or discharged. The claimant shall file the notification of a lien on CBP Form 3485, Lien Notice. This form is usually prepared and submitted to CBP by carriers, cartmen and similar persons or firms. The data collected on this form is used by CBP to ensure that liens have been satisfied or discharged before delivery of the freight from public stores or bonded warehouses, and to ensure that proceeds from public auction sales are distributed to the lienholder. CBP Form 3485 is provided for by 19 CFR 141.112, and is accessible at *https://www.cbp.gov/newsroom/publications/forms?title=3485&=Apply.*

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours. There are no changes to the information collected or to Form 3485.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 112,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 112,000.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 28,000.

Dated: February 18, 2020.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2020–03476 Filed 2–20–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0106]

Agency Information Collection Activities: Application To Pay Off or Discharge an Alien Crewman

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork

Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted (no later than March 23, 2020) to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (84 FR 64911) on November 25, 2019, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Application to Pay Off or Discharge an Alien Crewman.

OMB Number: 1651–0106.

Form Number: I–408.

Abstract: CBP Form I–408. Application to Pay Off or Discharge an Alien Crewman, is used as an application by the owner, agent, consignee, charterer, master, or commanding officer of any vessel or aircraft arriving in the United States to obtain permission from the Secretary of the Department of Homeland Security to pay off or discharge an alien crewman. This form is submitted to the CBP officer having jurisdiction over the area in which the vessel or aircraft is located at the time of application. CBP Form I–408 is authorized by Section 256 of the Immigration and Nationality Act (8 U.S.C. 1286) and provided for 8 CFR 252.1(h). This form is accessible at: *https://www.cbp.gov/newsroom/publications/forms.*

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 85,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 85,000.

Estimated Time per Response: 25 Minutes.

Estimated Total Annual Burden Hours: 35,360.

Dated: February 18, 2020.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2020–03477 Filed 2–20–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Chem Coast, Inc. (La Porte, 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 Chem Coast, Inc. (La Porte, TX), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Chem Coast, Inc. (La Porte, 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 August 13, 2019.

DATES: Chem Coast, Inc. (La Porte, TX) was approved and accredited as a commercial gauger and laboratory as of August 13, 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 Chem Coast, Inc., 11820 North H Street, La Porte, TX 77571, 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.

Chem Coast, Inc. (La Porte, 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.
17	Marine Measurement.

Chem Coast, Inc. (La Porte, 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
27–08	D 86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
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.
N/A	D 1364	Standard Test Method for Water in Volatile Solvents (Karl Fischer Reagent Titration 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. 2020–03500 Filed 2–20–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6182–N–01]

Allocations, Common Application, Waivers, and Alternative Requirements for Disaster Community Development Block Grant Disaster Recovery Grantees

Correction

In Notice document 2020–01204, appearing on pages 4681–4690, in the issue of Monday, January 27, 2020, make the following corrections:

1. On page 4683, in Table 1, in the fifth column entitled ''Unmet needs allocation under Public Law 116–20'', on the eleventh line, the entry that reads ''14,355,000'' should read ''15,355,000''.

2. On the same page, in the same table, in the sixth column entitled ''Total allocation for unmet needs (Pub. L. 115–254 and Pub. L. 116–20)'', on the eleventh line, the entry that reads ''13,355,000'' should read ''15,355,000''.

[FR Doc. C1–2020–01204 Filed 2–20–20; 8:45 am]

BILLING CODE 1301–00–D

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX19BD009AV0100; OMB Control Number 1028–NEW]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Cooperative Research Units (CRU)

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Geological Survey (USGS) are proposing a new information collection. Note: This is a long-term existing collection previously without an OMB number.

DATES: Interested persons are invited to submit comments on or before March 23, 2020.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to USGS, Information Collections Clearance Officer, 12201 Sunrise Valley Drive, MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov.* Please reference OMB Control Number 1028–NEW in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Melissa Thode, Program Analyst, CRU by email at *mthode@usgs.gov,* or by telephone at 703–648–4265. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: We, the USGS, in accordance with the Paperwork Reduction Act of 1995, provide the general public and other Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on June 24, 2019 (84 FR 29542) No comments were received.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the USGS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the USGS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the USGS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: CRU Cooperating Universities submit applications for research work orders via *Grants.gov*. The Statutory Authority used is the Cooperative Research Units Act (16 U.S.C. 753a–753b), Public Law 86–686, Sec. 1, Sept. 2, 1960, 74 Stat. 733, as amended by the Fish and Wildlife Improvement Act of 1978, Public Law 95–616, Sec. 2, Nov. 8, 1978, 92 Stat. 3110. Applications consist of project proposals, budgets and SF–424 forms. Information submitted includes project titles, schedules, scope of work, contact

information (names, emails, addresses, position titles, telephone), and detailed budget breakdowns (salaries includes names, positions, rate of compensation) per Office of Acquisition requirements.

Title of Collection: Cooperative Research Units.

OMB Control Number: 1028–NEW.

Form Number: None.

Type of Review: Existing collection previously without an OMB number.

Respondents/Affected Public: CRU Cooperating Universities.

Total Estimated Number of Annual Respondents: 40.

Total Estimated Number of Annual Responses: 428.

Estimated Completion Time per Response: 40 hours.

Total Estimated Number of Annual Burden Hours: 2,325.

Respondent's Obligation: Voluntary.

Frequency of Collection: Varies with research work order but at a minimum is responsible for initial application, progress report and final report.

Total Estimated Annual Non-hour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

John Thompson,

Acting Chief, CRU, U.S. Geological Survey.

[FR Doc. 2020–03503 Filed 2–20–20; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[20X.LLWO200000. L11700000.PH0000.LXSGPL000000]

Notice of Availability of the Northwest Colorado Draft Supplemental Environmental Impact Statement for Greater Sage-Grouse Conservation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, the Bureau of Land Management (BLM) has prepared this Draft Supplemental Environmental Impact Statement (EIS), and by this notice is announcing the opening of the comment period. BLM Colorado is soliciting comments on the Draft Supplemental EIS.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Draft Supplemental EIS within 45 days following the date the Environmental Protection Agency publishes a notice of availability of the Draft Supplemental EIS in the **Federal Register**. The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the Colorado Draft SEIS by any of the following methods:

- *Website: https://goo.gl/kmLtwT.*
- *Mail:* BLM Colorado State Office, 2850 Youngfield Street, Lakewood, CO 80215; or the BLM Grand Junction Field Office, 2815 H Road, Grand Junction, CO 81506.

Copies of the Northwest Colorado Draft Supplemental EIS are available at the BLM Colorado State Office, 2850 Youngfield Street, Lakewood, CO 80215; the BLM Grand Junction Field Office, 2815 H Road, Grand Junction, CO 81506; and online at *https://goo.gl/kmLtwT.*

FOR FURTHER INFORMATION CONTACT: Leah Waldner, Colorado Sage-Grouse Implementation Coordinator, telephone (970) 244–3045; address 2815 H Road, Grand Junction, CO 81506. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Greater Sage-Grouse is a State-managed species that is dependent on sagebrush steppe ecosystems. These ecosystems are managed in partnership across the range of the Greater Sage-Grouse by State wildlife agencies, Federal agencies, local communities, private landowners, and other stakeholders. Since the 1950s these partners have collaborated to conserve Greater Sage-Grouse and its habitats. The U.S. Department of the Interior and the BLM have broad responsibilities to manage Federal lands and resources for the public benefit. Nearly half of Greater Sage-Grouse habitat is managed by the BLM. The BLM is committed to being a good neighbor and investing in on-the-ground conservation activities through close collaboration with State governments, local communities, private landowners, and other stakeholders.

In 2019 the BLM Colorado State Director signed the Record of Decision and Approved the Northwest Colorado Greater Sage-Grouse Resource Plan Amendment (84 FR 10327), building upon the BLM's commitment to conserve and restore Greater Sage-Grouse habitat while improving collaboration and alignment with State management strategies for Greater Sage-Grouse. The BLM sought to improve management alignment in ways that would increase management flexibility, maintain access to public resources, and promote conservation outcomes.

The Draft Supplemental EIS will supplement and clarify the analysis relied on in the 2019 BLM Northwest Colorado Record of Decision, including with respect to the BLM considering a range of reasonable alternatives, taking a ''hard look'' at environmental effects, and evaluating cumulative impacts. Through the Draft Supplemental EIS, the BLM will also allow for additional public comment on the BLM's approach to compensatory mitigation and Greater Sage-Grouse habitat conservation.

The Colorado planning area analyzed in this Supplemental EIS includes approximately 15 million acres of BLM, National Park Service, U.S. Forest Service, U.S. Bureau of Reclamation, State, local, and private lands in 10 counties: Eagle, Garfield, Grand, Jackson, Larimer, Mesa, Moffat, Rio Blanco, Routt, and Summit. Also analyzed is the cumulative effects across the Western Association of Fish and Wildlife Agencies' Management Zone and entire Greater Sage-Grouse range. The BLM administers approximately 8.5 million acres of public lands within this area, providing approximately 3.7 million acres of Greater Sage-Grouse habitat.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10.

Jamie Connell,

BLM Colorado State Director.

[FR Doc. 2020–03394 Filed 2–20–20; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[20X.LLWO200000. L11700000.PH0000.LXSGPL000000]

Notice of Availability of the Utah Draft Supplemental Environmental Impact Statement for Greater Sage-Grouse Conservation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, the Bureau of Land Management (BLM) has prepared this Draft Supplemental Environmental Impact Statement (EIS), and by this notice is announcing the opening of the comment period. BLM Utah is soliciting comments on the Draft Supplemental EIS.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Draft Supplemental EIS within 45 days following the date the Environmental Protection Agency publishes a Notice of Availability of the Draft Supplemental EIS in the **Federal Register.** The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the Utah Draft Supplemental EIS by any of the following methods:

- *Website: https://bit.ly/36uazln.*
- *Mail:* BLM Utah State Office, 440 West 200 South, Suite 500 Salt Lake City, UT 84101–1345.
- *Fax:* (801) 539–4198.

Copies of the Utah Draft Supplemental EIS for Greater Sage-Grouse Conservation are available at the BLM Utah State Office at the above address or online at: *https://bit.ly/36uazln.*

FOR FURTHER INFORMATION CONTACT: Mellissa Wood, Greater Sage-Grouse Plan Implementation Coordinator, telephone (801) 539–4068; address 440 West 200 South, Suite 500 Salt Lake City, UT 84101–1345; email *mrwood@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Greater Sage-Grouse is a State-managed species that is dependent on sagebrush steppe ecosystems. These ecosystems are managed in partnership across the range of the Greater Sage-Grouse by State wildlife agencies, Federal agencies, local communities, private landowners, and other stakeholders. Since the 1950s these partners have collaborated to conserve Greater Sage-Grouse and its habitats. The U.S. Department of the Interior and the BLM have broad responsibilities to manage Federal lands and resources for the public benefit. Nearly half of Greater Sage-Grouse habitat is managed by the BLM. The BLM is committed to being a good neighbor and investing in on-the-ground conservation activities through close collaboration with State governments, local communities, private landowners, and other stakeholders.

In 2019, the BLM Utah State Director signed the Record of Decision and Approved Utah Greater Sage-Grouse Resource Plan Amendment (84 FR 10328), building upon the BLM's commitment to conserve and restore Greater Sage-Grouse habitat while improving collaboration and alignment with State management strategies for Greater Sage-Grouse. The BLM sought to improve management alignment in ways that would increase management flexibility, maintain access to public resources, and promote conservation outcomes.

The Draft Supplemental EIS will supplement and clarify the analysis relied on in the 2019 BLM Utah Record of Decision with respect to the BLM considering a range of reasonable alternatives, taking a ''hard look'' at environmental effects, and evaluating cumulative impacts. Through the Draft Supplemental EIS, the BLM will also allow for additional public comment on the BLM's approach to compensatory mitigation and Greater Sage-Grouse habitat conservation.

The Utah planning area analyzed in this Draft Supplemental EIS includes approximately 48,158,700 acres of BLM, National Park Service, U. S. Fish and Wildlife Service, U.S. Forest Service, U.S. Bureau of Reclamation, U.S. Department of Defense, Tribal, State, and private lands in 26 counties: Beaver, Box Elder, Cache, Carbon, Daggett, Davis, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Wayne, and Weber Counties. Also analyzed are the cumulative effects across the Western Association of Fish and Wildlife Agencies' management zones and entire Greater Sage-Grouse range. The BLM administers approximately 20,367,500 acres of public land within this area, providing approximately 4,017,400 acres of Greater Sage-Grouse habitat.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10.

Anita Bilbao,

BLM Utah Acting State Director.

[FR Doc. 2020–03392 Filed 2–20–20; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[20X.LLWO200000. L11700000.PH0000.LXSGPL000000]

Notice of Availability of the Nevada and Northeastern California Draft Supplemental Environmental Impact Statement for Greater Sage-Grouse Conservation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, the Bureau of Land Management (BLM) has prepared this Draft Supplemental Environmental Impact Statement (EIS), and by this notice is announcing the opening of the comment period. BLM Nevada and BLM California are soliciting comments on the Draft Supplemental EIS.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Draft Supplemental EIS within 45 days following the date the Environmental Protection Agency publishes a Notice of Availability of the Draft Supplemental EIS in the **Federal Register**. The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the Nevada and Northeastern California Draft Supplemental EIS by any of the following methods:

- *Website: https://goo.gl/uz89cT.*
- *Mail:* BLM Nevada State Office, 1340 Financial Blvd., Reno, NV 89502.

Copies of the Nevada and Northeastern California Draft Supplemental EIS are available for public inspection at the BLM Nevada State Office, 1340 Financial Blvd., Reno, NV 89502; the BLM California State Office, 2800 Cottage Way #W1623, Sacramento, CA 95825 and online at *https://goo.gl/uz89cT.*

FOR FURTHER INFORMATION CONTACT: Carolyn Sherve, Acting Nevada Sage-Grouse Lead, telephone 775–861–6482; address 1340 Financial Blvd., Reno, NV 89502; email *csherve@blm.gov;* or Arlene Kosic, California Sage-Grouse Lead, telephone 530–279–2726; email *akosic@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individuals during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individuals. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Greater Sage-Grouse is a State-managed species that is dependent on sagebrush steppe ecosystems. These ecosystems are managed in partnership across the range of the Greater Sage-Grouse by State wildlife agencies, Federal agencies, local communities, private landowners, and other stakeholders. Since the 1950s these partners have collaborated to conserve Greater Sage-Grouse and its habitats. The U.S. Department of the Interior and the BLM have broad responsibilities to manage Federal lands and resources for the public benefit. Nearly half of Greater Sage-Grouse habitat is managed by the BLM. The BLM is committed to being a good neighbor and investing in on-the-ground conservation activities through close collaboration with State governments, local communities, private landowners, and other stakeholders.

In 2019 the BLM Nevada and California State Directors signed the Record of Decision and Approved the Nevada and Northeastern California Greater Sage-Grouse Resource Plan Amendment (84 FR 10323), building upon the BLM's commitment to conserve and restore Greater Sage-Grouse habitat while improving collaboration and alignment with State management strategies for Greater Sage-Grouse. The BLM sought to improve management alignment in ways that would increase management flexibility, maintain access to public resources, and promote conservation outcomes.

The Draft Supplemental EIS will supplement and clarify the analysis relied on in the 2019 BLM Nevada and Northeastern California Record of Decision, including with respect to the BLM considering a range of reasonable alternatives, taking a ''hard look'' at environmental effects, and evaluating cumulative impacts. Through the Draft Supplemental EIS, the BLM will also allow for additional public comment on the BLM's approach to compensatory mitigation and Greater Sage-Grouse habitat conservation.

The Nevada and Northeastern California planning area includes approximately 70.3 million acres of BLM, National Park Service, U.S. Forest Service, U.S. Bureau of Reclamation, State, local, and private lands in 17 counties: Churchill, Elko, Eureka, Humboldt, Lander, Lassen, Lincoln, Lyon, Mineral, Modoc, Nye, Pershing, Plumas, Sierra, Storey, Washoe, and White Pine. Also analyzed are the cumulative effects across the Western Association of Fish and Wildlife Agencies' management zones and entire Greater Sage-Grouse range. Within the decision area, the BLM administers approximately 45.4 million acres of public lands, providing approximately 20.5 million acres of Greater Sage-Grouse habitat.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10.

Jon Raby,

BLM Nevada State Director.

Karen E. Mouritsen,

BLM California State Director.

[FR Doc. 2020–03379 Filed 2–20–20; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[20X.LLWO200000. L11700000.PH0000.LXSGPL000000]

Notice of Availability of the Idaho Draft Supplemental Environmental Impact Statement for Greater Sage-Grouse Conservation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, the Bureau of Land Management (BLM) has prepared this Draft Supplemental Environmental Impact Statement (EIS), and by this notice is announcing the opening of the comment period. BLM Idaho is soliciting comments on the Draft Supplemental EIS.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Draft SEIS within 45 days following the date the Environmental Protection Agency publishes a Notice of Availability of the Draft Supplemental EIS in the **Federal Register**. The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the Idaho Draft Supplemental EIS by any of the following methods:

- *Website: https://goo.gl/Jd8uVf.*
- *Mail:* BLM Idaho State Office, 1387 S. Vinnell Way, Boise ID 83709
- *Fax:* (208) 373–3805

Copies of the Idaho Draft Supplemental EIS for Greater Sage-Grouse Conservation are available in the BLM Idaho State Office at the above address or online at *https://goo.gl/Jd8uVf.*

FOR FURTHER INFORMATION CONTACT: Jonathan Beck, Greater Sage-Grouse Implementation Coordinator, telephone (208) 373–3841; address 1387 S. Vinnell Way, Boise ID 83709; email *jmbeck@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Greater Sage-Grouse is a State-managed species that is dependent on sagebrush steppe

ecosystems. These ecosystems are managed in partnership across the range of the Greater Sage-Grouse by State wildlife agencies, Federal agencies, local communities, private landowners, and other stakeholders. Since the 1950s these partners have collaborated to conserve Greater Sage-Grouse and its habitats. The U.S. Department of the Interior and the BLM have broad responsibilities to manage Federal lands and resources for the public benefit. Nearly half of Greater Sage-Grouse habitat is managed by the BLM. The BLM is committed to being a good neighbor and investing in on-the-ground conservation activities through close collaboration with State governments, local communities, private landowners, and other stakeholders.

In 2019 the BLM Idaho State Director signed the Record of Decision and Approved Idaho Greater Sage-Grouse Resource Plan Amendment (84 FR 10325), building upon the BLM's commitment to conserve and restore Greater Sage-Grouse habitat while improving collaboration and alignment with State management strategies for Greater Sage-Grouse. The BLM sought to improve management alignment in ways that would increase management flexibility, maintain access to public resources, and promote conservation outcomes.

The Draft Supplemental EIS will supplement and clarify the analysis relied on in the 2019 BLM Idaho Record of Decision, including with respect to the BLM considering a range of reasonable alternatives, taking a ''hard look'' at environmental effects, and evaluating cumulative impacts. Through the Draft Supplemental EIS, the BLM will also allow for additional public comment on the BLM's approach to compensatory mitigation and Greater Sage-Grouse habitat conservation.

The Idaho planning area analyzed in this Draft Supplemental EIS includes approximately 39,500,000 acres of BLM, National Park Service, U.S. Forest Service, U.S. Bureau of Reclamation, State, local, and private lands in 28 counties: Ada, Adams, Bear Lake, Bingham, Blaine, Bonneville, Butte, Camas, Caribou, Cassia, Clark, Custer, Elmore, Fremont, Gem, Gooding, Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Oneida, Owyhee, Payette, Power, Twin Falls, and Washington. Also analyzed are the cumulative effects across the Western Association of Fish and Wildlife Agencies' Management Zone and entire Greater Sage-Grouse range. The BLM administers approximately 11,500,000 acres of public lands, providing approximately 8,810,000 acres of Greater Sage-Grouse habitat.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10.

John F. Ruhs,

BLM Idaho State Director.

[FR Doc. 2020–03393 Filed 2–20–20; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[20X.LLWO200000. L11700000.PH0000.LXSGPL000000]

Notice of Availability of the Oregon Draft Supplemental Environmental Impact Statement for Greater Sage-Grouse Conservation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, the Bureau of Land Management (BLM) has prepared this Draft Supplemental Environmental Impact Statement (EIS), and by this notice is announcing the opening of the comment period. BLM Oregon is soliciting comments on the Draft Supplemental EIS.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Draft Supplemental EIS within 45 days following the date the Environmental Protection Agency publishes a Notice of Availability of the Draft Supplemental EIS in the **Federal Register**. The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the Oregon Draft Supplemental EIS by any of the following methods:

- *Website: https://goo.gl/4CNtH8.*
- *Mail:* BLM Oregon State Office, Attn: Draft Supplemental EIS for Greater Sage-Grouse Conservation, 1220 SW 3rd Ave., Portland, OR 97204.

Copies of the Oregon Draft Supplemental EIS for Greater Sage-Grouse Conservation are available in the BLM Oregon State Office at 1220 SW 3rd Ave., Portland, OR 97204 and online at *https://goo.gl/4CNtH8.*

FOR FURTHER INFORMATION CONTACT: Jim Regan-Vienop, Planning and Environmental Coordinator, phone 503–808–6062; address 1220 SW 3rd Ave., Suite 1305, Portland, OR 97204; email *jreganvienop@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Greater Sage-Grouse is a State-managed species that is dependent on sagebrush steppe ecosystems. These ecosystems are managed in partnership across the range of the Greater Sage-Grouse by State wildlife agencies, Federal agencies, local communities, private landowners, and other stakeholders. Since the 1950s these partners have collaborated to conserve Greater Sage-Grouse and its habitats. The U.S. Department of the Interior and the BLM have broad responsibilities to manage Federal lands and resources for the public benefit. Nearly half of Greater Sage-Grouse habitat is managed by the BLM. The BLM is committed to being a good neighbor and investing in on-the-ground conservation activities through close collaboration with State governments, local communities, private landowners, and other stakeholders.

In 2019 the BLM Oregon State Director signed the Record of Decision and Approved Oregon Greater Sage-Grouse Resource Plan Amendment (84 FR 10324), building upon the BLM's commitment to conserve and restore Greater Sage-Grouse habitat while improving collaboration and alignment with State management strategies for Greater Sage-Grouse. The BLM sought to improve management alignment in ways that would increase management flexibility, maintain access to public resources, and promote conservation outcomes.

The Draft Supplemental EIS will supplement and clarify the analysis relied on in the 2019 BLM Oregon Record of Decision, including with respect to the BLM considering a range of reasonable alternatives, taking a ''hard look'' at environmental effects, and evaluating cumulative impacts. Through the Draft Supplemental EIS,

the BLM will also allow for additional public comment on the BLM's approach to compensatory mitigation and Greater Sage-Grouse habitat conservation.

The Oregon planning area includes approximately 60,649 acres of BLM administered lands located in Oregon, in three counties: Harney, Lake, and Malheur. Also analyzed are the cumulative effects across the Western Association of Fish and Wildlife Agencies' Management Zone and entire Greater Sage-Grouse range. Within the decision area, the BLM administers approximately 21,959 acres of public lands, providing approximately 21,959 acres of Greater Sage-Grouse habitat.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10.

Jose L. Linares,

BLM Oregon-Washington Acting State Director.

[FR Doc. 2020–03380 Filed 2–20–20; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWYR05000 L13140000.NB0000 19X]

Notice of Availability of the Final Environmental Impact Statement for the Moneta Divide Natural Gas and Oil Development Project and Proposed Casper Resource Management Plan Amendment, WY

AGENCY: Bureau of Land Management, Interior

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) has prepared a Final Environmental Impact Statement (EIS) and Final Resource Management Plan (RMP) Amendment for the proposed Moneta Divide Natural Gas and Oil Development Project within the BLM Lander, Casper and Rawlins field offices.

DATES: The BLM will issue a Record of Decision no earlier than 30 days from the date of the Notice of Availability published by the Environmental Protection Agency.

ADDRESSES: Requests for information regarding the Final EIS may be mailed to:

- *Email: BLM_WY_LD_Moneta_Divide_EIS@blm.gov.*
- *Mail:* Holly Elliott, Moneta Divide EIS Project Manager, BLM Lander Field Office, 1335 Main Street Lander, WY 82520.

Copies of the Final EIS are available on the project website at: *https://go.usa.gov/xnU9z* or at the following locations:

- BLM Lander Field Office, 1335 Main Street, Lander, Wyoming
- BLM Casper Field Office, 2987 Prospect Drive, Casper, Wyoming
- BLM Rawlins Field Office, 1300 North Third Rawlins, Wyoming

FOR FURTHER INFORMATION CONTACT: Holly Elliott, Moneta Divide EIS Project Manager, BLM Lander Field Office, 1335 Main Street, Lander, WY 82520, 307–347–5100, *helliott@blm.gov* Persons who use telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Moneta Divide project is principally located along U.S. Route 20/26 near the town of Lysite in Fremont and Natrona counties, Wyoming. A proposed product pipeline extends south from the oil and gas production area through Fremont and Sweetwater counties to Wamsutter, Wyoming. The project spans the BLM Wind River/Bighorn Basin, High Plains and High Desert districts. The project area encompasses approximately 327,645 acres of public, state and private lands. Approximately 83 percent of the mineral estate in the project area is administered by the BLM.

Aethon Energy Operating, LLC and Burlington Resources Oil & Gas Company, LP are proposing to develop up to 4,250 wells and associated facilities over a 15-year period. Under the Plan of Development, Aethon would drill up to 4,100 wells, of which approximately two-thirds would be drilled vertically from single-well pads and one-third would be drilled directionally from multi-well pads, consisting of four wells per pad. Burlington would drill up to 150 wells from single-well pads. The proponents would utilize disposal wells, water treatment plants, evaporation ponds, surface discharge and other approaches to produced-water management. Water pipelines delivering treated produced water to Boysen Reservoir could also be built. Associated access roads, pipelines, compressor stations and other ancillary facilities would be co-located where possible to further minimize surface disturbance.

The BLM analyzed five alternatives:

Alternative 1, the No Action Alternative, includes existing standard stipulations and oil and gas well development authorized during the preparation of the EIS in accordance with the Interim Drilling Plan.

Alternative 2, the Proposed Action, is the proponents' Plan of Development.

Alternative 3 emphasizes resource production, analyzing development using only single-well pads and other measures that facilitate oil and gas development within the project area.

Alternative 4 addresses a range of resource issues identified during scoping and provides the proponents greater flexibility to treat and dispose of produced water. Specifically, Alternative 4 analyzes reduced surface disturbance through more directionally drilled wells placed on multi-well pads, wildlife and cultural resources protection measures, and a water management strategy that would involve greater surface discharge of produced water and more disposal wells.

All action alternatives (Alternatives 2, 3 and 4) analyzed the same rate of development, although Alternative 4 would allow a slower pace of development, if needed, for managing produced water in accordance with federal and state requirements.

The Final EIS also evaluates amendments to the Casper RMP, which are analyzed under Alternatives 3 and 4. Under Alternative 3, the Casper RMP would be amended to establish a Designated Development Area in the portion of the Moneta Divide oil and gas well production area in the Casper Field Office to facilitate intensive mineral production. Under Alternative 4, the Casper RMP would be amended to increase the protections of the Cedar Ridge Traditional Cultural Property (TCP). The proposed amendments are not required in order to authorize the Moneta Divide project, which as proposed, is in conformance with the Casper RMP.

The Agency Preferred Alternative was identified in the Final EIS. The Preferred Alternative was developed to incorporate resource conservation

considerations like those included in Alternative 4 (*e.g.,* multi-well pads and less disturbance), as well as providing the Companies flexibility to use, treat, and dispose of water in response to changing technology and economic conditions like Alternative 4. However, the Preferred Alternative includes additional measures to prioritize water management in an effort to minimize impacts to BLM protected resources resulting from surface water discharge. The maximum number of wells would be the same as Alternative 4 and the Preferred Alternative would also include an amendment to the Casper RMP to increase protection measures for the Cedar Ridge TCP, but the Preferred Alternative would differ from Alternative 4 by encouraging the Companies to utilize the pipeline option rather than surface discharge. In addition, the Companies would be required to submit a conservation plan prior to approval of additional surface discharge point locations.

All alternatives conform to the provisions of the Lander RMP Record of Decision (2014), Casper RMP Record of Decision (2007) and Rawlins RMP Record of Decision (2008), as amended.

Treatment and disposal of produced water would be in compliance with State of Wyoming permit(s) including all protections against degradation of public lands. All alternatives require that interim and final reclamation activities would be implemented to return the landscape to proper biological and ecological function in conformance with the Moneta Divide Reclamation Plan and the relevant RMPs.

The Draft EIS was published April 19, 2019, with the publication in the **Federal Register** of the Notice of Availability of the Draft EIS and a possible land use plan amendment to the Casper RMP (84 FR 16532). Comments on the Draft EIS and Draft Land Use Plan Amendment received from the public and internal agency review were considered and incorporated as appropriate into the proposed plan amendment. Public comments resulted in the addition of clarifying text, but did not significantly change proposed land use plan decisions. A response to substantive comments is included in the Final EIS and Proposed Land Use Plan Amendment.

Instructions for filing a protest with the Director of the BLM regarding the Proposed Land Use Plan Amendment/Final EIS may be found in the ''Dear Reader'' Letter of the Final EIS and Proposed Land Use Plan Amendment and at 43 CFR 1610.5–2. All protests must be in writing and mailed to the appropriate address, as set forth in the **ADDRESSES** section above. Emailed protests will not be accepted as valid protests unless the protesting party also provides the original letter by either regular mail or overnight delivery postmarked by the close of the protest period. Under these conditions, the BLM will consider the email as an advanced copy, and it will receive full consideration. If you wish to provide the BLM with such advance notification, please direct emails to: *protest@blm.gov.*

Before including your address, phone number, email address or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2.

Timothy J. Wilson,

Acting BLM Wyoming State Director.

[FR Doc. 2020–03511 Filed 2–20–20; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[20X.LLWO200000. L11700000.PH0000.LXSGPL000000]

Notice of Availability of the Wyoming Draft Supplemental Environmental Impact Statement for Greater Sage-Grouse Conservation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, the Bureau of Land Management (BLM) has prepared this Draft Supplemental Environmental Impact Statement (EIS), and by this notice is announcing the opening of the comment period. BLM Wyoming is soliciting comments on the Draft Supplemental EIS.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Draft Supplemental EIS within 45 days following the date the Environmental Protection Agency publishes a Notice of Availability of the Draft Supplemental EIS in the **Federal Register**. The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the Wyoming Draft Supplemental EIS by any of the following methods:

- *Website: https://goo.gl/22jKE2.*
- *Mail:* BLM Wyoming State Office, 5353 Yellowstone Road, Cheyenne, WY 82009.
- *Fax:* (307) 775–6003.

Limited copies of the Wyoming Draft Supplemental EIS for Greater Sage-Grouse Conservation are available in the BLM Wyoming State Office at the above addresses.

FOR FURTHER INFORMATION CONTACT: Jenny Marzluf, Greater Sage-Grouse Implementation Coordinator, telephone (307) 775–6090; address 5353 Yellowstone Road, Cheyenne, WY 82009; email *jmarzluf@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Greater Sage-Grouse is a State-managed species that is dependent on sagebrush steppe ecosystems. These ecosystems are managed in partnership across the range of the Greater Sage-Grouse by State wildlife agencies, Federal agencies, local communities, private landowners, and other stakeholders. Since the 1950s these partners have collaborated to conserve Greater Sage-Grouse and its habitats. The U.S. Department of the Interior and the BLM have broad responsibilities to manage Federal lands and resources for the public benefit. Nearly half of Greater Sage-Grouse habitat is managed by the BLM. The BLM is committed to being a good neighbor and investing in on-the-ground conservation activities through close collaboration with State governments, local communities, private landowners, and other stakeholders.

In 2019 the BLM Wyoming State Director signed the Record of Decision and Approved Wyoming Greater Sage-Grouse Resource Plan Amendment (84 FR 10322) building upon the BLM's commitment to conserve and restore Greater Sage-Grouse habitat while improving collaboration and alignment with State management strategies for Greater Sage-Grouse. The BLM sought to improve management alignment in ways

that would increase management flexibility, maintain access to public resources, and promote conservation outcomes.

The Draft Supplemental EIS will supplement and clarify the analysis relied on in the 2019 BLM Wyoming Record of Decision, including with respect to the BLM considering a range of reasonable alternatives, taking a ''hard look'' at environmental effects, and evaluating cumulative impacts. Through the Draft Supplemental EIS, the BLM will also allow for additional public comment on the BLM's approach to compensatory mitigation and Greater Sage-Grouse habitat conservation.

The Wyoming planning area analyzed in this Draft Supplemental EIS includes nearly 60 million acres of BLM, National Park Service, U.S. Forest Service, U.S. Bureau of Reclamation, State, local, and private lands located in Wyoming, in 20 counties: Albany, Bighorn, Campbell, Carbon, Converse, Crook, Fremont, Hot Springs, Johnson, Lincoln, Natrona, Niobrara, Park, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, and Weston. Also analyzed are the cumulative effects across the Western Association of Fish and Wildlife Agencies' Management Zone and entire Greater Sage-Grouse range. Within the decision area, the BLM administers more than 18 million acres of public lands, providing approximately 17 million acres of Priority and General Greater Sage-Grouse habitat.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10.

Duane W. Spencer,

BLM Wyoming Acting State Director.

[FR Doc. 2020–03391 Filed 2–20–20; 8:45 am]

BILLING CODE 4310–22–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Capacitive Touch-Controlled Mobile Devices, Computers, and Components Thereof DN 3435;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov* . The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Neodron, Ltd. on February 14, 2020. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain capacitive touch-controlled mobile devices, computers, and components thereof. The complaint names as respondents: Amazon.com, Inc. of Seattle, WA; Apple Inc. of Cupertino, CA; ASUSTeK Computer Inc. of Taiwan; ASUS Computer International of Fremont, CA; LG Electronics Inc. of South Korea; LG Electronics USA, Inc. of Englewood Cliffs, NJ; Microsoft Corporation of Redmond, WA; Motorola Mobility LLC of Chicago, IL; Samsung Electronics Co., Ltd. of South Korea; Samsung Electronics America, Inc. of Ridgefield Park, NJ; Sony Corporation of Japan; and Sony Mobile Communications Inc. of Japan. The complainant requests that the Commission issue a limited exclusion, cease and desist orders and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. Any submissions and replies

filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3435'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1].) Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: February 14, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–03433 Filed 2–20–20; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[USITC SE–20–006]

Sunshine Act Meetings

Agency Holding the Meeting: United States International Trade Commission.

TIME AND DATE: February 28, 2020 at 11 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–637 and 731–TA–1471 (Preliminary)(Vertical Shaft Engines from China). The Commission is currently scheduled to complete and file its determinations on March 2, 2020; views of the Commission are currently scheduled to be completed and filed on March 9, 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 18, 2020.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2020–03550 Filed 2–19–20; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Information Collection Activities; Comment Request

AGENCY: Bureau of Labor Statistic, Department of Labor.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the ''Consumer Price Index Commodities and Services Survey.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the Addresses section of this notice on or before April 21, 2020.

ADDRESSES: Send comments to Nora Kincaid, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE, Washington, DC 20212. Written comments also may be transmitted by fax to 202–691–5111 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Nora Kincaid, BLS Clearance Officer, 202–691–7628 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

Under the direction of the Secretary of Labor, the Bureau of Labor Statistics (BLS) is directed by law to collect, collate, and report full and complete statistics on the conditions of labor and the products and distribution of the products of the same; the Consumer Price Index (CPI) is one of these statistics. The collection of data from a wide spectrum of retail establishments and government agencies is essential for the timely and accurate calculation of the Commodities and Services (C&S) component of the CPI.

The CPI is the only index compiled by the U.S. Government that is designed to measure changes in the purchasing power of the urban consumer's dollar. The CPI is a measure of the average change in prices over time paid by urban consumers for a market basket of goods and services. The CPI is used most widely as a measure of inflation,

and serves as an indicator of the effectiveness of government economic policy. It is also used as a deflator of other economic series, that is, to adjust other series for price changes and to translate these series into inflation-free dollars. Examples include retail sales, hourly and weekly earnings, and components of the Gross Domestic Product.

A third major use of the CPI is to adjust income payments. Over 2 million workers are covered by collective bargaining contracts, which provide for increases in wage rates based on increases in the CPI. At least eight states have laws that link the adjustment in state minimum wage to the changes in the CPI. In addition, as a result of statutory action, the CPI affects the income of almost 132 million of Americans: 64 Million Social Security beneficiaries, 4 million military and Federal Civil Service retirees, and 34 million food stamp recipients have cost-of-living adjustments tied to the CPI. Changes in the CPI also affect the cost of lunches for 30 million children who eat lunch at school. Under the National School Lunch Act and Child Nutrition Act, national average payments for those lunches and breakfasts are adjusted annually by the Secretary of Agriculture on the basis of the change in the CPI series, ''Food away from Home.'' Since 1985, the CPI has been used to adjust the Federal income tax structure to prevent inflation-induced tax rate increases.

II. Current Action

Office of Management and Budget clearance is being sought for the proposed extension of the Consumer Price Index Commodities and Services Survey.

In January 2018, BLS introduced a new geographic area sample for the Consumer Price Index (CPI). The CPI will rotate its sample to new geographic areas on a continuous basis, over a 4-year transition period, until all new areas have been brought into the sample. The last time the sample was revised was in 1998. There are notable methodological changes with the introduction of a new geographic area sample. First, the sample classification structure has been changed. The 1998 design classified areas into four Census regions (Northeast, Midwest, South, and West) by three size classes. The 2018 design classifies these areas into the same four Census regions, plus nine Census divisions: New England, Middle Atlantic, East North Central, West North Central, South Atlantic, East South Central, West South Central, Mountain, and Pacific. Primary sampling units (PSUs) are classified into one of two population-size classes—self-representing or non-self-representing. Second, the PSU area definitions have been updated using Office of Management and Budget's (OMB) Core-Based Statistical Areas (CBSAs) definitions. There are two types of CBSAs: Metropolitan and micropolitan. A metropolitan CBSA has an urban core of more than 50,000 people, and a micropolitan CBSA has an urban core of 10,000 to 50,000 people. CBSAs may cross state borders. Currently, BLS publishes the CPI–U, which covers approximately 89% of the U.S. population. Third, in the new design, the number of sampled PSUs in the CPI has been reduced from 87 to 75. This change will increase the average number of price quotes per index area. Finally, changes were made to the stratification variables and the sampling process for selecting non-self-representing PSUs.

The continuation of the collection of prices for the CPI is essential since the CPI is the nation's chief source of information on retail price changes. If the information on C&S prices were not collected, Federal fiscal and monetary policies would be hampered due to the lack of information on price changes in a major sector of the U.S. economy, and estimates of the real value of the Gross National Product could not be made. The consequences to both the Federal and private sectors would be far reaching and would have serious repercussions on Federal government policy and institutions.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Title: Consumer Price Index Commodities and Services Survey.

OMB Number: 1220–0039.

Type of Review: Extension without change of a currently approved collection.

Affected Public: Business or other for-profit; not for profit institutions; and State, Local or Tribal Government.

	Total respondents	Frequency	Total responses	Average time per response	Estimated total burden
Pricing	36,547	8.7811	320,923	0.33	105,905
Outlet Rotation	15,500	1	15,500	1.0	15,500
Total	52,047	n/a	336,423	n/a	121,405

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 14th day of February 2020.

Mark Staniorski,

Chief, Division of Management Systems.

[FR Doc. 2020–03504 Filed 2–20–20; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0028]

MET Laboratories, Inc.: Applications for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the applications of MET Laboratories, Inc., for expansion of recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the applications.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before March 9, 2020.

ADDRESSES: Submit comments by any of the following methods:

Electronically: Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

Facsimile: If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

Regular or express mail, hand delivery, or messenger (courier) service: Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA–2006–0028, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210; telephone: (202) 693–2350, TTY number: (877) 889–5627. Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 10 a.m.–3 p.m., ET.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2006–0028). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security Numbers, birth dates, and medical data.

Docket: To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

Extension of comment period: Submit requests for an extension of the comment period on or before March 9, 2020 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, phone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Applications for Expansion

OSHA is providing notice that MET Laboratories, Inc. (MET), is applying for expansion of the current recognition as a NRTL. MET requests the addition of two test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by its applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including MET, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

MET currently has one facility (site) recognized by OSHA for product testing and certification, with its headquarters located at: MET Laboratories, Inc., 914 West Patapsco Avenue, Baltimore, Maryland 21230. A complete list of MET's scope of recognition is available at *https://www.osha.gov/dts/otpca/nrtl/met.html.*

II. General Background on the Applications

MET submitted two applications, one dated June 28, 2018 (OSHA–2006–0028–0061), and another dated January 14, 2019 (OSHA–2006–0028–0062) to expand MET's NRTL Scope of

Recognition to include two test standards. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to these application.

Table 1 lists the appropriate test standards found in MET's applications for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN MET'S NRTL SCOPE OF RECOGNITION

Test Standard	Test Standard Title
UL 60335–2–24	Household and Similar Electrical Appliances—Safety—Part 2–24: Particular Requirements for Refrigerating Appliances, Ice-Cream Appliances and Ice-Makers.
UL 60079–18	Explosive Atmospheres—Part 18: Equipment Protection by Encapsulation 'm'.

III. Preliminary Findings on the Application

MET submitted acceptable applications for expansion of the scope of recognition. OSHA's review of the application files, and pertinent documentation, indicate that MET can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to include the addition of these two test standards for NRTL testing and certification listed above. This preliminary finding does not constitute an interim or temporary approval of MET's applications.

OSHA welcomes public comment as to whether MET meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by March 9, 2020. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2006–0028.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, make a recommendation to the Assistant Secretary of Labor for Occupational Safety and Health whether to grant MET's application for expansion of its scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of its final decision in the **Federal Register**.

IV. Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on February 14, 2020.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2020–03502 Filed 2–20–20; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (20–016)]

NASA Advisory Council; Aeronautics Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Aeronautics Committee of the NASA Advisory Council (NAC). This meeting will be held for soliciting, from the aeronautics community and other persons, research and technical information relevant to program planning.

DATES: Tuesday, March 17, 2020, 10:00 a.m.–5:15 p.m., Eastern Time.

ADDRESSES: NASA Headquarters, Room 6E40, 300 E Street SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Irma Rodriguez, Designated Federal Officer, Aeronautics Research Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–0984, or *irma.c.rodriguez@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. This meeting is also available telephonically and by WebEx. You must use a touch-tone telephone to participate in this meeting. Any interested person may dial the USA toll-free conference number 1–888–769–8716, participant passcode: 6813159, followed by the # sign to participate in this meeting by telephone. The WebEx link is *https://nasaenterprise.webex.com/,* the meeting number is 907 869 281, and the password is mE38h7RW2h@((case sensitive). The agenda for the meeting includes the following topics:

—FY 2021 Aeronautics Research Mission Directorate (ARMD) Strategy and Budget Overview

—Small Business Innovation Research (SBIR) Overview

—NASA Aeronautics Facilities

Attendees will be requested to sign a register and to comply with NASA Headquarters security requirements, including the presentation of a valid government-issued identification (*i.e.,* driver's license, passport, etc.) to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 15 days prior to the meeting: Full name; gender; date/place of birth; citizenship; passport information (number, country, telephone); visa information (number, type, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, U.S. citizens and Permanent Residents (green card holders) are requested to provide full name and citizenship status no less than 5 working days in advance. Information should be sent to Ms. Irma Rodriguez by fax at (202) 358–4060 or email at *irma.c.rodriguez@nasa.gov.* For

questions, please call Ms. Irma Rodriguez at (202) 358–0984. Attendees will also be required to sign a register prior to entering the meeting room.

Note: As a precaution, individuals returning from China will not be allowed into NASA Headquarters until the 14 days of observation and self-care period has expired, and they are determined not to be infectious. Attendees to the Aeronautics Committee meeting who are returning from China should only participate virtually through the provided dial-in audio and WebEx, until the 14 days of observation and self-care period has expired. It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2020–03479 Filed 2–20–20; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (20–017)]

NASA Advisory Council; Science Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Science Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Thursday, March 12, 2020, 9:30 a.m.–4:15 p.m., and Friday, March 13, 2020, 8:30 a.m.–1:00 p.m., Eastern Time.

ADDRESSES: NASA Headquarters, Room 5H41, 300 E Street SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. KarShelia Henderson, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355, fax (202) 358–2779, or *khenderson@nasa.gov*.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. This meeting will also be available telephonically and by WebEx. You must use a touch-tone phone to participate in this meeting. Any interested person may dial the toll free number 1–888–469–1762 or toll number 1–212–287–1653, passcode 8281293, followed by the # sign, on both days, to participate in this meeting by telephone. The WebEx link is *https://nasaenterprise.webex.com;* the meeting number is 909 851 126 and the password is SC@Mar2020 (case sensitive) for both days. The agenda for the meeting includes the following topics:

— Science Mission Directorate (SMD) Missions, Programs and Activities

— FY 2021 President's Budget Request for NASA SMD

— Moon to Mars

Attendees will be requested to sign a register and to comply with NASA Headquarters security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 days prior to the meeting: Full name; gender; date/place of birth; citizenship; passport information (number, country, telephone); visa information (number, type, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, U.S. citizens and Permanent Residents (green card holders) are requested to provide full name and citizenship status no less than 3 working days in advance. Information should be sent to Ms. KarShelia Henderson, via email at *khenderson@nasa.gov* or by fax at (202) 358–2779.

Note: As a precaution, individuals returning from China will not be allowed into NASA Headquarters until the 14 days of observation and self-care period has expired, and they are determined not to be infectious. Attendees to the Science Committee meeting who are returning from China should only participate virtually through the provided dial-in audio and WebEx, until the 14 days of observation and self-care period has expired. It is imperative that the meeting be held on these dates to the scheduling priorities of the key participants.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2020–03484 Filed 2–20–20; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Agency Information Collection Request; 30-Day Public Comment Request

AGENCY: National Endowment for the Humanities; National Foundation on the Arts and the Humanities.

ACTION: Notice; request for comments.

SUMMARY: The National Endowment for the Humanities (NEH) is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, NEH is requesting comments from all interested individuals and organizations on this proposed collection.

DATES: Please submit comments by March 23, 2020.

ADDRESSES: Submit written comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attn: Desk Officer for the National Endowment for the Humanities; or by email to *oira_submission@omb.eop.gov*; or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Judith Adkins, Program Officer, National Endowment for the Humanities: 400 Seventh Street SW, Washington, DC 20506, or *jadkins@neh.gov*.

SUPPLEMENTARY INFORMATION: NEH first published notice of its intent to seek OMB approval for this information collection in the **Federal Register** of October 10, 2019 (84 FR 54647) and allowed 60 days for public comment. The agency received one public comment, dated October 10, 2019, which expressed general concern about high taxes and doubt about the benefit of this information collection to the taxpayer. NEH acknowledged the comment but determined that it did not call for any change to the planned information collection since the opinion expressed was of a general nature and did not pertain to any specific aspects of the information collection. The purpose of this notice is to allow an additional 30 days for public comment.

Overview of This Information Collection

Type of Request: New collection.

Title: History, The Past, and Public Culture Survey.

OMB Control Number: To be determined.

Abstract: This information collection request (ICR) is pursuant to a cooperative agreement between NEH and the American Historical Association (AHA). The purpose of the survey is to understand how the public perceives, and engages with, history and the work of historians. NEH, AHA, and the many educational and cultural institutions they support will use the information gathered in the proposed survey to create responsive and effective history and other humanities programming to better serve the American people. Most immediately, NEH will use findings from the survey to inform programming for ''A More Perfect Union,'' the agency's special initiative advancing civic education and commemorating the nation's 250th anniversary in 2026.

NEH and AHA are developing the survey in collaboration with an advisory board, regional history experts, and Fairleigh Dickinson University Poll (FDUP), a market research and public interest survey center. In April of 2020, FDUP will administer this internet survey to adults in the United States. Survey questions will concern respondents' perceptions of history and its significance, their opinions about the work of historians, and their consumption of history in various forms and via a variety of media and experiences. The survey will be voluntary and will collect both qualitative and quantitative information. FDUP will ensure optimal polling methodology and manage the logistics of the data collection. This survey will not collect any personally identifiable information (PII).

Affected Public: Survey respondents will be adult individuals in the United States.

Frequency of Information Collection: Once.

Estimated Number of Respondents: 1,500.

Estimated Average Time per Response: 20 minutes.

Estimated Total Burden Hours: 500 hours.

The estimates for the average time per response and the total burden hours are lower than those provided in the initial **Federal Register** notice concerning this ICR. After publishing the initial notice, NEH and its survey partners refined the survey questions and response options. While the estimated number of respondents remains the same, NEH now estimates that the average time per response will be 20 (rather than 25) minutes; accordingly, the estimated total burden hours will be 500 (rather than 625) hours.

Request for Comments

The public is invited to comment on all aspects of this ICR, including: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. 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.

Dated: February 14, 2020.

Caitlin Cater,

Attorney-Advisor, National Endowment for the Humanities.

[FR Doc. 2020–03451 Filed 2–20–20; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; Grantee Reporting Requirements for the Industry-University Cooperative Research Centers (IUCRC) Program

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to renew this collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting Office of Management and Budget (OMB) clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by April 21, 2020 to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to address below.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Suite W18200, Alexandria, Virginia 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: Grantee Reporting Requirements for the Industry-University Cooperative Research Centers (IUCRC) Program.

OMB Number: 3145–0088.

Expiration Date of Approval: June 30, 2020.

Type of Request: Revision to and extension of approval of an information collection.

Proposed Project

The NSF's Division of Industrial Innovation and Partnerships (IIP), within the Engineering Directorate, serves a wide range of grantees across 5 major programs.

The IUCRC program provides a structure for academic researchers to conduct fundamental, pre-competitive research of shared interest to industry and government organizations. These organizations pay membership fees to a consortium so that they can collectively envision and fund research, with at least 90% of Member funds allocated to the direct costs of these shared research projects.

IUCRCs are formed around research areas of strategic interest to U.S. industry. Industry is defined very broadly to include companies (large and small), startups and non-profit organizations. Principal Investigators form a Center around emerging research topics of current research interest, in a pre-competitive space but with clear pathways to applied research and commercial development. Industry partners join at inception, as an existing Center grows, or they inspire the creation of a new Center by recruiting university partners to leverage NSF support. Government agencies participate in IUCRCs as Members or by partnering directly with NSF at the strategic level.

Universities, academic researchers, and students benefit from IUCRC participation through the research funding, the establishment and growth of industry partnerships, and educational and career placement opportunities for students. Industry Members benefit by accessing knowledge, facilities, equipment, and intellectual property in a highly cost-efficient model; leveraging Center research outcomes in their future proprietary projects; interacting in an informal, collaborative way with other private sector and government entities with shared interests; and identifying and recruiting talent. NSF provides funding to support Center administrative costs and a governance framework to manage membership, operations, and evaluation.

Sites within Centers will be required to provide data to NSF and/or its authorized representatives (contractors and/or grantees) annually—after the award expires for their fiscal year of activity—for the life of the Phase I, and if applicable, Phase II, and Phase III award(s).

Information collected are both quantitative and descriptive; they will provide managing Program Directors a means to monitor the operational and financial states of the Centers and ensure that the award is in good standing. These data will also allow NSF to assess the Centers in terms of intellectual, broader, and commercial impacts that are core to our review criteria. Finally, in compliance with the Evidence Act of 2019, information collected will be used in satisfying congressional requests, and supporting the agency's policymaking and reporting needs.

In addition to the agency's annual report requirement, Principal Investigators (IUCRC Center and Site Directors) of the awards are required to provide the following information:

Center-Related Information

- Center Data Reporting
  - A comprehensive annual survey collecting information on structure, funding, membership, personnel, and outcomes of the Center during a given reporting period. A Center must submit data for each fiscal year no later than September 30 of each year of operation, as well as after the award expires to describe its final year of activity.

Certification of Membership

- A list of members and membership fees collected by the Center and certified by the respective university's Sponsored Research Office (SRO), Total Program Income collected during the reporting period, In-kind Contributions during the reporting period, Allocation and Expenditures of each Site's research funds by project

Site Research Projects Summary

- A list all projects in which the Site participated, including each project's goals; research tasks; key milestones, metrics/deliverables; developing results or outcomes; project budgets; and personnel.

- Assessment Coordinator Report
  - An independent assessment of the annual Center activities (this report is done by an independent evaluator, and uploaded by the Principal Investigator as part of the NSF annual reporting requirement)

Logistical Information

- IUCRC Directory
  - IUCRCs must provide accurate and current information for the online IUCRC directory (*http://iucrc.org/centers*). Instructions for updating and reporting information can be found at *http://www.nsf.gov/eng/iip/iucrc/directory/instructions.jsp*

Optional

- IUCRC Impact Stories for Public Distribution

IUCRCs are highly encouraged to submit information on their emerging research highlights and significant breakthrough stories to NSF to showcase their impact to the public and industry (see *http://www.nsf.gov/eng/iip/iucrc),* including new products, technology creation and/or enhancements, intellectual property of significant commercial relevance, and major improvements in cost-savings, efficiency, sustainability, productivity, and job growth.

Not only do these data provide valuable information on program activities, products, outcomes, and impact, they also help to paint a detailed longitudinal view of the program, provide insights for benchmarking individual Center performance, advancing industry-university engagement approaches, strengthening future workforce, and contribute to the Nation's research and technology ecosystem.

Use of the Information: The information collected is for internal use by NSF, congressional requests, and for securing future funding for continued IUCRC program maintenance and growth.

Estimate Burden on the Public: Estimated at 16 hours per award for 250 sites for a total of 4,000 hours (per year).

Respondents: IUCRC Awardees (Academic Institutions).

Estimated Number of Respondents: One from each IUCRC site (estimated: 250 active sites/year).

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) 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.

Dated: February 18, 2020.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2020–03490 Filed 2–20–20; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; Grantee Reporting Requirements for NSF SBIR/STTR Program

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to establish this collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting Office of Management and Budget (OMB) clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by April 21, 2020 to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to address below.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Suite W18200, Alexandria, Virginia 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who

use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: Evaluation of the Sustainability and Diffusion of the NSF ADVANCE Program.

OMB Number: 3145–NEW.

Expiration Date of Approval: Not applicable.

Type of Request: Intent to seek approval to establish an information collection.

Proposed Project

The NSF's Division of Industrial Innovation and Partnerships (IIP), within the Engineering Directorate, serves a wide range of grantees across 5 major programs. The SBIR (Small Business Innovation Research)/STTR (Small Business Technology Transfer) program is designed to stimulate technological innovation in the private sector by strengthening the role of small business, increasing the commercial application of federally supported research results, as well as fostering and encouraging participation by socially and economically disadvantaged and women-owned small businesses.

The NSF SBIR/STTR program has two phases: Phase I and Phase II (with an optional Phase IIB as matching supplements). SBIR/STTR Phase I is a 6–12 month experimental or theoretical investigation on the proposed innovative research or study, and allows the grantees to determine the scientific, technical, and commercial merit of the idea or concept. Phase II further develops the proposed concept, building on the feasibility project undertaken in Phase I, and accelerate the Phase I project to the commercialization stage and enhance the overall strength of the commercial potential. As such, Phase II SBIR/STTR awards have an expected period of performance of 24 months.

The Phase II interim report will be required every six months for the life of the Phase II award. We will use this report to collect information on the technical progress of the funded NSF work, which will allow the managing Program Director to monitor the project and ensure that the award is in good standing. The report will also request a discussion of progress on other company aspects that would allow us to assess the boarder and commercial impacts that are core to our review criteria. This report will also be used to ensure awardee compliance with both SBIR/STTR-wide and NSF-wide compliance requirements (such as lifecycle program certifications and requirements of our Phase II cooperative agreement instrument). Finally, it will be used to collect data that is required by the SBIR Policy Directive.

All the information collected is for internal use by the Division of Industrial Innovation and Partnerships, and will not be made publicly available.

Burden on the Public: Estimated at 16 hours per award for 125 awards for a total of 2,000 hours (per year).

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) 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.

Dated: February 18, 2020.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2020–03488 Filed 2–20–20; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Environmental Research and Education; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Advisory Committee for Environmental Research and Education (9487).

Date and Time: March 25–26, 2020; 9:00 a.m.–5:30 p.m.

Place: National Science Foundation, 2415 Eisenhower Avenue, Conference Room 2030, Alexandria, VA 22314.

Type of Meeting: Open.

Contact Person: Dr. Leah Nichols, Staff Associate, Office of Integrative Activities/Office of the Director/National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; (Email: *acere-poc@nsf.gov*/ Telephone: (703) 292–8040).

Minutes: May be obtained from the AC's website at: *https://www.nsf.gov/ere/ereweb/minutes.jsp.*

Purpose of Meeting: To provide advice, recommendations, and oversight concerning support for environmental research and education.

Agenda: Discussion of subcommittee work. Updates on agency support for environmental research and education activities. Discussion with NSF senior leadership. Plan for future advisory committee activities. Updated agenda will be available at *https://www.nsf.gov/ere/ereweb/minutes.jsp.*

Dated: February 17, 2020.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2020–03466 Filed 2–20–20; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Environmental Research and Education Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Advisory Committee for Environmental Research and Education (9487).

Date and Time: March 25—26, 2020; 9:00 a.m.–5:30 p.m.

Place: National Science Foundation, 2415 Eisenhower Avenue, Conference Room 2030, Alexandria, VA 22314.

Type of Meeting: Open.

Contact Person: Dr. Leah Nichols, Staff Associate, Office of Integrative Activities/Office of the Director/National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; (Email: *acere-poc@nsf.gov*/ Telephone: (703) 292–8040).

Minutes: May be obtained from the AC's website at: *https://www.nsf.gov/ere/ereweb/minutes.jsp.*

Purpose of Meeting: To provide advice, recommendations, and oversight concerning support for environmental research and education.

Agenda: Discussion of subcommittee work. Updates on agency support for environmental research and education activities. Discussion with NSF senior leadership. Plan for future advisory committee activities. Updated agenda will be available at *https://www.nsf.gov/ere/ereweb/minutes.jsp.*

Dated: February 18, 2020.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2020–03469 Filed 2–20–20; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0111]

Pre-Earthquake Planning, Shutdown, and Restart of a Nuclear Power Plant Following an Earthquake

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 1 to Regulatory Guide (RG) 1.166, ''Pre-Earthquake Planning, Shutdown, and Restart of a Nuclear Power Plant Following an Earthquake.'' This revision of RG 1.166 merges two related RGs, that is, RG 1.166 and RG 1.167, ''Restart of a Nuclear Power Plant Shut Down by a Seismic Event.'' The guides were merged because they are similar in nature and contain overlapping guidance. RG 1.167 is being withdrawn concurrently because it is no longer needed.

DATES: Revision 1 to RG 1.166 is available on February 21, 2020. The withdrawal of RG 1.167 takes effect on February 21, 2020.

ADDRESSES: Please refer to Docket ID NRC–2019–0111 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0111. 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 individuals 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*. RG 1.166 is available in ADAMS under Accession No. ML19266A616.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Vladimir Graizer, Office of Nuclear Reactor Regulation, telephone: 301–415–2380, email: *Vladimir Graizer@nrc.gov*; Thomas Weaver, telephone: 301–415–2383, email: *Thomas.Weaver@nrc.gov*; and Edward O'Donnell, Office of Nuclear Regulatory Research, telephone: 301–415–3317, email: *Edward.O'Donnell@nrc.gov*. All are staff of the 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 1 of RG 1.166 was issued for public comment as Draft Regulatory Guide (DG), DG–1337. It merges RG 1.166, ''Pre-Earthquake Planning and Immediate Nuclear Power Operator Post-earthquake Actions,'' and RG 1.167, ''Restart of a Nuclear Power Plant Shutdown by a Seismic Event.'' The revised guide incorporates lessons learned following shutdown and restart of nuclear power plants due to earthquake ground motion and post-earthquake evaluations since issuance of the two RGs in 1997. The revised guide provides guidance acceptable to the NRC staff regarding pre-earthquake planning actions, actions to determine the need to shutdown a nuclear power plant and the short-term and long-term processes, inspections and tests that are acceptable to demonstrate that a nuclear power plant is safe for restarting after a shutdown due to an earthquake. The guide endorses with some clarifications, American National Standards Institute/American Nuclear Society (ANSI/ANS)–2.23–2016, ''Nuclear Power Plant Response to an Earthquake,'' and ANSI/ANS–2.10–2017, ''Criteria for Retrieval, Processing, Handling, and Storage of Records from Nuclear Facility Seismic Instrumentation.''

II. Additional Information

The NRC published a notice of the availability of DG–1337 in the **Federal Register** on June 14, 2019 (84 FR 27809) for a 60-day public comment period. The public comment period closed on August 13, 2019. Public comments on DG–1337 and the staff responses to the public comments are available in ADAMS under Accession No. ML19266A619.

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, Forward Fitting, and Issue Finality

Issuance of this regulatory guide does not constitute backfitting as defined in title 10 of the *Code of Federal Regulations* (10 CFR) section 50.109, ''Backfitting,'' and as described in NRC Management Directive 8.4, ''Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests''; constitute forward fitting as that term is defined and described in Management Directive 8.4; or affect issue finality of any approval issued under 10 CFR part 52, ''Licenses, Certificates, and Approvals for Nuclear Power Plants.'' 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 14th day of February 2020.

For the Nuclear Regulatory Commission.

Stanley J. Gardocki,

Acting Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2020–03439 Filed 2–20–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0111]

Restart of a Nuclear Power Plant Shut Down by an Earthquake

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; withdrawal.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is withdrawing regulatory guide (RG), RG 1.167 ''Restart of a Nuclear Power Plant Shut Down by an Earthquake.'' The guide is being withdrawn because its guidance has been incorporated into a related guide, namely RG 1.166 ''Pre-Earthquake Planning, Shutdown, and Restart of a Nuclear Power Plant Following an Earthquake.''

DATES: The effective date of the withdrawal of RG 1.167 is February 21, 2020.

ADDRESSES: Please refer to Docket ID NRC–2019–0111 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2019–0111. Address questions about NRC dockets IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov*. For technical questions, contact the individual(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 *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select "*Begin Web-based ADAMS Search*." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced (if it available in ADAMS) is provided the first time that a document is referenced. The basis for withdrawal of RG 1.167 is available in ADAMS under Accession No. ML19266A631.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Vladimir Graizer, Office of Nuclear Reactor Regulation, telephone: 301–415–2380, email: *Vladimir.Graizer@nrc.gov*; Thomas Weaver, telephone: 301–415–2383, email: *Thomas.Weaver@nrc.gov*; and Edward.O'Donnell, Office of Nuclear Regulatory Research, telephone: 301–415–3317, email: Edward *O'Donnell@nrc.gov*. All are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Introduction

Regulatory guides may be withdrawn by the NRC when their guidance no longer provides useful information, or is superseded by technological innovations, congressional actions, or other events. The NRC is withdrawing RG 1.167 because its guidance has been incorporated into RG 1.166, "Pre-Earthquake Planning, Shutdown, and Restart of a Nuclear Power Plant Following an Earthquake" (ADAMS Accession No. ML19266A616).

II. Further Information

The withdrawal of RG 1.167 does not alter any prior or existing NRC licensing approval or the acceptability of licensee commitments to this RG. Although RG 1.167 is withdrawn, current licensees may continue to use it, and withdrawal does not affect any existing licenses or agreements. However, by withdrawing RG 1.167, the NRC no longer approves the guidance in this RG for use in future requests or applications for NRC licensing actions.

Dated at Rockville, Maryland, this 14th day of February 2020.

For the Nuclear Regulatory Commission.

Stanley J. Gardocki,

Acting Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2020–03436 Filed 2–20–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

671st Meeting of the Advisory Committee on Reactor Safeguards (ACRS)

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold meetings on March 5–7, 2020, Two White Flint North, 11545 Rockville Pike, ACRS Conference Room T2D10, Rockville, MD 20852.

Thursday, March 5, 2020, Conference Room T2D10

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–12:00 p.m.: NuScale Areas of Focus: Steam Generator Design, Containment Evacuation System, and Hydrogen & Oxygen Monitoring (Open/Closed)—The Committee will have briefing and discussion with representatives of NRC staff and NuScale regarding subject areas of focus. [*Note:* A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)].

1:00 p.m.–4:15 p.m.: NuScale Topical Reports: Loss of Coolant Accident (LOCA), Non-LOCA and Rod Ejection Accident Methodologies (Open/Closed)—The Committee will have briefing and discussion with representatives of NRC staff and NuScale regarding subject areas of focus. [*Note:* A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)].

4:30 p.m.–6:00 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [*Note:* A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)].

Friday, March 6, 2020, Conference Room T2D10

8:30 a.m.–10:30 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee and Reconciliation of ACRS Comments and Recommendations (Open/Closed)—The Committee will hear discussion of the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS meetings. [*Note:* A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.] [*Note:* A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)].

10:45 a.m.–12:00 p.m.: Biennial Review of NRC Safety Research Program (Open)—The Committee will have a discussion regarding the safety research program.

1:00 p.m.–6:00 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [*Note:* A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)].

Saturday, March 7, 2020, Conference Room T2D10

8:30 a.m.–12:00 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [*Note:* A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)].

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on June 13, 2019 (84 FR 27662). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Quynh Nguyen, Cognizant ACRS Staff and the Designated Federal Official (Telephone: 301–415–5844, Email: *Quynh.Nguyen@nrc.gov*), 5 days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience. The bridgeline number for the meeting is 866–822–3032, passcode 8272423#.

Thirty-five hard copies of each presentation or handout should be provided 30 minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the Cognizant ACRS Staff one day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Cognizant ACRS Staff with a CD containing each presentation at least 30 minutes before the meeting.

In accordance with Subsection 10(d) of Public Law 92–463 and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agendas, meeting transcripts, and letter reports are available through the NRC Public Document Room (PDR) at *pdr.resource@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System component of NRC's Agencywide Documents Access and Management System (ADAMS) which is accessible from the NRC website at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/#ACRS/*.

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service should contact Ms. Paula Dorm, ACRS Audio Visual Technician (301–415–7799), between 7:30 a.m. and 3:45 p.m. (Eastern Time), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Note: This notice is late due to the adjustment of meeting topics for the NuScale design certification. Specifically, the priority of topics was adjusted for complexity and to support timeliness of the anticipated review schedule.

Dated: February 18, 2020.

Russell E. Chazell,

Federal Advisory Committee Management Officer, Office of the Secretary.

[FR Doc. 2020–03517 Filed 2–20–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–275 and 50–323; NRC–2020–0054]

Pacific Gas and Electric Company; Diablo Canyon Nuclear Power Station, Units 1 and 2

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt; public meeting; and request for comment.

SUMMARY: On December 4, 2019, the U.S. Nuclear Regulatory Commission (NRC) received the Post-Shutdown Decommissioning Activities Report (PSDAR) for the Diablo Canyon Nuclear Power Plant (Diablo Canyon), Units 1 and 2. The PSDAR, which includes the Cost Summary from the Site-Specific Decommissioning Cost Estimate (DCE), provides an overview of the Pacific Gas and Electric Company (PG&E, the licensee) planned decommissioning activities, schedule, projected costs, and environmental impacts for Diablo Canyon, Units 1 and 2. The NRC will hold a public meeting to discuss the PSDAR and receive comments.

DATES: Submit comments by June 22, 2020. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received before this date.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0054. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Balwant K. Singal, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–3016; email: *Balwant.Singal@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2020–0054 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0054.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced (if that document is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2020–0054 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission.

The NRC will post all comment submissions at *https://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Discussion

PG&E is the holder of Facility Operating License Nos. DPR–80 and DPR–82 for Diablo Canyon, Units 1 and 2, respectively. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the NRC now or hereafter in effect. The facility consists of a pair of Westinghouse four-loop pressurized-water reactors located in San Luis Obispo County, California. By letter dated November 27, 2018 (ADAMS Accession No. ML18331A553), the licensee informed the NRC that it will permanently cease power operations at Diablo Canyon, Units 1 and 2, on November 2, 2024 and August 26, 2025, respectively.

On December 4, 2019, PG&E submitted the PSDAR containing the Cost Summary from Diablo Canyon, Units 1 and 2 DCE in accordance with section 50.82(a)(4)(i) of title 10 of the *Code of Federal Regulations* (ADAMS Accession No. ML19338F173). The PSDAR includes a description of the planned decommissioning activities, a proposed schedule for their accomplishment, cost summary from the DCE, and a discussion that provides the basis for concluding that the environmental impacts associated with the site-specific decommissioning activities will be bounded by appropriate, previously issued generic and plant-specific environmental impact statements.

III. Request for Comment and Public Meeting

The NRC is requesting public comments on the PSDAR for Diablo Canyon, Units 1 and 2. The NRC will conduct a public meeting to discuss the PSDAR and receive comments on Thursday, March 19, 2020, from 6:00 p.m. until 8:00 p.m., at the Board of Supervisors Chambers, County Government Center, 1055 Monterey Street, San Luis Obispo, California 93408. The NRC requests that comments that are not provided during the meeting be submitted as noted in the **ADDRESSES** section of this document in writing by June 22, 2020.

Dated at Rockville, Maryland, this 18th day of February 2020.

For the Nuclear Regulatory Commission.

Jennifer L. Dixon-Herrity,

Chief, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2020–03470 Filed 2–20–20; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–498, OMB Control No. 3235–0556]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Rule 15b11–1/Form BD–N

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 15b11–1 (17 CFR 240.15b11–1) under the Securities Exchange Act of 1934 (''Exchange Act'') (15 U.S.C. 78a *et seq.*) and Form BD–N (17 CFR 249.501b).

Rule 15b11–1 provides that a broker or dealer may register by notice pursuant to section 15(b)(11)(A) of the Exchange Act (15 U.S.C. 78*o*(b)(11)(A)) if it: (1) Is registered with the Commodity Futures Trading Commission as a futures commission merchant or an introducing broker, as those terms are defined in the Commodity Exchange Act (7 U.S.C. 1, *et seq.*); (2) is a member of the National Futures Association or another national securities association registered under section 15A(k) of the Exchange Act (15 U.S.C. 78*o*–3(k)); and (3) is not required to register as a broker or dealer in connection with transactions in securities other than security futures products. The rule also requires a broker or dealer registering by notice to do so by filing Form BD–N in accordance with the instructions to the form. In addition, the rule provides that if the information provided by filing the form is or becomes inaccurate for any reason, the broker or dealer shall promptly file an amendment on the form correcting such information.

The Commission staff estimates that the total annual reporting burden associated with Rule 15b11–1 and Form BD–N is approximately two hours, based on an average of two initial notice registrations per year that each take approximately 30 minutes to complete, for one hour, plus an average of three amendments per year that each take approximately fifteen minutes to complete, for 0.75 hours, rounded up to one hour, for a total of two hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov;* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: February 18, 2020.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2020–03509 Filed 2–20–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 1 p.m. on Tuesday, February 25, 2020.

PLACE: The meeting will be held at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the

Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present. In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matters of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions; Institution and settlement of administrative proceedings; Resolution of litigation claims; and Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: February 18, 2020.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2020–03549 Filed 2–19–20; 11:15 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 11042]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition—Determinations: ''Yoshitomo Nara'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Yoshitomo Nara,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Los Angeles County Museum of Art, Los Angeles, California, from on or about April 5, 2020, until on or about August 23, 2020, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

Marie Therese Porter Royce,

Assistant Secretary, Educational and Cultural Affairs, Department of State.

[FR Doc. 2020–03472 Filed 2–20–20; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 11043]

Notice of Public Meeting for International Maritime Organization Sub-Committee Meeting

The Department of State will conduct an open meeting at 11:00 a.m. on Wednesday, March 11, in Room 7P15–01, United States Coast Guard Headquarters, 2703 Martin Luther King, Jr. Ave. SE, Washington, DC 20593–7213. The primary purpose of the meeting is to prepare for the 107th session of the International Maritime Organization's (IMO) Legal Committee to be held at the IMO Headquarters, United Kingdom, March 16–20, 2020.

The agenda items to be considered include:

—Facilitation of the entry into force and harmonized interpretation of the 2010 HNS Protocol

—Provision of financial security in case of abandonment of seafarers

—Fair treatment of seafarers in the event of a maritime accident

—Measures to prevent unlawful practices associated with the fraudulent registration and fraudulent registries of ships

—Regulatory scoping exercise and gap analysis of conventions emanating from the Legal committee with respect to Maritime Autonomous Surface Ships (MASS)

—Unified Interpretation on the test for breaking the owner's right to limit liability under the IMO conventions

—Piracy

—Any other business

Members of the public may attend this meeting up to the seating capacity of the room. Upon request to the meeting coordinator, members of the public may also participate via teleconference, up to the capacity of the teleconference phone line. To facilitate the building security process, request the teleconference call information, and to request reasonable accommodation, those who plan to attend should contact the meeting coordinator, Stephen Hubchen, by email at *Stephen.k.hubchen@uscg.mil,* by phone at (202) 372–1198, or in writing at 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington, DC 20593–7509 not later than March 4, 2020, 4 business days prior to the meeting. Requests made after March 4, 2020 might not be able to be accommodated, and same day requests will not be accommodated due to the building's security process. Please note that due to security considerations, two valid, government issued photo identifications must be presented to gain entrance to the Coast Guard Headquarters. Coast Guard Headquarters is accessible by taxi, public transportation, and privately owned conveyance (upon request). In the case of inclement weather where the U.S. Government is closed or delayed, a public meeting may be conducted virtually. The meeting coordinator will confirm whether the virtual public meeting will be utilized. Members of the public can find out whether the U.S. Government is delayed or closed by visiting *www.opm.gov/status/.* Additional information regarding this and other IMO public meetings may be found at: *www.uscg.mil/imo.*

Jeremy M. Greenwood,

Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2020–03478 Filed 2–20–20; 8:45 am]

BILLING CODE 4710–09–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1294X; Docket No. AB 1293X]

Eighteen Thirty Group, LLC—Abandonment Exemption—in Allegany County, MD.; Georges Creek Railway—Discontinuance Exemption—in Allegany County, MD

Eighteen Thirty Group, LLC (Eighteen Thirty), and Georges Creek Railway (GCR) (collectively, Applicants), have jointly filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* for Eighteen Thirty to abandon, and for GCR to discontinue service over, an approximately 7.54-mile rail line between milepost BAI 26.00, in Moscow, and milepost BAI 18.46, in Shaft, in Allegany County, Md. (the Line). There are six stations on the Line: (1) Phi Con 10, at milepost BAI 14 (OPSL 56198); (2) Carlos, at milepost BAI 18 (OPSL 56195); (3) Delta 3, at milepost BAI 19 (OPSL 56202); (4) Ocean, at milepost BAI 20 (OPSL 56200); (5) Lonaconing, at milepost BAI 22 (OPSL 55530); and (6) Mine 5, at milepost BAI 24 (OPSL 56215). The Line traverses U.S. Postal Service Zip Codes 21532, 21539, and 21521.

Applicants have certified that: (1) No local traffic has moved over the Line for at least two years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) and 1105.8(c) (environmental and historic report), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

Any employee of Eighteen Thirty or GCR adversely affected by the abandonment or discontinuance, respectively, shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received,[1] these exemptions will be effective on March 22, 2020, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2), and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by March 2, 2020.[3] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by March 12, 2020, with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to Applicants' representative: Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemptions are void ab initio.

Applicants have filed a combined environmental and historic report that addresses the potential effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by February 28, 2020. The EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or interim trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), Eighteen Thirty shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by Eighteen Thirty's filing of a notice of consummation by February 21, 2020, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at *www.stb.gov.*

Decided: February 18, 2020.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2020–03489 Filed 2–20–20; 8:45 am]

BILLING CODE 4915–01–P

[1] Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (*i.e.,* subsidy or purchase) and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(2)(i).

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemptions' effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemptions' effective date.

[3] Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36379]

Louisiana & Delta Railroad, Inc.—Lease Amendment and Operation Exemption—Union Pacific Railroad Company

Louisiana & Delta Railroad, Inc. (LDRR), a Class III railroad, has filed a verified notice of exemption under 49 U.S.C. 10902 to amend, supersede, and replace the leases entered into between LDRR and Union Pacific Railroad Company (UP) on January 17, 1992, and subsequently amended. Specifically, LDRR states that it wishes to consolidate two existing lease agreements, the Lockport Branch Line Lease and the Breaux Bridge Lines Lease, into a single agreement with UP (the Consolidated Lease). The Consolidated Lease covers (1) milepost 0.35 at or near BR Jct, to the end of track at milepost 7.78 being the west line of Berard Street at or near Breaux Bridge (Breaux Bridge Branch); (2) the switch on the Breaux Bridge line near milepost 7.678 to a point on the St. Martinsville Branch near milepost 19.381 to the end of track at milepost 19.680 (St. Martinsville Branch); (3) milepost 0.50 at or near Alex. Jct, to the end of track at milepost 1.00, also including the Extension Track from milepost 144.90 to milepost 145.30 (Alexandria Branch); and (4) milepost 0.1 at Raceland Junction, La., to milepost 1.7 (collectively, the Line).[1] LDRR further states that segments (1), (2), and (3) of the Line are near Lafayette, La., and segment (4) is near Lockport, La. The total mileage covered by the Consolidated Lease is approximately 10.43 miles.

[1] LDRR initially submitted the verified notice on January 16, 2020. On February 5, 2020, LDRR filed a supplement to clarify the location of the Line and provide more detailed maps. In light of that supplement, February 5, 2020, is deemed the filing date of the verified notice.

LDRR has certified that the transaction does not involve any provision or agreement that would limit future interchange with a third-party connecting carrier. LDRR states that its projected annual revenues as a result of this transaction will not result in LDRR's becoming a Class II or Class I rail carrier. Additionally, LDRR certifies that its total revenues exceed $5 million. Pursuant to 49 CFR 1150.42(e), if a carrier's projected annual revenues will exceed $5 million, it must, at least 60 days before the exemption becomes effective, post a notice of its intent to undertake the proposed transaction at the workplace of the employees on the affected lines, serve a copy of the notice on the national offices of the labor unions with employees on the affected lines, and certify to the Board that it has done so. However, LDRR's verified notice includes a request for waiver of the 60-day advance labor notice requirements. LDRR's waiver request will be addressed in a separate decision.

The verified notice states that LDRR and UP entered into the Consolidated Lease agreement on January 1, 2020. LDRR states that it expects to consummate the transaction on the effective date of this exemption. The Board will establish the effective date in its separate decision on the waiver request.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than February 28, 2020.

All pleadings, referring to Docket No. FD 36379, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on LDRR's representative, Eric M. Hocky, Clark Hill, PLC, Two Commerce Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103.

According to LDRR, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: February 18, 2020.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Tammy Lowery,

Clearance Clerk.

[FR Doc. 2020–03494 Filed 2–20–20; 8:45 am]

BILLING CODE 4915–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. USTR–2019–0003]

Notice of Modification of Section 301 Action: Enforcement of U.S. WTO Rights in Large Civil Aircraft Dispute

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of modification of action.

SUMMARY: Effective October 18, 2019, the U.S. Trade Representative imposed additional duties on certain products of the EU and certain EU member States in this Section 301 investigation to enforce U.S. WTO rights in the Large Civil Aircraft dispute. On December 12, 2019, the U.S. Trade Representative announced a review of the Section 301 action and requested public comments. Based on this review, the U.S. Trade Representative has determined to revise the action being taken by increasing the rate of additional duties on certain large civil aircraft, and by modifying the list of other products of certain current and former EU member States subject to additional 25 percent duties.

DATES: The modifications to the Section 301 action set out in Annex 1, subparagraph C, are applicable with respect to products that are entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern standard time on March 18, 2020. The modifications set out in Annex 1, subparagraphs A and B, are applicable with respect to products that are entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern standard time on March 5, 2020.

FOR FURTHER INFORMATION CONTACT: For questions about the determinations in this investigation, contact Assistant General Counsel Megan Grimball, (202) 395–5725, or Director for Europe Michael Rogers, at (202) 395–3320. For questions on customs classification of products identified in the annexes, contact *Traderemedy@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

A. Proceedings in the Investigation

On April 12, 2019, the U.S. Trade Representative announced the initiation of an investigation to enforce U.S. rights in the World Trade Organization (WTO) dispute against the EU and certain EU member States addressed to subsidies on large civil aircraft. *See* 84 FR 15028 (April 12 notice). The April 12 notice contains background information on the investigation and the dispute settlement proceedings, as well as the website where the WTO reports can be found: *https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds316_e.htm.*

The April 12 notice solicited comments on a proposed determination that, *inter alia,* the EU and certain member States have denied U.S. rights under the WTO Agreement, and in particular, under Articles 5 and 6.3 of the Agreement on Subsidies and Countervailing Measures (SCM Agreement) and the General Agreement on Tariffs and Trade 1994 (GATT 1994), and have failed to comply with the WTO Dispute Settlement Body (DSB) recommendations to bring the WTO-inconsistent subsidies into compliance with WTO obligations. The April 12 notice invited public comment on a proposed action in the form of an additional *ad valorem* duty of up to 100 percent on products of EU member States to be drawn from a list of 317 tariff subheadings and 9 statistical reporting numbers of the Harmonized Tariff Schedule of the United States (HTSUS) included in the annex to that notice.

In response to public comments received during the comment period, and upon further analysis, USTR published a notice inviting public comment on a second list of products also being considered for an additional *ad valorem* duty of up to 100 percent. *See* 84 FR 32248 (July 5, 2019) (July 5 notice). The public versions of submissions received in response to the April 12 and July 5 notices, as well as transcripts of both hearings, are available on *www.regulations.gov* under docket number USTR–2019–0003.

On October 2, 2019, the WTO Arbitrator issued a report that concluded that the appropriate level of countermeasures in response to the WTO-inconsistent launch aid provided by the EU or certain member States to their large civil aircraft domestic industry is approximately $7.5 billion annually. Subsequently, on October 9, 2019, the U.S. Trade Representative announced a determination that the EU and certain member States have denied U.S. rights under the WTO Agreement and have failed to implement DSB recommendations concerning certain subsidies to the EU large civil aircraft industry. *See* 84 FR 54245 (October 9, 2019) (October 9 notice). The U.S. Trade Representative determined to take action in the form of additional duties

on products of certain member States of the EU, at levels of 10 or 25 percent *ad valorem,* as specified in annex A of the October 9 notice, effective October 18, 2019. The Trade Representative made technical adjustments and corrected certain errors effective October 18, 2019. *See* 84 FR55998 (October 18, 2019).

On December 12, 2019, the U.S. Trade Representative announced a review of the Section 301 action and invited public comments. *See* 84 FR 67992 (December 12, 2019) (December 12 notice). The December 12 notice specifically requested comments on whether products of specific EU member States should be removed from the list of products subject to additional duties or should remain on the list; if a product remains on the list, whether the current rate of additional duty should be increased to as high as 100 percent; and whether additional EU products should be added to the list. USTR received nearly 26,000 comments in response to the December 12, 2019 notice.

B. Revision of Action

Section 306(b)(2)(B)(i) of the 1974 Trade Act, as amended, provides in pertinent part that the ''Trade Representative shall periodically revise the [retaliation] list or action to affect other goods of the country or countries that have failed to implement the [WTO Dispute Settlement Body] recommendation.'' Section 306(b)(2)(B)(ii) provides that no revision is required under section 306(b)(2)(B) if the U.S. Trade Representative determines that implementation of the DSB's recommendations is imminent, or the U.S. Trade Representative agrees with the affected industry concerned that revision of the list is not necessary.

The U.S. Trade Representative has not determined that the circumstances set forth in section 306(b)(2)(B)(ii) currently apply, and accordingly has determined to revise the action being taken in the investigation. The United States remains open to a negotiated settlement that addresses current and future subsidies to Airbus provided by the EU and certain current and former member States.

Section 306(b)(2)(D) provides in pertinent part that in revising any list or action, the U.S. Trade Representative ''shall act in a manner that is most likely to result in the country or countries implementing the recommendations adopted in the dispute settlement proceeding or in achieving mutually satisfactory solution to the issue that gave rise to the dispute settlement proceeding.''

The modifications to the Section 301 action announced in this Notice take into account the public comments and testimony in response to the April 12, July 5, and December 12 notices, the advice of advisory committees, and the advice of the Section 301 committee. In accordance with section 306(b)(2)(F) of the Trade Act (19 U.S.C. 2416(b)(2)(F)), the revised action includes reciprocal goods of the affected industry. The annual trade value of the list of tariff subheadings subject to additional duties under the revised action remains at approximately $7.5 billion, which is consistent with the WTO Arbitrator's finding on the appropriate level of countermeasures.

As specified in the annexes to this notice, the U.S. Trade Representative has determined to increase the duties on certain large civil aircraft from 10 to percent to 15 percent, and to change the composition of the list of products subject to additional duties of 25 percent. As of this time, the Trade Representative has decided not to increase the rate of additional duties above the additional 25 percent currently being applied to non-aircraft products. The U.S. Trade Representative has also determined that going forward, the action may be revised as appropriate immediately upon any EU imposition of additional duties on U.S. products in connection with the Large Civil Aircraft dispute or with the EU's WTO challenge to the alleged subsidization of U.S. large civil aircraft.

Annex 1 to this Notice identifies the products affected by the revised action, the rate of duty to be assessed, and the current or former EU member States affected. Annex 2, section 1, contains unofficial descriptions of the revisions made by this Notice. Section 2 of Annex 2 contains the unofficial descriptions of products covered by the October 18 action, as revised by this Notice.

In order to implement this determination, effective March 18, 2020, subchapter III of chapter 99 of the HTSUS is modified by subparagraph C of Annex 1 to this notice. Effective March 5, 2020, subchapter III of chapter 99 of the HTSUS is modified by subparagraphs A and B of Annex 1 to this notice. The additional duties provided for in the HTSUS subheadings established by Annex 1 apply in addition to all other applicable duties, fees, exactions, and charges.

Any product listed in Annex 1, subparagraph C, to this notice, except any product that is eligible for admission under 'domestic status' as defined in 19 CFR 146.43, which is subject to the additional duty imposed by this determination, and is admitted into a U.S. foreign trade zone on or after 12:01 a.m. eastern daylight time on March 18, 2020, only may be admitted as 'privileged foreign status' as defined in 19 CFR 146.41. Such products will be subject upon entry for consumption to any *ad valorem* rates of duty or quantitative limitations related to the classification under the applicable HTSUS subheading.

Any product listed in Annex 1, subparagraphs A and B to this notice, except any product that is eligible for admission under 'domestic status' as defined in 19 CFR 146.43, which is subject to the additional duty imposed by this determination, and is admitted into a U.S. foreign trade zone on or after 12:01 a.m. eastern daylight time on March 5, 2020, only may be admitted as 'privileged foreign status' as defined in 19 CFR 146.41. Such products will be subject upon entry for consumption to any *ad valorem* rates of duty or quantitative limitations related to the classification under the applicable HTSUS subheading.

The U.S. Trade Representative will continue to consider the action taken in this investigation.

Joseph Barloon,

General Counsel, Office of the U.S. Trade Representative.

Annex 1

A. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern standard time March 5, 2020, U.S. note 21 to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified as provided herein:

1. U.S. note 21(a) to such subchapter is modified by deleting ''9903.89.50'' each place that it appears and inserting ''9903.89.52'' in lieu thereof.

2. U.S. note 21(g) to such subchapter is modified by deleting ''2009.89.40''.

3. U.S. note 21 to such subchapter is modified by inserting in alphabetical order:

''(q) Subheading 9903.89.52 and superior text thereto shall apply to all products of France or Germany that are classified in subheading 8214.90.60.''

B. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern standard time March 5, 2020, the following new tariff provisions are inserted in numerical sequence in subchapter III of chapter 99, with the material in the following new tariff provisions inserted in the columns entitled ''Heading/Subheading'', ''Article Description'', and ''Rates of Duty 1—General'', respectively:

Heading/ subheading	Article description	Rates of Duty		
		1		2
		General	Special	
9903.89.52	''Articles the product of France or Germany: Provided for in subheadings enumerated in U.S. note 21(q) to this subchapter.	The duty provided in the applicable subheading + 25%''.		

C. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time March 18, 2020, the Rates of Duty 1—General column of subheading 9903.89.05 is modified by deleting ''10%'' and inserting ''15%'' in lieu thereof.

Annex 2

Section 1—Descriptive List of Changes From Annex 1

Note: The product descriptions that are contained this Annex are provided for informational purposes only, and are not intended to delimit in any way the scope of the action, except as specified below. In all cases, the formal language in Annex 1 governs the tariff treatment of products covered by the action. Section 1 of this Annex describes the changes to the action that were undertaken as a result of Annex 1, as reflected in the informal list presented in Section 2 of this Annex.

Any questions regarding the scope of particular HTS subheadings should be referred to U.S. Customs and Border Protection. In the product descriptions, the abbreviation ''nesoi'' means ''not elsewhere specified or included''.

(a) The additional duties on products in Part 1 below shall be increased to 15 percent, effective March 18, 2020.

Part 1—Products of France, Germany, Spain, or the United Kingdom described below are subject to additional import duties of 10 percent ad valorem. Effective March 18, 2020, products of France, Germany, Spain or the United Kingdom described below are subject to additional duties of 15 percent ad valorem:

Note: For purposes of the 8-digit subheading of HTS listed below, the product description defines and limits the scope of the proposed action. This product is defined by U.S. note 21(b) and covers only items in 9903.89.05.

HTS subheading	Product description
8802.40.00**	New airplanes and other new aircraft, as defined in U.S. note 21(b) (other than military airplanes or other military aircraft), of an unladen weight exceeding 30,000 kg (described in statistical reporting numbers 8802.40.0040, 8802.40.0060 or 8802.40.0070).

** Only a portion of HS8 digit is to be covered.

(b) The following product has been removed from Part 6, effective March 5, 2020.

HTS subheading	Product description
2009.89.40	Prune juice, concentrated or not concentrated.

(c) The following product have been added to the action, and Part 16 has been inserted into the descriptive list in Section 2, effective March 5, 2020.

Part 16—Products of France or Germany described below are subject to additional import duties of 25 percent ad valorem:

HTS subheading	Product description
8214.90.60	Butchers' or kitchen chopping or mincing knives (o/than cleavers w/their handles).

Section 2—Descriptive List of Action, Reflecting Changes as Described in Annex 1

Note: The product descriptions that are contained this Annex are provided for informational purposes only, and are not intended to delimit in any way the scope of the action, except as specified below. In all cases, the formal language in Annex 1 and the notices published at 84 FR 54245 and 84 FR 55998 governs the tariff treatment of products covered by the action.

Any questions regarding the scope of particular HTS subheadings should be referred to U.S. Customs and Border Protection. In the product descriptions, the abbreviation ''nesoi'' means ''not elsewhere specified or included''.

Part 1—Products of France, Germany, Spain, or the United Kingdom described below are subject to additional import duties of 10 percent ad valorem. Effective March 18, 2020, products of France, Germany, Spain or the United Kingdom described below are subject to additional imports of 15 percent ad valorem:

Note: For purposes of the 8-digit subheading of HTS listed below, the product description defines and limits the scope of the proposed action.

HTS subheading	Product description
8802.40.00**	New airplanes and other new aircraft, as defined in U.S. note 21(b), (other than military airplanes or other military aircraft), of an unladen weight exceeding 30,000 kg (described in statistical reporting numbers 8802.40.0040, 8802.40.0060 or 8802.40.0070).

** Only a portion of HS8 digit is to be covered.

Part 2—Products of Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, or the United Kingdom described below are subject to additional import duties of 25 percent ad valorem:

HTS subheading	Product description
0403.10.50	Yogurt, in dry form, whether or not flavored or containing added fruit or cocoa, not subject to gen note 15 or add. U.S. note 10 to Ch. 4.
0403.90.85	Fermented milk o/than dried fermented milk or o/than dried milk with added lactic ferments.
0403.90.90	Curdled milk/cream/kephir & other fermentd or acid. milk/cream subject to add U.S. note 10 to Ch. 4.
0405.20.20	Butter substitute dairy spreads, over 45% butterfat weight, subject to quota pursuant to chapter 4 additional U.S. note 14.
0406.10.28	Fresh (unripened/uncured) cheddar cheese, cheese/subs for cheese cont or proc from cheddar cheese, not subj to Ch. 4 U.S. note 18, not GN15.
0406.10.54	Fresh (unripened/uncured) Italian-type cheeses from cow milk, cheese/substitutes containing such Italian-type cheeses or processed therefrom, subj to Ch. 4 U.S. note 21, not subject to general note 15.
0406.10.58	Fresh (unrip./uncured) Italian-type cheeses from cow milk, cheese/substitutes cont or proc therefrom, not subj to Ch. 4 U.S. note 21 or GN15.
0406.10.68	Fresh (unripened/uncured) Swiss/Emmentaler cheeses, except those with eye formation, gruyere-process cheese and cheese cont or proc. from such, not subject to additional U.S. note 22 to Ch. 4.
0406.20.51	Romano, reggiano, provolone, provoletti, sbrinz and goya, made from cow's milk, grated or powdered, subject to additional U.S. note 21 to Ch. 4.
0406.20.53	Romano, reggiano, provolone, provoletti, sbrinz and goya, made from cow's milk, grated or powdered, not subject to Ch. 4 U.S. note 21 or GN15.
0406.20.69	Cheese containing or processed from american-type cheese (except cheddar), grated or powdered, subject to additional U.S. note 19 to Ch. 4.
0406.20.77	Cheese containing or processed from italian-type cheeses made from cow's milk, grated or powdered, subject to additional U.S. note 21 to Ch. 4.
0406.20.79	Cheese containing or processed from italian-type cheeses made from cow's milk, grated or powdered, not subject to additional U.S. note 21 to Ch. 4.
0406.20.87	Cheese (including mixtures), nesoi, n/o 0.5 percent by wt. of butterfat, grated or powdered, not subject to additional U.S. note 23 to Ch. 4.
0406.20.91	Cheese (including mixtures), nesoi, o/0.5 percent by wt of butterfat, w/cow's milk, grated or powdered, not subject to additional U.S. note 16 to Ch. 4.
0406.30.05	Stilton cheese, processed, not grated or powdered, subject to additional U.S. note 24 to Ch. 4.
0406.30.18	Blue-veined cheese (except roquefort), processed, not grated or powdered, not subject to gen. note 15 or additional U.S. note 17 to Ch. 4.
0406.30.28	Cheddar cheese, processed, not grated or powdered, not subject to gen note 15 or to additional U.S. note 18 to Ch. 4.
0406.30.34	Colby cheese, processed, not grated or powdered, subject to additional U.S. note 19 to Ch. 4.
0406.30.38	Colby cheese, processed, not grated or powdered, not subject to gen note 15 or additional U.S. note 19 to Ch. 4.
0406.30.55	Processed cheeses made from sheep's milk, including mixtures of such cheeses, not grated or powdered.
0406.30.69	Processed cheese containing or processed from american-type cheese (except cheddar), not grated/powdered, subject to additional U.S. note 19 to Ch. 4, not subject to GN15.
0406.30.79	Processed cheese containing or processed from Italian-type, not grated/powdered, not subject to additional U.S. note 21 to Ch. 4, not GN15.
0406.40.44	Stilton cheese, nesoi, in original loaves, subject to additional U.S. note 24 to Ch. 4.
0406.40.48	Stilton cheese, nesoi, not in original loaves, subject to additional U.S. note 24 to Ch. 4.
0406.90.32	Goya cheese from cow's milk, not in original loaves, nesoi, not subject to gen. note 15 or to additional U.S. note 21 to Ch. 4.
0406.90.43	Reggiano, Parmesan, Provolone, and Provoletti cheese, nesoi, not from cow's milk, not subject to gen. note 15.
0406.90.52	Colby cheese, nesoi, subject to additional U.S. note 19 to Ch. 4 and entered pursuant to its provisions.
0406.90.54	Colby cheese, nesoi, not subject to gen. note 15 or to add. U.S. note 19 to Ch. 4.
0406.90.68	Cheeses & subst. for cheese(incl. mixt.), nesoi, w/romano/reggiano/parmesan/provolone/etc, f/cow milk, not subj. Ch. 4 U.S. note 21, not GN15.
0406.90.72	Cheeses & subst. for cheese (incl. mixt.), nesoi, w/or from blue-veined cheese, subj. to add. U.S. note 17 to Ch. 4, not GN15.
0406.90.74	Cheeses & subst. for cheese (incl. mixt.), nesoi, w/or from blue-veined cheese, not subj. to add. U.S. note 17 to Ch. 4, not GN15.
0406.90.82	Cheeses & subst. for cheese (incl. mixt.), nesoi, w/or from Am. cheese except cheddar, subj. to add. U.S. note 19 to Ch. 4, not GN15.
0406.90.92	Cheeses & subst. for cheese (incl. mixt.), nesoi, w/or from swiss, emmentaler or gruyere, not subj. Ch. 4 U.S. note 22, not GN15.
0406.90.94	Cheeses & subst. for cheese (incl. mixt.), nesoi, w/butterfat n/o 0.5 percent by wt, not subject to additional U.S. note 23 to Ch. 4, not GN15.
0805.10.00	Oranges, fresh or dried.
0805.21.00	Mandarins and other similar citrus hybrids including tangerines, satsumas, clementines, wilkings, fresh or dried.
0805.22.00	Clementines, fresh or dried, other.

HTS subheading	Product description
0805.50.20	Lemons, fresh or dried.
0812.10.00	Cherries, provisionally preserved, but unsuitable in that state for immediate consumption.
0813.40.30	Cherries, dried.
1602.49.10	Prepared or preserved pork offal, including mixtures.
1605.53.05	Mussels, containing fish meats or in prepared meals.
1605.56.05	Products of clams, cockles, and arkshells containing fish meat; prepared meals.
1605.56.10	Razor clams, in airtight containers, prepared or preserved, nesoi.
1605.56.15	Boiled clams in immediate airtight containers, the contents of which do not exceed 680 g gross weight.
1605.56.20	Clams, prepared or preserved, excluding boiled clams, in immediate airtight containers, nesoi.
1605.56.30	Clams, prepared or preserved, other than in airtight containers.
1605.56.60	Cockles and arkshells, prepared or preserved.
1605.59.05	Products of molluscs nesoi containing fish meat; prepared meals of molluscs nesoi.
1605.59.60	Molluscs nesoi, prepared or preserved.

Part 3—Products of Germany, Spain, or the United Kingdom described below are subject to additional import duties of 25 percent ad valorem:

HTS subheading	Product description
0203.29.40	Frozen meat of swine, other than retail cuts, nesoi.
0404.10.05	Whey protein concentrates.
0406.10.84	Fresh cheese, and substitutes for cheese, cont. cows milk, neosi, over 0.5 percent by wt. of butterfat, descr in add U.S. note 16 to Ch. 4, not GN15.
0406.10.88	Fresh cheese, and substitutes for cheese, cont. cows milk, neosi, over 0.5 percent by wt. of butterfat, not descr in add U.S. note 16 to Ch. 4, not GN 15.
0406.10.95	Fresh cheese, and substitutes for cheese, not cont. cows milk, neosi, over 0.5 percent by wt. of butterfat.
0406.90.16	Edam and gouda cheese, nesoi, subject to additional U.S. note 20 to Ch. 4.
0406.90.56	Cheeses, nesoi, from sheep's milk in original loaves and suitable for grating.
1509.10.20	Virgin olive oil and its fractions, whether or not refined, not chemically modified, weighing with the immediate container under 18 kg.
1509.90.20	Olive oil, other than virgin olive oil, and its fractions, not chemically modified, weighing with the immediate container under 18 kg.
2005.70.12	Olives, green, not pitted, in saline, not ripe.
2005.70.25	Olives, green, in a saline solution, pitted or stuffed, not place packed.

Part 4—Products of Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, or the United Kingdom described below are subject to additional import duties of 25 percent ad valorem:

HTS subheading	Product description
0403.10.90	Yogurt, not in dry form, whether or not flavored or containing add fruit or cocoa.
0405.10.10	Butter subject to quota pursuant to chapter 4 additional U.S. note 6.
0405.10.20	Butter not subject to general note 15 and in excess of quota in chapter 4 additional U.S. note 6.
0406.30.89	Processed cheese (incl. mixtures), nesoi, w/cow's milk, not grated or powdered, subject to add U.S. note 16 to Ch. 4, not subject to GN15.
0406.90.99	Cheeses & subst. for cheese (incl. mixt.), nesoi, w/o cows milk, w/butterfat over 0.5 percent by wt, not subject to GN15.
0811.90.80	Fruit, nesoi, frozen, whether or not previously steamed or boiled.
1601.00.20	Pork sausages and similar products of pork, pork offal or blood; food preparations based on these products.
2008.60.00	Cherries, otherwise prepared or preserved, nesoi.
2008.70.20	Peaches (excluding nectarines), otherwise prepared or preserved, not elsewhere specified or included.
2008.97.90	Mixtures of fruit or other edible parts of plants, otherwise prepared or preserved, nesoi (excluding tropical fruit salad).
2009.89.65	Cherry juice, concentrated or not concentrated.
2009.89.80	Juice of any single vegetable, other than tomato, concentrated or not concentrated.

Part 5—Products of Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, or the United Kingdom described below are subject to additional import duties of 25 percent ad valorem:

HTS subheading	Product description
0405.20.30	Butter substitute dairy spreads, over 45 percent butterfat weight, not subj to gen note 15 and in excess of quota in Ch. 4 additional U.S. note 14.
0405.20.80	Other dairy spreads, not butter substitutes or of a type provided for in chapter 4 additional U.S. note 1.

HTS subheading	Product description
0406.30.85	Processed cheese (incl. mixtures), nesoi, not over 0.5 percent by wt. butterfat, not grated or powdered, subject to Ch. 4 U.S. note 23, not GN15.
0406.90.78	Cheeses & subst. for cheese (incl. mixt.), nesoi, w/or from cheddar cheese, not subj. to add. U.S. note 18 to Ch. 4, not GN15.
1602.41.90	Prepared or preserved pork hams and cuts thereof, not containing cereals or vegetables, nesoi.
1602.42.20	Pork shoulders and cuts thereof, boned and cooked and packed in airtight containers.
1602.42.40	Prepared or preserved pork shoulders and cuts thereof, other than boned and cooked and packed in airtight containers.
1602.49.40	Prepared or preserved pork, not containing cereals or vegetables, nesoi.
1602.49.90	Prepared or preserved pork, nesoi.

Part 6—Products of Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, or the United Kingdom described below are subject to additional import duties of 25 percent ad valorem:

HTS subheading	Product description
0405.90.10	Fats and oils derived from milk, other than butter or dairy spreads, subject to quota pursuant to chapter 4 additional U.S. note 14.
0406.30.51	Gruyere-process cheese, processed, not grated or powdered, subject to additional U.S. note 22 to Ch. 4.
0406.30.53	Gruyere-process cheese, processed, not grated or powdered, not subject to gen note 15 or additional U.S. note 22 to Ch. 4.
0406.40.54	Blue-veined cheese, nesoi, in original loaves, subject to add. U.S. note 17 to Ch. 4.
0406.90.08	Cheddar cheese, neosi, subject to add. U.S. note 18 to Ch. 4.
0406.90.12	Cheddar cheese, nesoi, not subject to gen. note 15 of the HTS or to additional U.S. note 18 to Ch. 4.
0406.90.41	Romano, Reggiano, Parmesan, Provolone, and Provoletti cheese, nesoi, from cow's milk, subject to add. U.S. note 21 to Ch. 4.
0406.90.42	Romano, Reggiano, Parmesan, Provolone, and Provoletti cheese, nesoi, from cow's milk, not subj to GN 15 or Ch4 additional U.S. note 21.
0406.90.48	Swiss or Emmentaler cheese with eye formation, nesoi, not subject to gen. note 15 or to additional U.S. note 25 to Ch. 4.
0406.90.90	Cheeses & subst. for cheese (incl. mixt.), nesoi, w/or from swiss, emmentaler or gruyere, subj. to add. U.S. note 22 to Ch.4, not GN15.
0406.90.97	Cheeses & subst. for cheese (incl. mixt.), nesoi, w/cow's milk, w/butterfat over 0.5 percent by wt, not subject to Ch. 4 U.S. note 16, not subject to GN15.
1605.53.60	Mussels, prepared or preserved.
2007.99.70	Currant and berry fruit jellies.
2008.40.00	Pears, otherwise prepared or preserved, nesoi.
2009.89.20	Pear juice, concentrated or not concentrated.

Part 7—Products of Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, or the United Kingdom described below are subject to additional import duties of 25 percent ad valorem:

HTS subheading	Product description
0406.90.46	Swiss or Emmentaler cheese with eye formation, nesoi, subject to add. U.S. note 25 to Ch. 4.

Part 8—Products of Austria, Belgium, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, or the United Kingdom described below are subject to additional import duties of 25 percent ad valorem:

HTS subheading	Product description
0406.90.57	Pecorino cheese, from sheep's milk, in original loaves, not suitable for grating.

Part 9—Products of Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Luxembourg, Malta, Netherlands, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, or the United Kingdom described below are subject to additional import duties of 25 percent ad valorem:

HTS subheading	Product description
0406.90.95	Cheeses & subst. for cheese (incl. mixt.), nesoi, w/cows milk, w/butterfat over 0.5 percent by wt, subject to Ch. 4 additional U.S. note 16 (quota).

Part 10—Products of France, Germany, Spain or the United Kingdom described below are subject to additional import duties of 25 percent ad valorem:

HTS subheading	Product description
0711.20.18	Olives, n/pitted, green, in saline sol., in contain. >8 kg, drained wt, for repacking or sale, subject to additional U.S. note 5 to Ch. 7.
0711.20.28	Olives, n/pitted, green, in saline sol., in contain. >8 kg, drained wt, for repacking or sale, not subject to additional U.S. note 5 to Ch. 7.
0711.20.38	Olives, n/pitted, nesoi.
0711.20.40	Olives, pitted or stuffed, provisionally preserved but unsuitable in that state for immediate consumption.
2005.70.08	Olives, green, not pitted, in saline, not ripe, in containers holding over kg for repkg, not subject to add. U.S. note 4 to Ch. 20.
2005.70.16	Olives, green, in saline, place packed, stuffed, in containers holding not over 1 kg, aggregate quantity n/o 2700 m ton/yr.
2005.70.23	Olives, green, in saline, place packed, stuffed, not in containers holding 1 kg or less.
2204.21.50	Wine other than Tokay (not carbonated), not over 14 percent alcohol, in containers not over 2 liters.

Part 11—Products of Germany described below are subject to additional import duties of 25 percent ad valorem:

HTS subheading	Product description
0901.21.00	Coffee, roasted, not decaffeinated.
0901.22.00	Coffee, roasted, decaffeinated.
2101.11.21	Instant coffee, not flavored.
8201.40.60	Axes, bill hooks and similar hewing tools (o/than machetes), and base metal parts thereof.
8203.20.20	Base metal tweezers.
8203.20.60	Pliers (including cutting pliers but not slip joint pliers), pincers and similar tools.
8203.30.00	Metal cutting shears and similar tools, and base metal parts thereof.
8203.40.60	Pipe cutters, bolt cutters, perforating punches and similar tools, nesoi, and base metal parts thereof.
8205.40.00	Screwdrivers and base metal parts thereof.
8211.94.50	Base metal blades for knives having other than fixed blades.
8467.19.10	Tools for working in the hand, pneumatic, other than rotary type, suitable for metal working.
8467.19.50	Tools for working in the hand, pneumatic, other than rotary type, other than suitable for metal working.
8468.80.10	Machinery and apparatus, hand-directed or -controlled, used for soldering, brazing or welding, not gas-operated.
8468.90.10	Parts of hand-directed or -controlled machinery, apparatus and appliances used for soldering, brazing, welding or tempering.
8514.20.40	Industrial or laboratory microwave ovens for making hot drinks or for cooking or heating food.
9002.11.90	Objective lenses and parts & access. thereof, for cameras, projectors, or photographic enlargers or reducers, except projection, nesoi.
9013.10.10	Telescopic sights for rifles not designed for use with infrared light.

Part 12—Products of Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, or the United Kingdom described below are subject to additional import duties of 25 percent ad valorem:

HTS subheading	Product description
1602.49.20	Pork other than ham and shoulder and cuts thereof, not containing cereals or vegetables, boned and cooked and packed in airtight containers.

Part 13—Products of Germany or the United Kingdom described below are subject to additional import duties of 25 percent ad valorem:

HTS subheading	Product description
1905.31.00	Sweet biscuits.
1905.32.00	Waffles and wafers.
4901.10.00	Printed books, brochures, leaflets and similar printed matter in single sheets, whether or not folded.
4908.10.00	Transfers (decalcomanias), vitrifiable.
4911.91.20	Lithographs on paper or paperboard, not over 0.51 mm in thickness, printed not over 20 years at time of importation.

HTS subheading	Product description
4911.91.30	Lithographs on paper or paperboard, over 0.51 mm in thickness, printed not over 20 years at time of importation.
4911.91.40	Pictures, designs and photographs, excluding lithographs on paper or paperboard, printed not over 20 years at time of importation.
8429.52.10	Self-propelled backhoes, shovels, clamshells and draglines with a 360 degree revolving superstructure.
8429.52.50	Self-propelled machinery with a 360 degree revolving superstructure, other than backhoes, shovels, clamshells and draglines.
8467.29.00	Electromechanical tools for working in the hand, other than drills or saws, with self-contained electric motor.

Part 14—Products of Germany, Ireland, Italy, Spain, or the United Kingdom described below are subject to additional import duties of 25 percent ad valorem:

HTS subheading	Product description
2208.70.00	Liqueurs and cordials.

Part 15—Products of the United Kingdom described below are subject to additional import duties of 25 percent ad valorem:

Note: For purposes of 2208.30.30, the product description defines and limits the scope of the proposed action.

HTS subheading	Product description
2208.30.30**	Single-malt Irish and Scotch Whiskies.
6110.11.00	Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted, of wool.
6110.12.10	Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted, of Kashmir goats, wholly of cashmere.
6110.20.20	Sweaters, pullovers and similar articles, knitted or crocheted, of cotton, nesoi.
6110.30.30	Sweaters, pullovers and similar articles, knitted or crocheted, of manmade fibers, nesoi.
6202.99.15	Rec perf outwear, women's/girls' anoraks, wind-breakers & similar articles, not k/c, tex mats (not wool, cotton or mmf), cont <70 percent by wt of silk.
6202.99.80	Women's/girls' anoraks, wind-breakers & similar articles, not k/c, of tex mats (not wool, cotton or mmf), cont <70% by wt of silk.
6203.11.60	Men's or boys' suits of wool, not knitted or crocheted, nesoi, of wool yarn with average fiber diameter of 18.5 micron or less.
6203.11.90	Men's or boys' suits of wool or fine animal hair, not knitted or crocheted, nesoi.
6203.19.30	Men's or boys' suits, of artificial fibers, nesoi, not knitted or crocheted.
6203.19.90	Men's or boys' suits, of textile mats(except wool, cotton or mmf), containing under 70 percent by weight of silk or silk waste, not knit or crocheted.
6208.21.00	Women's or girls' nightdresses and pajamas, not knitted or crocheted, of cotton.
6211.12.40	Women's or girls' swimwear, of textile materials(except mmf), containing 70% or more by weight of silk or silk waste, not knit or crocheted.
6211.12.80	Women's or girls' swimwear, of textile materials(except mmf), containing under 70% by weight of silk or silk waste, not knit or crocheted.
6301.30.00	Blankets (other than electric blankets) and traveling rugs, of cotton.
6301.90.00	Blankets and traveling rugs, nesoi.
6302.21.50	Bed linen, not knit or crocheted, printed, of cotton, cont any embroidery, lace, braid, edging, trimming, piping or applique work, n/napped.
6302.21.90	Bed linen, not knit or croc, printed, of cotton, not cont any embroidery, lace, braid, edging, trimming, piping or applique work, not napped.

** Only a portion of HS8 digit is to be covered.

Part 16—Products of France or Germany described below are subject to additional import duties of 25 percent ad valorem:

HTS subheading	Product description
8214.90.60	Butchers' or kitchen chopping or mincing knives (o/than cleavers w/their handles).

[FR Doc. 2020–03454 Filed 2–20–20; 8:45 am]

BILLING CODE 3290–F0–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2019–0945]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Bird/Other Wildlife Strike Report

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 25, 2019. The collection involves voluntary reporting of bird/other wildlife strike information following a wildlife strike incident with aircraft. This data becomes part of the publicly available National Wildlife Strike Database. Strike reports provide critical information that allows the FAA to determine high-risk species, track national trends, evaluate the FAA's wildlife hazard management program, and provide scientific foundation for regulatory guidance. Additionally, this essential information allows engine and airframe manufacturers to evaluate the effectiveness of aircraft components. It also helps airports identify and mitigate hazardous species and the location of wildlife attractants, affords a better understanding of strike dynamics, and provides key metrics for an airport to evaluate the effectiveness of its wildlife management program.

DATES: Written comments should be submitted by March 23, 2020.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: John Weller by email at: *john.weller@faa.gov*; phone: (202) 267–3778.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0045.

Title: Bird/Other Wildlife Strike Report.

Form Numbers: FAA Form 5200–7.

Type of Review: This review is for a renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 25, 2019 (84 FR 64948). 14 CFR 139.337, Wildlife Hazard Management, requires the FAA to collect wildlife strike data to develop standards and monitor hazards to aviation. Data identify wildlife strike control requirements and provide in-service data on aircraft component failure. Pilots, airport operations staff, aircraft and airport maintenance personnel, air traffic controllers, wildlife biologists, and anyone else having knowledge of a strike report incidents to the FAA, primarily using the web version of FAA Form 5200–7. The data becomes part of the publicly available National Wildlife Strike Database used to enhance safety by airports, airlines, engine and airframe manufacturers, and the FAA. Overall, the number of strikes annually reported to the FAA has increased from 1,850 in 1990 to more than 16,000 in 2018.

Respondents: Approximately 16,020 airport operations staff, pilots, air traffic controllers, wildlife biologists, aircraft and airport maintenance personnel, and others having knowledge of a strike.

Frequency: Information is collected as needed.

Estimated Average Burden per Response: 5 minutes.

Estimated Total Annual Burden: 1,335 hours.

Issued in Washington, DC, on February 14, 2020.

John Weller,

National Wildlife Biologist, Airport Safety and Operations Division, Office of Airports Safety and Standards.

[FR Doc. 2020–03453 Filed 2–20–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–2019–0040]

Surface Transportation Project Delivery Program; Florida DOT Audit #3 Report

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Notice, request for comment.

SUMMARY: The Surface Transportation Project Delivery Program allows a State to assume FHWA's environmental responsibilities for review, consultation, and compliance for Federal highway projects. When a State assumes these Federal responsibilities, the State becomes solely responsible and liable for the responsibilities it has assumed, in lieu of FHWA. This program mandates annual audits during each of the first 4 years to ensure the State's compliance with program requirements. This is the third audit of the Florida Department of Transportation's (FDOT) performance of its responsibilities under the Surface Transportation Project Delivery Program (National Environmental Policy Act (NEPA) Assignment Program). This notice announces and solicits comments on the third audit report for FDOT.

DATES: Comments must be received on or before March 23, 2020.

ADDRESSES: Mail or hand deliver comments to Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590. You may also submit comments electronically at *www.regulations.gov.* All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically. Anyone can search the

electronic form of all comments in any one of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, or labor union). The DOT posts these comments, without edits, 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.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Ms. Marisel Lopez Cruz, Office of Project Development and Environmental Review, (407) 867–6402, *marisel.lopez-cruz@dot.gov,* Federal Highway Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, or Mr. David Sett, Office of the Chief Counsel, (404) 562–3676, *david.sett@dot.gov,* Federal Highway Administration, U.S. Department of Transportation, 60 Forsyth Street SW, Atlanta, GA 30303. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this notice may be downloaded from the specific docket page at *www.regulations.gov.*

Background

The Surface Transportation Project Delivery Program, codified at 23 U.S.C. 327, commonly known as the NEPA Assignment Program, allows a State to assume FHWA's responsibilities for environmental review, consultation, and compliance for Federal highway projects. When a State assumes these Federal responsibilities, the State becomes solely liable for carrying out the responsibilities it has assumed, in lieu of FHWA. Effective December 14, 2016, FDOT assumed FHWA's responsibilities for environmental review and the responsibilities for reviews under other Federal environmental requirements.

Section 327(g) of Title 23, U.S.C., requires the Secretary to conduct annual audits to ensure compliance with the memorandum of understanding during each of the first 4 years of State participation and, after the fourth year, monitor compliance. The results of each audit must be made available for public comment. The second audit report was published in the **Federal Register** on November 29, 2019, at 84 FR 65891. This notice announces the availability of the third audit report for FDOT and solicits comments on the same.

Authority: Section 1313 of Public Law 112–141; Section 6005 of Public Law 109–59; 23 U.S.C. 327; 23 CFR 773.

Issued on: February 13, 2020.

Nicole R. Nason,

Administrator, Federal Highway Administration.

Surface Transportation Project Delivery Program
Draft FHWA Audit #3 of the Florida Department of Transportation
May 2018 to April 2019

Executive Summary

This is the third audit of the Florida Department of Transportation's (FDOT) assumption of National Environmental Policy Act (NEPA) responsibilities under the Surface Transportation Project Delivery Program. Under the authority of 23 U.S.C. 327, FDOT and the Federal Highway Administration (FHWA) executed a memorandum of understanding (MOU) on December 14, 2016, whereby FHWA assigned, and FDOT assumed, FHWA's NEPA responsibilities and liabilities for Federal-aid highway projects and other related environmental reviews for transportation projects in Florida.

The FHWA formed a team in January 2019 to conduct an audit of FDOT's performance according to the terms of the MOU. The team held internal meetings to prepare for an on-site visit to the Florida Division and FDOT offices. Prior to the on-site visit, the team reviewed FDOT's 2019 Project Development & Environment (PD&E) Manual and NEPA project files, FDOT's response to FHWA's pre-audit information request (PAIR), and FDOT's NEPA Assignment Self Assessment Summary Report. The team presented initial project file observations to FDOT Office of Environmental Management (OEM) on August 1, 2019. The team conducted interviews with FDOT and prepared preliminary audit results from September 23–26, 2019. The team presented these preliminary observations to FDOT OEM leadership on September 27, 2019.

The FDOT continues to develop, revise, and implement procedures and processes required to carry out the NEPA Assignment Program. Overall, the team found that FDOT is committed to delivering a successful NEPA Program. This report describes numerous successful practices and one non-compliance observation. The FDOT has carried out the responsibilities it has assumed in keeping with the intent of the MOU and FDOT's application. Through this report, FHWA is notifying FDOT of the one non-compliance observation that requires FDOT to take corrective action. By addressing the observation in this report, FDOT will continue to assure a successful program. The report concludes with the status of FHWA's non-compliance observations from the first and second audit reviews, including any FDOT self-imposed corrective actions.

Background

The purpose of the audits performed under the authority of 23 U.S.C. 327 is to assess a State's compliance with the provisions of the MOU as well as all applicable Federal statutes, regulations, policies, and guidance. The FHWA's review and oversight obligation entails the need to collect information to evaluate the success of the NEPA Assignment Program; to evaluate a State's progress toward achieving its performance measures as specified in the MOU; and to collect information for the administration of the NEPA Assignment Program. This report summarizes the results of the third audit in Florida and includes a summary discussion that describes progress since the last audit. Following this audit, FHWA will conduct one more annual NEPA Assignment Program audit.

Scope and Methodology

The overall scope of this audit review is defined both in statute (23 U.S.C. 327) and the MOU (Part 11). An audit generally is defined as an official and careful examination and verification of accounts and records, especially of financial accounts, by an independent unbiased body. With regard to accounts or financial records, audits may follow a prescribed process or methodology and be conducted by ''auditors'' who have special training in those processes or methods. The FHWA considers this review to meet the definition of an audit because it is an unbiased, independent, official, and careful examination and verification of records and information about FDOT's assumption of environmental responsibilities.

The team consisted of NEPA subject matter experts (SME) from FHWA offices in Texas, Georgia, and Headquarters, as well as staff from FHWA's Florida Division. The diverse composition of the team, as well as the process of developing the review report and publishing it in the **Federal Register**, are intended to make this audit an unbiased official action taken by FHWA.

The team conducted a careful examination of FDOT policies, guidance, and manuals pertaining to NEPA responsibilities, as well as a representative sample of FDOT's project files. Other documents, such as the

August 2019 PAIR responses and FDOT's August 2019 Self Assessment Summary Report, also informed this review. In addition, the team interviewed FDOT staff in person and via video conference. This review is organized around the six NEPA Assignment Program elements: Program management; documentation and records management; quality assurance/quality control (QA/QC); legal sufficiency; performance measurement; and training program. In addition, the team considered three cross-cutting focus areas: (1) Interchange Access Requests (IAR); (2) project authorizations; and (3) permanent Emergency Repair (ER) projects.

The team defined the timeframe for highway project environmental approvals subject to this third audit to be between May 2018 and April 2019, when 616 projects were approved. The team drew judgmental samples totaling 23 projects from data in FDOT's online file system, Statewide Environmental Project Tracker (SWEPT). In the context of this report, descriptions of environmental documents are consistent with FDOT's Project Development and Environment Manual. The FHWA judgmentally selected all Type 2 Categorical Exclusions (CEs) (21 projects) and all Environmental Assessments (EA) with Findings of No Significant Impacts (2 projects). The audit team selected all IARs that were pending for approval during the audit period (five projects) to determine if they were following protocols for environmental review. The team reviewed all project authorization files in the audit period (252 project files) downloaded from FHWA Fiscal Management Information System (FMIS) to determine if the NEPA certification was completed for these projects prior to the authorization. For permanent ER projects, FHWA judgmentally sampled 41 projects in SWEPT and FMIS and identified those with construction contracts to determine if the NEPA was completed prior to authorization and if the NEPA scope was consistent with the contract.

The team submitted a PAIR to FDOT that contained 20 questions covering all 6 NEPA Assignment Program elements. The FDOT responses to the PAIR were used to develop specific follow-up questions for the on-site interviews with FDOT staff.

The team conducted a total of 18 interviews. Interview participants included staff from five FDOT District offices, Districts 3 through 7, and the FDOT Central Office. The team interviewed FDOT legal, financial, planning, and environmental staff.

The team compared FDOT policies and procedures (including the published 2019 Project Development & Environment PD&E Manual) for the audit focus areas to the information obtained during interviews and project file reviews to determine if FDOT's performance of its MOU responsibilities are in accordance with FDOT policies and procedures and Federal requirements. Individual observations were documented during interviews and reviews and combined under the six NEPA Assignment Program elements. The audit results are described below by program element.

Overall Audit Opinion

The team recognizes that FDOT's efforts have included implementing the requirements of the MOU by: Processing and approving projects; refining policies, procedures, and guidance documents; refining the SWEPT tracking system for ''official project files''; training staff; implementing a QA/QC Plan; and conducting a self assessment for monitoring compliance with the assumed responsibilities. The team found evidence of FDOT's continuing efforts to train staff in clarifying the roles and responsibilities of FDOT staff, and in educating staff in an effort to assure compliance with all of the assigned responsibilities.

During the third audit, the team identified numerous successful practices and one non-compliance observation that FDOT will need to address through corrective actions. These results came from a review of FDOT procedures, Self Assessment, PAIR responses, project files, and interviews with FDOT personnel.

The FDOT has carried out the responsibilities it has assumed consistent with the intent of the MOU and FDOT's application. The team finds that FDOT is in substantial compliance with the terms of the MOU. By addressing the observations in this report, FDOT will continue to assure a successful program.

Successful Practices and Observations

Successful practices are practices that the team believes are positive, and encourages FDOT to consider continuing or expanding those programs in the future. The team identified numerous successful practices in this report. Observations are items the team would like to draw FDOT's attention to, which may improve processes, procedures, and/or outcomes. The team identified no observations in this report.

A non-compliance observation is an instance where the team finds the State is not in compliance or is deficient with regard to a Federal regulation, statute, guidance, policy, State procedure, or the MOU. Non-compliance may also include instances where the State has failed to secure or maintain adequate personnel and/or financial resources to carry out the responsibilities they have assumed. The FHWA expects the State to develop and implement corrective actions to address all non-compliance observations. The team identified one non-compliance observation during this third audit.

The team acknowledges that sharing initial results during the site visit closeout and sharing the draft audit report with FDOT provides them the opportunity to clarify any observation, as needed, and/or begin implementing corrective actions to improve the program. The FHWA will also consider actions taken by FDOT to address these observations as part of the scope of Audit #4.

The Audit Report addresses all six MOU program elements as separate discussions.

Program Management

Successful Practices

The team learned through interviews that FDOT has a strong process for addressing its Self Assessment corrective actions. The process includes creating an action plan, dedicating staff to the plan, and identifying timeframes for follow up. The FHWA confirmed in FDOT's Self Assessment documentation that FDOT provides a status regarding its ''opportunities for improvement'' which includes a strong process for corrective actions and a corrective action status update section.

As FDOT's NEPA Assignment Program matures, communication continues to improve between FDOT's SMEs, consultants, and FDOT's District staff. Through interviews the team confirmed the improved communication. For example, some districts invite environmental staff to the District Interchange Review Committee meetings to discuss IAR projects early in the process. The team encourages FDOT to implement this practice statewide. Another example of good communication is the process that OEM uses to implement new FHWA guidance. When new guidance is issued and FDOT changes its process, it communicates with the districts through changes in the manuals, periodic meetings, and training. During the audit, the team confirmed broad awareness of how FDOT chose to implement the FHWA June 12, 2018, *Additional Flexibilities in CEs* memorandum.

The team learned that the enhancements to the SWEPT system continue to create efficiencies for the NEPA Assignment Program implementation and FDOT continues to dedicate resources to improve SWEPT. Interviewees stated that these investments have resulted in more consistent documentation from the districts. Additional enhancements to SWEPT include cross references to FDOT's PD&E manual and updates to the Type 1 CE, Type 2 CE, and reevaluation forms. The FDOT OEM now has direct responsibility and control for SWEPT updates, which allows for quicker revisions to SWEPT to adapt to its changing needs. For example, when FDOT implemented its process for documenting legal sufficiency determinations, modifications to SWEPT were needed to allow users to specify the type of legal sufficiency review being performed, such as for an Environmental Impact Statement or a Section 4(f) evaluation. The FDOT expeditiously addressed this need and now SWEPT permits users to distinguish type of document being reviewed for legal sufficiency.

The SWEPT is considered by FDOT staff to be a significant program level QA/QC tool as it requires input of needed information prior to allowing the project to advance further. For example, a project cannot advance to FDOT OEM for QA/QC review until the QA/QC review is completed at the district level by the Environmental Administrator and the Engineering Administrator. Another example of SWEPT's QA/QC control is the environmental certification process. The environmental certification document is used to document NEPA completion to authorize Federal funding in subsequent project phases. The SWEPT will generate the environmental certification only after NEPA has been approved.

Quality Assurance/Quality Control

Successful Practice

During interviews, FDOT staff presented the Electronic Review Comments internal review platform as a tool that allows continuous engagement among environmental staff and SMEs. This tool allows continuous QC as the environmental project is developed.

Legal Sufficiency

The team's review of FDOT's legal sufficiency program found that FDOT has continued to structure the legal sufficiency process for the NEPA Assignment Program by having in-house counsel, as well as outside counsel with NEPA experience, available. The FDOT has made one legal sufficiency Section 4(f) determination during the audit time frame, implementing the internal procedures that were previously developed. The FDOT's Office of General Counsel (OGC) continues to participate in monthly coordination meetings and topic-specific meetings with OEM and the districts. It also reviews other environmental documents when requested for legal input. There remains close collaboration throughout the process amongst and between OGC, OEM, and the district attorneys.

Successful Practice

The SWEPT has a form that has the capability to document the legal sufficiency finding within the system. This tool ensures that proper documentation is captured in the project file without the need for additional supporting documentation.

Training Program

The FDOT's training program continues to be exemplary. The FDOT has continued to focus resources ensuring staff, other agencies, and consultants are adequately trained. In the last year, FDOT again trained over 2,000 people in their NEPA process, endangered species, traffic analysis, cultural resources, and noise technical areas. Through information presented in the FDOT Self Assessment and through interviews of FDOT staff, the review team learned of the variety in and growth of FDOT's environmental training program.

The FDOT OEM promotes staff awareness of its Self Assessments through multiple notices to districts, a statewide Self Assessment kick-off Webinar, and the use of Self Assessment computer-based training courses. Through information presented in the FDOT Self Assessment and through interviews of FDOT staff, the team learned that FDOT is one of the few NEPA assignment States to internally promote its self assessments.

Successful Practice

The team learned through interviews of OEM staff that FDOT has increased its environmental training outreach to multiple disciplines. The Transportation Symposium has included environmental review training on a wide spectrum of topics. This year, the number of environmental training courses at the symposium increased by about 50 percent and were targeted to individuals from a broad range of disciplines.

The team also learned that FDOT's YouTube channel includes a variety of environmental training Webinars and videos. The FDOT has migrated its Web trainings to YouTube so that trainings are available and accessible to staff and the public through the MyFDOT channel.

Performance Measures

Based on information reported in FDOT's 2019 Self Assessment Summary Report, FDOT is meeting or exceeding all performance measures.

Documentation and Records Management

The team reviewed the environmental documentation for 41 permanent repair projects to determine if the NEPA was completed prior to authorization and if the NEPA scope was consistent with the contract. All 41 permanent ER projects were determined compliant.

The team reviewed all IAR projects (five projects) to determine if FDOT was following protocols for environmental review. The projects selected for the IAR file review had NEPA documents that were still under development; therefore, no conclusions could be drawn from the project file review.

Successful Practice

The FDOT Central Office has procedures that ensure IAR projects receive NEPA review as part of the FHWA IAR approval. Systems Planning staff have been trained in SWEPT and verify that the NEPA documentation supports FHWA's NEPA review expectations for IAR projects.

Non-Compliance Observation #1: Some FDOT Project Files Contain Insufficient Documentation To Support the Project Authorization, Environmental Analysis, or Decision

The team reviewed environmental documentation for 21 Type 2 CEs and 2 EAs to determine if the environmental review met Federal requirements. The team found CEs missing U.S. Coast Guard permits and Endangered Species Act consultation documentation (two projects). Finally, at the time FDOT prepared a Finding of No Significant Impact, the review team determined the scope of the EA was inconsistent with the State Transportation Improvement Program.

The team also reviewed 252 Project Authorization files to determine if the NEPA certification was completed for these projects prior to the authorization. The team found that some Project Authorizations did not have documentation verifying that NEPA was completed (18 projects).

The team's observations on the environmental documentation and on the Project Authorization files were

shared with FDOT for its consideration and initial responses. The team received responses from FDOT either resolving the observation or verifying missing documentation and/or procedural deficiencies. While these projects were found non-compliant at the time of the review, the missing documents have subsequently been uploaded by FDOT or FDOT committed to implementing a process improvement to address these concerns.

Update from 2017 Audit #1, Non-Compliance Observation #1 and 2018 Audit #2, Non-Compliance Observation #1: Some FDOT Project Files Contain Insufficient Documentation To Support the Environmental Analysis or Decision

The FHWA reported a non-compliance observation related to some FDOT project files that lacked documentation to support the environmental analysis or decision as part of Audit #1 and Audit #2. The FDOT and FHWA have productively worked together to resolve documentation issues from these previous audits. The FDOT continues to implement process improvements to address noted procedural deficiencies. These improvements will be considered during the next audit.

The FHWA and FDOT have also been working together through previous audits to mutually understand FDOT's implementation of reasonable assurance that the project impacts would not be significant when full compliance for a project is not possible by the time the NEPA decision has been prepared. Through the interviews and project file reviews, the team received clarification from FDOT regarding the differences in the applicability of standard specifications and special provisions when addressing endangered species impacts and consultation, and how these tools support reasonable assurances of no significant impacts to support the NEPA decision. In addition, the team learned that FDOT provided training and clarifications internally to ensure reasonable assurance is appropriately applied during NEPA document development.

Finalizing This Report

The FHWA provided a draft of the audit report to FDOT for a 14-day review and comment period. The team considered FDOT's comments in this draft audit report. The FHWA is publishing this notice in the **Federal Register** for a 30-day comment period in accordance with 23 U.S.C. 327(g). No later than 60 days after the close of the comment period, FHWA will address all comments submitted to finalize this draft audit report pursuant to 23 U.S.C. 327(g)(2)(B). Subsequently, FHWA will publish the final audit report in the **Federal Register**.

The FHWA will consider the results of this audit in preparing the scope of the next annual audit. The next audit report will include a summary that describes the status of FDOT's corrective and other actions taken in response to this audit's conclusions.

[FR Doc. 2020–03465 Filed 2–20–20; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2016–0097; PD–38(R)]

Hazardous Materials: California Meal and Rest Break Requirements

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Dismissal of petition for reconsideration of an administrative determination of preemption.

Petitioner: The California Labor Commissioner.

Local Law Affected: California Labor Code, Sections 226.7, 512, and 516; California Code of Regulations (CCR), title 8, section 11090.

Applicable Federal Requirements: Federal Hazardous Material Transportation Law (HMTA), 49 U.S.C. 5101 *et seq.,* and the Hazardous Materials Regulations (HMR), 49 CFR parts 171–180.

Mode Affected: Highway.

SUMMARY: On September 21, 2018, in response to a petition from the National Tank Truck Carriers, Inc. (NTTC), PHMSA published a determination that California's meal and rest break rules (MRB Rules) are preempted, under 49 U.S.C. 5125, as applied to drivers of motor vehicles transporting hazardous materials. The California Labor Commissioner's petition for reconsideration of that decision is denied on the grounds of mootness. After PHMSA issued its preemption determination, and after the request for reconsideration was filed, the Federal Motor Carrier Safety Administration (FMCSA) determined that the MRB Rules are preempted, under 49 U.S.C. 31141, as applied to property-carrying commercial motor vehicles drivers covered by FMCSA's hours of service regulations. FMCSA's decision covers a broader group of drivers than PHMSA's decision, including NTTC's members. Accordingly, granting the California Labor Commissioner's petition for reconsideration will not change the fact that the MRB Rules cannot be enforced against NTTC's members.

FOR FURTHER INFORMATION CONTACT: Vincent Lopez, Office of Chief Counsel, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590; Telephone No. 202–366–4400; Facsimile No. 202–366–7041.

SUPPLEMENTARY INFORMATION:

I. Background

A. PHMSA Proceeding

NTTC applied to PHMSA for a determination on whether Federal Hazardous Material Transportation Law, 49 U.S.C. 5101 *et seq.,* preempts the MRB Rules, as applied to the transportation of hazardous materials.

Section 5125 of 49 U.S.C. contains express preemption provisions relevant to this proceeding. In particular, subsection (a) provides that a requirement of a State, political subdivision of a State, or Indian tribe is preempted—unless the non-federal requirement is authorized by another federal law or DOT grants a waiver of preemption under section 5125(e)—if:

(1) Complying with a requirement of the State, political subdivision, or tribe and a requirement of this chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security is not possible; or

(2) the requirement of the State, political subdivision, or tribe, as applied or enforced, is an obstacle to accomplishing and carrying out this chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security.[1]

PHMSA preemption determinations do not address issues of preemption arising under the Commerce Clause, the Fifth Amendment or other provisions of the Constitution, or statutes other than the Federal Hazardous Material Transportation Law, unless it is necessary to do so in order to determine

[1] These two paragraphs set forth the ''dual compliance'' and ''obstacle'' criteria that are based on U.S. Supreme Court decisions on preemption. *See Hines* v. *Davidowitz,* 312 U.S. 52 (1941); *Florida Lime & Avocado Growers, Inc.* v. *Paul,* 373 U.S. 132 (1963); *Ray* v. *Atlantic Richfield, Inc.,* 435 U.S. 151 (1978). PHMSA's predecessor agency, the Research and Special Programs Administration, applied these criteria in issuing inconsistency rulings under the original preemption provisions in Section 112(a) of the Hazardous Materials Transportation Act, Public Law 93–633, 88 Stat. 2161 (Jan. 3, 1975).

whether a requirement is ''authorized by'' another federal law, or whether a fee is ''fair'' within the meaning of 49 U.S.C. 5125(f)(1).[2]

On September 21, 2018, PHMSA published in the **Federal Register** its determination of NTTC's application in PD–38(R), 83 FR 47961. PHMSA found that the MRB Rules create an unnecessary delay in the transportation of hazardous materials, and are therefore, preempted with respect to all drivers of motor vehicles that are transporting hazardous materials. The agency also found that the MRB Rules are preempted with respect to drivers of motor vehicles that are transporting Division 1.1, 1.2, or 1.3 explosive material and are subject to the attendance requirements of 49 CFR 397.5(a), because it is not possible for a motor carrier employer's drivers to comply with the off-duty requirement of the California rule and the federal attendance requirement. Finally, the MRB Rules are preempted as to motor carriers who are required to file a security plan under 49 CFR 172.800, and who have filed security plans requiring constant attendance of hazardous materials.

The California Labor Commissioner (Labor Commissioner) filed a petition for reconsideration of PD–38(R) within the 20-day time period provided in 49 CFR 107.211. The Labor Commissioner is seeking reconsideration of PD–38(R) and has asked PHMSA to issue a new determination finding no preemption.

B. FMCSA Proceeding

On September 24, 2018, the American Trucking Associations, Inc. (ATA) petitioned FMCSA to preempt the California MRB Rules as applied to drivers of commercial motor vehicles subject to FMCSA's hours of service (HOS) regulations. The Specialized Carriers and Rigging Association (SCRA) also filed a petition seeking a preemption determination concerning the same meal and rest break requirements.[3]

FMCSA's preemption authority arises under the Motor Carrier Safety Act of 1984. Under 49 U.S.C. 31141, States are prohibited from enforcing a law or regulation on Commercial Motor Vehicle (CMV) safety that FMCSA has preempted. To determine whether a State law or regulation is preempted, FMCSA must decide whether a State law or regulation: (1) Has the same effect as an FMCSA regulation prescribed under 49 U.S.C. 31136, (2) is less stringent than such a regulation; or (3) is additional to or more stringent than such a regulation. If FMCSA determines that a State law or regulation has the same effect as an FMCSA regulation, it may be enforced; but a State law or regulation that is less stringent may not be enforced. A State law or regulation that FMCSA determines to be additional to or more stringent than an FMCSA regulation may not be enforced if FMCSA decides that the State law or regulation (1) has no safety benefit; (2) is incompatible with the FMCSA regulation prescribed by FMCSA; or (3) would cause an unreasonable burden on interstate commerce. To determine whether a State law or regulation will cause an unreasonable burden on interstate commerce, FMCSA may consider the cumulative effect that the State's law or regulation and all similar laws and regulations of other states will have on interstate commerce. Only one of these conditions is necessary for preemption. See 49 U.S.C. 31141(c)(1)–(5).

On December 28, 2018, FMCSA published in the **Federal Register** its determination with respect to ATA's application, 83 FR 67470. FMCSA concluded that: (1) The MRB Rules are State laws or regulations ''on commercial motor vehicle safety,'' to the extent they apply to drivers of property-carrying CMVs subject to FMCSA's HOS rules; (2) the MRB Rules are additional to or more stringent than FMCSA's HOS rules; (3) the MRB Rules have no safety benefit; (4) the MRB Rules are incompatible with FMCSA's HOS rules; and (5) enforcement of the MRB Rules would cause an unreasonable burden on interstate commerce. Accordingly, FMCSA granted the petitions for preemption of the ATA and the SCRA, and determined that the MRB Rules are preempted pursuant to 49 U.S.C. 31141. Therefore, California may no longer enforce the MRB Rules with respect to drivers of property-carrying CMVs subject to FMCSA's HOS rules. As noted below, NTTC has made clear in this PHMSA proceeding that its members are covered by FMCSA's HOS rules; thus, the FMCSA decision precludes the enforcement of the MRB Rules against NTTC's members.

FMCSA, after issuing its decision, received inquiries about whether a preemption decision it issued under Section 31141 applies to litigation that was pending at the time the decision was issued. Therefore, on March 22, 2019, FMCSA's Office of the Chief Counsel issued a legal opinion to address this question.[4] The agency concluded that a FMCSA preemption decision under Section 31141 precludes courts from granting relief pursuant to the preempted state law or regulation at any time following issuance of the decision, regardless of whether the conduct underlying the lawsuit occurred before or after the decision was issued, and regardless of whether the lawsuit was filed before or after the decision was issued.

Four petitions for review challenging FMCSA's decision have been filed in the U.S. Court of Appeals for the Ninth Circuit. The cases have been consolidated and the proceeding is currently ongoing.[5]

II. Dismissal on Grounds of Mootness

FMCSA's preemption determination renders moot the California Labor Commissioner's petition for reconsideration of PHMSA's preemption determination. While PHMSA's determination applied to drivers of motor vehicles transporting hazardous materials, FMCSA's determination applies to a broader class of drivers: All drivers of property-carrying CMVs subject to FMCSA's HOS rules. NTTC's filings in this PHMSA proceeding make clear that its members—companies that specialize in bulk transportation services by cargo tank throughout North America—are subject to FMCSA's HOS rules. FMCSA's decision therefore precludes enforcement of the MRB Rules against NTTC's members.

Furthermore, the express language of FMCSA's statute makes its preemption decision binding on courts. The plain language of FMCSA's preemption provision states that a ''State may not enforce a State law or regulation on commercial motor vehicle safety that the Secretary of Transportation decides under this section may not be enforced.'' 49 U.S.C. 31141(a). Thus, as noted in the FMCSA legal opinion discussed above, once the agency issues a preemption decision under Section 31141, ''the State law or regulation, to the extent preempted, is invalidated and 'without effect,' and courts lack authority to take any contrary action on the basis of that State law or regulation, regardless of when the underlying

[2] A State, local or Indian tribe requirement is not ''authorized by'' another federal statute merely because it is not preempted by that statute. *See Colorado Pub. Util. Comm'n* v. *Harmon,* 951 F.2d 1571,1581 n.10 (10th Cir. 1991).

[3] FMCSA did not open a separate docket for the SCRA's petition because the SCRA submitted its petition in lieu of comments as part of the ATA proceeding, Docket No. FMCSA–2018–0304.

[4] Federal Motor Carrier Safety Administration Legal Opinion of the Office of Chief Counsel (March 22, 2019), available at *https://www.fmcsa.dot.gov/safety/fmcsa-legal-opinion-applicability-preemption-determinations-pending-lawsuits.*

[5] *Intl Brotherhood of Teamsters, et al* v. *FMCSA*, Court of Appeals Docket No.: 18–73488; Consolidated Docket Nos.: 19–70323; 19–70329; and 19–70413.

conduct occurred.'' Because 49 U.S.C. 31141(f) grants the Courts of Appeals exclusive jurisdiction to review FMCSA's decision, and because the Ninth Circuit denied a request that FMCSA's decision be stayed during the pendency of the litigation, FMCSA's decision will remain binding unless and until overturned by the Ninth Circuit. Therefore, FMCSA's decision rendered the MRB Rules ''without effect'' with respect to drivers of property-carrying CMVs subject to FMCSA's HOS rules—including NTTC's members—and may not be enforced. A PHMSA ruling granting the California Labor Commissioner's petition for reconsideration would not change the fact that the MRB Rules cannot be enforced against NTTC's members.

III. Ruling

For the reasons set forth above, the California Labor Commissioner's petition for reconsideration is dismissed because the issues raised in the petition are moot. In the event the FMCSA decision is overturned and the state requirements become enforceable again, the California Labor Commissioner may petition PHMSA to reopen the docket so that it may refile its petition for reconsideration.

Issued in Washington, DC, on February 13, 2020.

Paul J. Roberti,

Chief Counsel.

[FR Doc. 2020–03449 Filed 2–20–20; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

Saint Lawrence Seaway Development Corporation Advisory Board—Notice of Public Meetings

AGENCY: Saint Lawrence Seaway Development Corporation (SLSDC); USDOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces the public meeting via conference call of the Saint Lawrence Seaway Development Corporation Advisory Board.

DATES: The public meeting will be held on (all times Eastern):

- Monday, March 9, 2020 from 2:00 p.m.–3:30 p.m. EST.
- Requests to attend the meeting must be received by Monday, March 2, 2020.
- If you wish to speak during the meeting, you must submit a written copy of your remarks to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section by March 2, 2020.

ADDRESSES: The meeting will be held via conference call at the SLSDC's Operations location, 180 Andrews Street, Massena, New York 13662.

Teleconference call-in Information: (877) 336–1839; Passcode: 1592755#.

FOR FURTHER INFORMATION CONTACT: Wayne Williams, Chief of Staff, Saint Lawrence Seaway Development Corporation, 1200 New Jersey Avenue SE, Washington, DC 20590; 202–366–0091.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation (SLSDC). The agenda for this meeting will be as follows:

March 9, 2020 From 2:00 p.m.–3:30 p.m. EST

1. Opening Remarks
2. Consideration of Minutes of Past Meeting
3. Quarterly Report
4. Old and New Business
5. Closing Discussion
6. Adjournment

Public Participation

Attendance at the meeting is open to the interested public. The U.S. Department of Transportation is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, such as sign language, interpretation, or other ancillary aids, please contact Wayne Williams at 202–366–0091 by March 2, 2020. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing to obtain further information should contact Wayne Williams at 202–366–0091. Any member of the public may present a written statement to the Advisory Board at any time.

Carrie Lavigne,

Chief Counsel, Saint Lawrence Seaway Development Corporation.

[FR Doc. 2020–03448 Filed 2–20–20; 8:45 am]

BILLING CODE 4910–61–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2018–0204]

Air Carrier Access Act Advisory Committee Meeting

AGENCY: Office of the Secretary (OST), Department of Transportation (Department or DOT).

ACTION: Notice of public meeting.

SUMMARY: This notice announces a meeting of the Air Carrier Access Act Advisory Committee (''ACAA Advisory Committee'').

DATES: The meeting will be held on March 10 and 11, 2020, from 9:00 a.m. to 5:00 p.m., Eastern Time, at the Washington Plaza Hotel, 10 Thomas Circle NW, Washington, DC 20005. Requests to attend the meeting must be received by March 4, 2020. Requests for accommodations must be received by March 6, 2020.

FOR FURTHER INFORMATION CONTACT: For registration or accommodation requests, please contact Kimberly Wilson or Katie Campanale at Accel Solutions by email at *ACAA@accelsolutionsllc.com* or by telephone at 703–801–5421. For other inquiries, please contact Vinh Nguyen or Livaughn Chapman, Jr., Office of the Aviation Enforcement and Proceedings, U.S. Department of Transportation, by email at *vinh.nguyen@dot.gov* or *livaughn.chapman@dot.gov* or by telephone at 202–366–9342.

ADDRESSES: The meeting will be held in the National Ballroom at the Washington Plaza Hotel, 10 Thomas Circle NW, Washington, DC 20005. Copies of the meeting minutes will be available at *www.regulations.gov.* After entering the docket number (DOT–OST–2018–0204), click the link to ''Open Docket Folder,'' and choose the document to review. Written materials may be submitted to this docket. If you do not have access to the internet, you may view the docket by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Eastern Time, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

The ACAA Advisory Committee was created under the Federal Advisory Committee Act (FACA), in accordance with Section 439 of the FAA Reauthorization Act of 2018 (FAA Act), to identify and assess barriers to

accessible air travel, determine the extent to which DOT's programs and activities are addressing the barriers, recommend improvements, and advise the Secretary on implementing the Air Carrier Access Act. The charter of the ACAA Advisory Committee sets forth policies for the operation of the advisory committee. The charter is available at *www.transportation.gov/individuals/aviation-consumer-protection/charter-air-carrier-access-act-advisory-committee.*

II. Agenda

The first meeting of the ACAA Advisory Committee is designed to gather information on the barriers encountered by the passengers with disabilities in the following areas: Ticketing; pre-flight seat assignments; access to bulkhead seating; stowage of assistive devices; and guide and wheelchair assistance at airports and on aircraft. There will also be a discussion of airlines' disability training programs for employees and contractors who interact with the traveling public. An overview of the Department's programs and activities related to the air travel of passengers with disabilities will also be provided at the meeting. In addition, the Department will consult with the ACAA Advisory Committee to develop the ''Airline Passenger with Disabilities Bill of Rights.''

III. Public Participation

The meeting will be open to the public on a first come, first served basis. As space is limited, members of the public who plan to attend this meeting must RSVP to the person listed in the **FOR FURTHER INFORMATION CONTACT** section above no later than Tuesday, March 4, 2020, with your name and affiliation. The Department is committed to providing equal access to this meeting for all participants. Sign language interpreters and Communication Access Realtime Translation (CART) services will be available for the meeting. If you need alternative formats or other disability-related accommodations, please inform the person listed in the **FOR FURTHER INFORMATION CONTACT** section above no later than March 6, 2020.

Oral comments from members of the public joining the meeting will be allowed if time permits. The time for each commenter may be limited. Individuals wishing to reserve speaking time during the meeting must submit a request at the time of registration, as well as the name, address, and organizational affiliation of the proposed speaker. Speakers are requested to submit a written copy of their prepared remarks for inclusion in the meeting records and for circulation to ACAA Advisory Committee members. Any member of the public may submit a written statement to the committee through the docket at any time.

Issued this 14th day of February 2020, in Washington, DC.

Blane A. Workie,

Assistant General Counsel for Aviation Enforcement and Proceedings, U.S. Department of Transportation.

[FR Doc. 2020–03468 Filed 2–20–20; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Notice of Funds Availability Inviting Applications for Financial Assistance Awards or Technical Assistance Grants Under the Community Development Financial Institutions Program Fiscal Year 2020 Funding Round

Funding Opportunity Title: Notice of Funds Availability (NOFA) inviting Applications for Financial Assistance (FA) awards or Technical Assistance (TA) grants under the Community Development Financial Institutions Program (CDFI Program) fiscal year (FY) 2020 Funding Round.

Announcement Type: Announcement of funding opportunity.

Funding Opportunity Number: CDFI–2020–FATA.

Catalog of Federal Domestic Assistance (CFDA) Number: 21.020.

Dates:

TABLE 1—FY 2020 CDFI PROGRAM FUNDING ROUND CRITICAL DEADLINES FOR APPLICANTS

Description	Deadline	Time (Eastern Time—ET)	Submission method
Last day to create an Awards Management Information Systems (AMIS) Account (all Applicants).	March 23, 2020	11:59 p.m. ET	AMIS.
Last day to enter EIN and DUNS numbers in AMIS (all Applicants).	March 23, 2020	11:59 p.m. ET	AMIS.
Last day to submit SF–424 (Application for Federal Assistance).	March 23, 2020	11:59 p.m. ET	Electronically via *Grants.gov.*
Last day to contact CDFI Program staff	April 17, 2020	5:00 p.m. ET	Service Request via AMIS Or CDFI Fund Helpdesk: 202–653–0421.
Last day to contact AMIS–IT Help Desk (regarding AMIS technical problems only).	April 21, 2020	5:00 p.m. ET	Service Request via AMIS Or 202–653–0422 Or *AMIS@cdfi.treas.gov.*
Last day to submit CDFI Program Application for Financial Assistance (FA) *or* Technical Assistance (TA).	April 21, 2020	11:59 p.m. ET	AMIS.

Executive Summary: Through the CDFI Program, the CDFI Fund provides (i) FA awards of up to $1 million to Certified Community Development Financial Institutions (CDFIs) to build their financial capacity to lend to Eligible Markets and/or their Target Markets, and (ii) TA grants of up to $125,000 to build Certified, and Emerging CDFIs' organizational capacity to serve Eligible Markets and/or their Target Markets. All awards provided through this NOFA are subject to funding availability.

I. Program Description

A. *History:* The CDFI Fund was established by the Riegle Community Development Banking and Financial Institutions Act of 1994 to promote economic revitalization and community development through investment in and assistance to CDFIs. The CDFI Program made its first awards in 1996 and the Native American CDFI Assistance (NACA) Program made its first awards in 2002.

B. *Priorities:* Through the CDFI Program's FA awards and TA grants, the CDFI Fund invests in and builds the capacity of for-profit and non-profit community based lending organizations known as CDFIs. These organizations, certified as CDFIs by the CDFI Fund, serve rural and urban low-income people, and communities across the nation that lack adequate access to

affordable financial products and services.

C. *Authorizing Statutes and Regulations:* The CDFI Program is authorized by the Riegle Community Development Banking and Financial Institutions Act of 1994 (Pub. L. 103–325, 12 U.S.C. 4701 *et seq.*) (Authorizing Statute). The regulations governing the CDFI Program are found at 12 CFR parts 1805 and 1815 (the Regulations) and set forth evaluation criteria and other program requirements. The CDFI Fund encourages Applicants to review the Regulations; this NOFA; the CDFI Program Application for Financial Assistance or Technical Assistance (the Application); all related materials and guidance documents found on the CDFI Fund's website (Application Materials); and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 1000), which is the Department of the Treasury's codification of the Office of Management and Budget (OMB) government-wide framework for grants management at 2 CFR part 200 (the Uniform Requirements) for a complete understanding of the program. Capitalized terms in this NOFA are defined in the Authorizing Statute, the Regulations, this NOFA, the Application, Application Materials, or the Uniform Requirements. Details regarding Application content requirements are found in the Application and Application Materials.

D. *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 1000):* The Uniform Requirements codify financial, administrative, procurement, and program management standards that Federal award agencies must follow. When evaluating Applications, awarding agencies must evaluate the risks to the program posed by each Applicant, and each Applicant's merits and eligibility. These requirements are designed to ensure that Applicants for Federal assistance receive a fair and consistent review prior to an award decision. This review will assess items such as the Applicant's financial stability, quality of management systems, the soundness of its business plan, history of performance, ability to achieve measurable impacts through its products and services, and audit findings. In addition, the Uniform Requirements include guidance on audit requirements and other award compliance requirements for Recipients.

E. *Funding limitations:* The CDFI Fund reserves the right to fund, in whole or in part, any, all, or none of the Applications submitted in response to this NOFA.

II. Federal Award Information

A. *Funding Availability:*

1. *FY 2020 Funding Round:* The CDFI Fund expects to award, through this NOFA, approximately $184 million as indicated in the following table:

TABLE 2—FY 2020 FUNDING ROUND ANTICIPATED CATEGORY AMOUNTS

Funding categories (See definition in Table 7 for TA or Table 8 for FA)	Estimated total amount to be awarded (millions)	Award amount		Estimated number of awards for FY 2020	Estimate average amount awarded in FY 2020	Average amount awarded in FY 2019
		Minimum	Maximum			
Base-FA: Category I/Small and/or Emerging CDFI Assistance (SECA)	$30	$350,000	$700,000	75	$400,000	$275,000
Base-FA: Category II/Core	105.9	500,000	1,000,000	175	605,000	590,000
Persistent Poverty Counties—Financial Assistance (PPC–FA)	18.1	100,000	300,000	120	150,000	146,000
Disability Funds—Financial Assistance (DF–FA)*	3	100,000	500,000	16	187,000	187,000
TA	5	10,000	125,000	42	114,000	121,000
Healthy Food Financing Initiative—Financial Assistance (HFFI–FA)*	22	500,000	5,000,000	14	1,600,000	1,571,000
Total	184			365		

* DF–FA and HFFI–FA appropriation will be allocated in one competitive round between the NACA and CDFI Program NOFAs.

The CDFI Fund reserves the right to award more or less than the amounts cited above in each category, based upon available funding and other factors, as appropriate.

2. *Funding Availability for the FY 2020 Funding Round:* As of the date of this NOFA, the CDFI Fund is operating under the Consolidated Appropriations Act, 2020 (Pub. L. 116–93).

3. *Anticipated Start Date and Period of Performance:* The Period of Performance for TA grants begins with the date of the award announcement and includes either (i) an Emerging CDFI Recipient's three full consecutive fiscal years after the date of the award announcement, or (ii) a Certified CDFI Recipient's two full consecutive fiscal years after the date of the award announcement, during which the Recipient must meet the Performance Goals and Measures (PG&Ms) set forth in the Assistance Agreement. The Period of Performance for FA awards begins with the date of the award announcement and includes a Recipient's three full consecutive fiscal years after the date of the award announcement, during which time the Recipient must meet the PG&Ms set forth in the Assistance Agreement.

B. *Types of Awards:* Through the CDFI Program, the CDFI Fund provides two types of awards: Financial Assistance (FA) and Technical Assistance (TA) awards. *An Applicant may submit an Application for a TA grant or an FA award under the CDFI Program, but not both.* FA Awards include the Base Financial Assistance (Base-FA) award and the following awards that are provided as a supplement to the Base-FA award: Healthy Food Financing Initiative-Financial Assistance (HFFI–FA), Persistent Poverty Counties-Financial Assistance (PPC–FA), and Disability Funds-Financial Assistance (DF–FA). The HFFI–FA, PPC–FA, and DF–FA Applications will be evaluated independently from the Base-FA Application, and will not affect the Base-FA Application evaluation or Base-FA award amount.

However, Applicants that qualify for the NACA Program may submit two Applications: *One* Application—either for a TA grant or an FA award, but not both—through the CDFI Program, and

one Application—either for a TA grant or an FA award, but not both—through the NACA Program. NACA qualified Applicants that choose to apply for awards through both the CDFI Program and the NACA Program may either apply for the same type of award under each Program or for a different type of award under each Program. NACA qualified FA Applicants that choose to apply for an FA award under both the NACA Program and CDFI Program and are selected for an award under both Programs will be provided the FA award under the CDFI Program. NACA qualified TA Applicants that choose to apply for a TA award under both the NACA Program and CDFI Program and are selected for an award under both Programs will be provided the TA award under the NACA Program. NACA qualified Applicants that choose to apply for a TA award and a FA award under separate programs will be provided the larger of the two awards. NACA Applicants cannot receive an award under both Programs within the same funding round.

Category II (Core) FA Applicants applying for Base-FA, PPC–FA, and/or DF–FA must provide evidence of acceptable matching funds. The matching funds requirement for HFFI–FA and SECA FA Applicants is waived in the enacted FY 2020 Consolidated Appropriations Act. Therefore, HFFI–FA and SECA FA Applicants are not required to submit matching funds for their award requests. TA Applicants are not required to provide matching funds.

1. *Base-FA Awards:* Base-FA awards can be in the form of loans, grants, Equity Investments, deposits and credit union shares. The form of the Base-FA award is based on the form of the matching funds that the Applicant includes in its Application, unless Congress waived the matching funds requirement. The matching funds requirement was waived for SECA FA Applicants and therefore the Base-FA award will be in the form of a grant for SECA FA Applicants. Matching funds are required for Category II (Core) Applicants applying for Base-FA awards, and must be from non-Federal sources and cannot have been used as matching funds for any other Federal award. The CDFI Fund reserves the right, in its sole discretion, to provide a Base-FA award in an amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its Application.

2. *Persistent Poverty Counties—Financial Assistance (PPC–FA) Awards:* PPC–FA awards will be provided as a supplement to Base-FA awards; therefore, only those Applicants that are selected to receive a Base-FA award through the CDFI Program FY 2020 Funding Round will be eligible to receive a PPC–FA award. PPC–FA awards can be in the form of loans, grants, Equity Investment, deposits and credit union shares. The form of the PPC–FA award is based on the form of the matching funds that the Applicant includes in its Application, unless Congress waived the matching funds requirement. The matching funds requirement was waived for SECA FA Applicants and therefore the PPC–FA award will be in the form of a grant for SECA FA Applicants. Matching funds are required for Category II (Core) Applicants applying for PPC–FA awards, and must be from non-Federal sources, and cannot have been used as matching funds for any other Federal award. The CDFI Fund reserves the right, in its sole discretion, to provide a PPC–FA award in an amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its Application.

3. *Disability Funds—Financial Assistance (DF–FA) Awards:* DF–FA awards will be provided as a supplement to Base-FA awards; therefore, only those Applicants that have been selected to receive a Base-FA award through the CDFI Program FY 2020 Funding Round will be eligible to receive a DF–FA award. DF–FA awards can be in the form of loans, grants, Equity Investments, deposits and credit union shares. The form of the DF–FA award is based on the form of the matching funds that the Applicant includes in its Application, unless Congress waived the matching funds requirement. The matching funds requirement was waived for SECA FA Applicants and therefore the DF–FA award will be in the form of a grant for SECA FA Applicants. Matching funds are required for Category II (Core) Applicants applying for DF–FA awards, and must be from non-Federal sources, and cannot have been used as matching funds for any other Federal award. The CDFI Fund reserves the right, in its sole discretion, to provide a DF–FA award in an amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its Application.

4. *Healthy Food Financing Initiative—Financial Assistance (HFFI–FA) Awards:* HFFI–FA awards will be provided as a supplement to Base-FA awards; therefore, only those Applicants that have been selected to receive a Base-FA award through the CDFI Program FY 2020 Funding Round will be eligible to receive an HFFI–FA award. HFFI–FA awards can be in the form of loans, grants, Equity Investments, deposits and credit union shares. The form of the HFFI–FA award is based on the form of the matching funds that the Applicant includes in its Application, unless Congress waived the matching funds requirement. The matching funds requirement was waived for HFFI–FA Applicants and therefore the HFFI–FA awards will be in the form of a grant. The CDFI Fund reserves the right, in its sole discretion, to provide an HFFI–FA award in an amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its Application.

5. *TA Grants:* TA is provided in the form of grants. The CDFI Fund reserves the right, in its sole discretion, to provide a TA grant in an amount other than that which the Applicant requests; however, the TA grant amount will not exceed the Applicant's request as stated in its Application.

C. *Eligible Activities:*

1. *FA Awards:* Base-FA, PPC–FA, DF–FA, and HFFI–FA award funds may be expended for activities serving Commercial Real Estate, Small Business, Microenterprise, Community Facilities, Consumer Financial Products, Consumer Financial Services, Commercial Financial Products, Commercial Financial Services, Affordable Housing, Intermediary Lending to Non-Profits and CDFIs, and other lines of business as deemed appropriate by the CDFI Fund in the following five categories: (i) Financial Products; (ii) Financial Services; (iii) Loan Loss Reserves; (iv) Development Services; and (v) Capital Reserves. The FA budget is the amount of the award and must be expended in the five eligible activity categories prior to the end of the Period of Performance. Base-FA Recipients must meet PG&Ms, which will be derived from projections and attestations provided by the Applicant in its Application, to achieve one or more of the following FA Objectives: (i) Increase Volume of Financial Products in an Eligible Market(s) and/or in the Applicant's approved Target Market and/or Increase Volume of Financial Services in an Eligible Market(s) and/or in the Applicant's approved Target Market; (ii) Serve Eligible Market(s) or the Applicant's approved Target Market in New Geographic Area or Areas; (iii) Provide New Financial Products in an Eligible Market(s) and/or in the Applicant's approved Target Market, Provide New Financial Services in an

Eligible Market(s) and/or in the Applicant's approved Target Market, or Provide New Development Services in an Eligible Market(s) and/or in the Applicant's approved Target Market; and (iv) Serve New Targeted Population or Populations. FA awards may only be used for Direct Costs associated with an eligible activity; no indirect expenses are allowed. Up to 15% of the FA award may be used for Direct Administrative Expenses associated with an eligible FA activity. ''Direct Administrative Expenses'' shall mean Direct Costs, as described in section 2 CFR 200.413 of the Uniform Requirements, which are incurred by the Recipient to carry out the Financial Assistance. Direct Costs incurred to provide Development Services or Financial Services do not constitute Direct Administrative Expenses.

The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs. For purposes of this NOFA, the five eligible activity categories are defined below:

TABLE 3—BASE-FA, PPC–FA, DF–FA, AND HFFI–FA ELIGIBLE ACTIVITY CATEGORIES

FA eligible activity	FA eligible activity definition *	Eligible CDFI institution types
i. Financial Products	FA expended as loans, Equity Investments and similar financing activities (as determined by the CDFI Fund) including the purchase of loans originated by certified CDFIs and the provision of loan guarantees. In the case of CDFI Intermediaries, Financial Products may also include loans to CDFIs and/or emerging CDFIs, and deposits in Insured Credit Union CDFIs, emerging Insured Credit Union CDFIs, and/or State-Insured Credit Union CDFIs. For HFFI–FA, however, the purchase of loans originated by certified CDFIs, loan refinancing, or any type of financing for prepared food outlets are not eligible activities.	All.
ii. Financial Services	FA expended for providing checking, savings accounts, check cashing, money orders, certified checks, automated teller machines, deposit taking, safe deposit box services, and other similar services.	Regulated Institutions [1] only. Not applicable for HFFI-FA Recipients.
iii. Loan Loss Reserves	FA set aside in the form of cash reserves, or through accounting-based accrual reserves, to cover losses on loans, accounts, and notes receivable or for related purposes that the CDFI Fund deems appropriate.	All.
iv. Development Services	FA expended for activities undertaken by a CDFI, its Affiliate or contractor that (i) promote community development and (ii) prepare or assist current or potential borrowers or investees to use the CDFI's Financial Products or Financial Services. For example, such activities include financial or credit counseling; homeownership counseling; business planning; and management assistance.	All.
v. Capital Reserves	FA set aside as reserves to support the Applicant's ability to leverage other capital, for such purposes as increasing its net assets or providing financing, or for related purposes as the CDFI Fund deems appropriate.	Regulated Institutions only. Not applicable for DF–FA.

* All FA eligible activities must be in an Eligible Market or the Applicant's approved Target Market. Eligible Market is defined as (i) a geographic area meeting the requirements set forth in 12 CFR 1805.201(b)(3)(ii), or (ii) individuals that are Low-Income, African American, Hispanic, Native American, Native Hawaiians residing in Hawaii, Alaska Natives residing in Alaska, or Other Pacific Islanders residing in American Samoa, Guam or the Northern Mariana Islands.

2. *DF–FA Award:* DF–FA award funds may only be expended for eligible FA activities (referenced in Table 3) to directly or indirectly benefit individuals with disabilities. The DF–FA Recipient must close Financial Products for the primary purpose of directly or indirectly benefiting people with disabilities, where the majority of the DF–FA supported loans or investments benefit individuals with disabilities, in an amount equal to or greater than 85% of the total DF–FA provided. Eligible DF–FA financing activities may include, among other activities, loans to develop or purchase affordable, accessible, and safe housing; loans to provide or facilitate employment opportunities; and loans to purchase assistive technology. For the purposes of DF–FA, a person with a Disability is a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment, as defined by the American Disabilities Act (ADA) at *https://www.ada.gov/cguide.htm.*

3. *TA Grants:* TA grant funds may be expended for the following eight eligible activity categories: (i) Compensation—Personal Services; (ii) Compensation—Fringe Benefits; (iii) Professional Service Costs; (iv) Travel Costs; (v) Training and Education Costs; (vi) Equipment; (vii) Supplies; and (viii) Incorporation Costs. The TA budget is the amount of the award and must be expended in the eight eligible activity categories before the end of the Period of Performance. None of the eligible activity categories will be authorized for indirect costs or an associated indirect cost rate. Any expenses that are prohibited by the Uniform Requirements are unallowable and are generally found in Subpart E-Cost Principles. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs. For purposes of this NOFA, the eight eligible activity categories are defined below:

[1] Regulated Institutions include Insured Credit Unions, Insured Depository Institutions, State-Insured Credit Unions and Bank Holding Companies.

TABLE 4—TA ELIGIBLE ACTIVITY CATEGORIES, SUBJECT TO THE APPLICABLE PROVISIONS OF THE UNIFORM REQUIREMENTS

(i) Compensation—Personal Services.	TA paid to cover all remuneration, paid currently or accrued, for services of Applicant's employees rendered during the Period of Performance under the TA grant in accordance with section 200.430 of the Uniform Requirements. Any work performed directly but unrelated to the purposes of the TA grant may not be paid as Compensation through a TA grant. For example, the salaries for building maintenance would not carry out the purpose of a TA grant and would be deemed unallowable.
(ii) Compensation—fringe benefits	TA paid to cover allowances and services provided by the Applicant to its employees as compensation in addition to regular salaries and wages, in accordance with section 200.431 of the Uniform Requirements. Such expenditures are allowable as long as they are made under formally established and consistently applied organizational policies of the Applicant.
(iii) Professional service costs	TA used to pay for professional and consultant services (*e.g.*, such as strategic and marketing plan development), rendered by persons who are members of a particular profession or possess a special skill (e.g. credit analysis, portfolio management), and who are not officers or employees of the Applicant, in accordance with section 200.459 of the Uniform Requirements. Payment for a consultant's services may not exceed the current maximum of the daily equivalent rate paid to an Executive Schedule Level IV Federal employee. Professional and consultant services must build the capacity of the CDFI. For example, professional services that provide direct development services to the customers does not build the capacity of the CDFI to provide those services and would not be eligible.
(iv) Travel costs	TA used to pay costs of transportation, lodging, subsistence, and related items incurred by the Applicant's personnel who are on travel status on business related to the TA award, in accordance with section 200.474 of the Uniform Requirements. Travel costs do not include costs incurred by the Applicant's consultants who are on travel status. Any payments for travel expenses incurred by the Applicant's personnel but unrelated to carrying out the purpose of the TA grant would be deemed unallowable. As such, documentation must be maintained that justifies the travel as necessary to the TA grant.
(v) Training and education costs	TA used to pay the cost of training and education provided by the Applicant for employees' development in accordance with section 200.472 of the Uniform Requirements. TA can only be used to pay for training costs incurred by the Applicant's employees. Training and education costs may not be incurred by the Applicant's consultants.
(vi) Equipment	TA used to pay for tangible personal property, having a useful life of more than one year and a per-unit acquisition cost of at least $5,000, in accordance with section 200.33 of the Uniform Requirements. For example, items such as office furnishings and information technology systems are allowable as Equipment costs. The Applicant must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 with respect to the purchase of Equipment.
(vii) Supplies	TA used to pay for tangible personal property with a per unit acquisition cost of less than $5,000, in accordance with section 200.94 of the Uniform Requirements. For example, a desktop computer costing $1,000 is allowable as a Supply cost. The Applicant must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 with respect to the purchase of Supplies.
(viii) Incorporation Costs (*Sponsoring Entities only).*	TA used to pay for incorporation fees in connection with the establishment or reorganization of an organization as a CDFI, in accordance with section 200.455 of the Uniform Requirements. Incorporation Costs are allowable for NACA Program Sponsoring Entity Applicants only.

4. *HFFI–FA Award:* HFFI–FA award funds may only be expended for eligible FA activities referenced in Table 3. The HFFI–FA investments must comply with the following guidelines:

a. Recipient must close Financial Products for Healthy Food Retail Outlets and Healthy Food Non-Retail Outlets in its approved Target Market in an amount equal to or greater than 100% of the total HFFI Financial Assistance provided. Eligible financing activities to Healthy Food Retail Outlets and Healthy Food Non-Retail Outlets require that the majority of the loan or investment be devoted to offering a range of Healthy Food choices, which may include, among other activities, investments supporting an existing retail store or wholesale operation upgrade to offer an expanded range of Healthy Food choices, or supporting a nonprofit organization that expands the availability of Healthy Foods in underserved areas.

b. Recipient must demonstrate that it has closed Financial Products to Healthy Food Retail Outlets located in Food Deserts in the Recipient's approved Target Market in an amount equal to 75% of the total HFFI Financial Assistance provided.

Definitions:

Healthy Foods. Healthy Foods include unprepared nutrient-dense foods and beverages as set forth in the USDA Dietary Guidelines for Americans 2015–2020 including whole fruits and vegetables, whole grains, fat free or low-fat dairy foods, lean meats and poultry (fresh, refrigerated, frozen or canned). Healthy Foods should have low or no added sugars, and be low-sodium, reduced sodium, or no-salt-added. (See USDA Dietary Guidelines: *http://www.choosemyplate.gov/dietary-guidelines*).

Healthy Food Retail Outlets. Commercial sellers of Healthy Foods including, but not limited to, grocery stores, mobile food retailers, farmers markets, retail cooperatives, corner stores, bodegas, stores that sell other food and non-food items along with a range of Healthy Foods.

Healthy Food Non-Retail Outlets. Wholesalers of Healthy Foods including, but not limited to, wholesale food outlets, wholesale cooperatives, or other non-retail food producers that supply for sale a range of Healthy Food options; entities that produce or distribute Healthy Foods for eventual retail sale, and entities that provide consumer education regarding the consumption of Healthy Foods.

Food Deserts. Distressed geographic areas where either a substantial number or share of residents has low access to a supermarket or large grocery store. For the purpose of satisfying this requirement, a Food Desert must either: (1) Be a census tract determined to be a Food Desert by the U.S. Department of Agriculture (USDA), in its USDA Food Access Research Atlas; (2) be a census tract adjacent to a census tract determined to be a Food Desert by the USDA, in its USDA Food Access Research Atlas; which has a median

family income less than or equal to 120% of the applicable Area Median Family Income; or (3) be a Geographic Unit as defined in 12 CFR part 1805.201(b)(3)(ii)(B), which (i) individually meets at least one of the criteria in 12 CFR part 1805.201(b)(3)(ii)(D), and (ii) has been identified as having low access to a supermarket or grocery store through a methodology that has been adopted for use by another governmental or philanthropic healthy food initiative.

5. *PPC–FA Award:* PPC–FA award funds may only be expended for eligible FA activities referenced in Table 3. The PPC–FA Recipient must close Financial Products in PPC in an Eligible Market or in the Applicant's approved Target Market in an amount equal to or greater than 100% of the total PPC Financial Assistance provided. The specific counties that meet the criteria for ''persistent poverty'' can be found at: *https://www.cdfifund.gov/Documents/PPC%20updated%20Feb.2020.xlsx.*

III. Eligibility Information

A. *Eligible Applicants:* For the purposes of this NOFA, the following tables set forth the eligibility criteria to receive an award from the CDFI Fund, along with certain definitions of terms. There are four categories of Applicant eligibility criteria: (1) CDFI certification criteria (Table 5); (2) requirements that apply to all Applicants (Table 6); (3) requirements that apply to TA Applicants (Table 7); and (4) requirements that apply to FA Applicants (Table 8).

TABLE 5—CDFI CERTIFICATION CRITERIA DEFINITIONS

Certified CDFI	• An entity that the CDFI Fund has officially notified that it meets all CDFI certification requirements.
Emerging CDFI (TA Applicants)	• A non-Certified entity that demonstrates to the CDFI Fund in its Application that it has an acceptable plan to meet CDFI certification requirements by the end of its Period of Performance, or another date that the CDFI Fund selects. • An Emerging CDFI that has prior award(s) must comply with CDFI certification PG&M(s) stated in its prior Assistance Agreement(s). • An Emerging CDFI selected to receive a TA grant will be required to become a Certified CDFI by a date specified in the Assistance Agreement.

TABLE 6—ELIGIBILITY REQUIREMENTS FOR ALL APPLICANTS

Applicant	• Only the entity that will carry out the proposed award activities may apply for an award (other than Bank Holding Companies—see below). Recipients may not create a new legal entity to carry out the proposed award activities. • The information in the Application should only reflect the activities of the Applicant, including the presentation of financial and portfolio information. Do not include financial or portfolio information from parent companies, Affiliates, or Subsidiaries in the Application unless it relates to the provision of Development Services. • An Applicant that applies on behalf of another organization will be rejected without further consideration, other than Bank Holding Companies (see below).
Application type and submission overview through *Grants.gov* and Awards Management Information System (AMIS).	• Applicants must submit the Required Application Documents listed in Table 10. • The CDFI Fund will only accept Applications that use the official application templates provided on the *Grants.gov* and AMIS websites. Applications submitted with alternative or altered templates will not be considered. • Applicants undergo a two-step process that requires the submission of Application documents by two separate deadlines in two different locations: (1) The SF–424 in *Grants.gov* and (2) all other Required Application Documents in AMIS. • *Grants.gov* and the SF–424: ○ *Grants.gov:* Applicants must submit the Office of Management and Budget (OMB) Standard Form (SF) OMB SF–424, Application for Federal Assistance. ○ All Applicants must register in the *Grants.gov* system to successfully submit an Application. The *Grants.gov* registration process can take 30 days or more to complete. The CDFI Fund strongly encourages Applicants to register as early as possible. ○ The CDFI Fund will not extend the SF–424 application deadline for any Applicant that started the *Grants.gov* registration process on, before, or after the date of the publication of this NOFA, but did not complete it by the deadline except in the case of a Federal government administrative or technological error that directly resulted in a late submission of the SF–424. ○ The SF–424 must be submitted in *Grants.gov* on or before the deadline listed in Table 1 and Table 12. Applicants are strongly encouraged to submit their SF–424 as early as possible in the *Grants.gov* portal. ○ The deadline for the *Grants.gov* submission is before the AMIS submission deadline. ○ The SF–424 must be submitted under the CDFI Program Funding Opportunity Number for the CDFI Program Application. *CDFI Program Applicants should be careful to not select the NACA Program Funding Opportunity Number when submitting their SF–424 for the CDFI Program.* CDFI Program Applicants that submit their SF–424 for the CDFI Program Application under the NACA Program Funding Opportunity Number will be deemed ineligible for the CDFI Program Application. ○ If the SF–424 is not accepted by *Grants.gov* by the deadline, the CDFI Fund will not review any material submitted in AMIS and the Application will be deemed ineligible. • AMIS and all other Required Application Documents listed in Table 10: ○ AMIS is an enterprise-wide information technology system. Applicants will use AMIS to submit and store organization and Application information with the CDFI Fund. ○ Applicants are only allowed one CDFI Program Application submission in AMIS. ○ Each Application in AMIS must be signed by an Authorized Representative.

TABLE 6—ELIGIBILITY REQUIREMENTS FOR ALL APPLICANTS—Continued

	○ Applicants must ensure that the Authorized Representative is an employee or officer of the Applicant, authorized to sign legal documents on behalf of the organization. *Consultants working on behalf of the organization may not be designated as Authorized Representatives.* ○ Only the Authorized Representative or Application Point of Contact, included in the Application, may submit the Application in AMIS. ○ All Required Application Documents must be submitted in AMIS on or before the deadline specified in Tables 1 and 12. ○ The CDFI Fund will not extend the deadline for any Applicant except in the case of a Federal government administrative or technological error that directly resulted in the late submission of the Application in AMIS.
Employer Identification Number (EIN).	• Applicants must have a unique EIN assigned by the Internal Revenue Service (IRS). • The CDFI Fund will reject an Application submitted with the EIN of a parent or Affiliate organization. • The EIN in the Applicant's AMIS account must match the EIN in the Applicant's *Grants.gov* and System for Award Management (SAM) accounts. The CDFI Fund will reject an Application if the EIN in the Applicant's AMIS account does not match the EIN in its *Grants.gov* and SAM accounts. • Applicants must enter their EIN into their AMIS profile on or before the deadline specified in Tables 1 and 12.
Dun & Bradstreet, (DUNS) number	• Pursuant to OMB guidance (68 FR 38402), an Applicant must apply using its unique DUNS number in *Grants.gov*. • The CDFI Fund will reject an Application submitted with the DUNS number of a parent or Affiliate organization. • The DUNS number in the Applicant's AMIS account must match the DUNS number in the Applicant's *Grants.gov* and SAM accounts. The CDFI Fund will reject an Application if the DUNS number in the Applicant's AMIS account does not match the DUNS number in its *Grants.gov* and SAM accounts. • Applicants must enter their DUNS number into their AMIS profile on or before the deadline specified in Tables 1 and 12.
System for Award Management (SAM).	• SAM is a web-based, government-wide application that collects, validates, stores, and disseminates business information about the federal government's trading partners in support of the contract awards, grants, and electronic payment processes. • Applicants must register in SAM as part of the *Grants.gov* registration process. • Applicants must have a DUNS number and an EIN number in order to register in SAM. • Applicants must be registered in SAM in order to submit an SF–424 in *Grants.gov*. • The CDFI Fund reserves the right to deem an Application ineligible if the Applicant's SAM account expires during the Application evaluation period, or is set to expire before September 30, 2020, and the Applicant does not re-activate, or renew, as applicable, the account within the deadlines that the CDFI Fund communicates to affected Applicants during the Application evaluation period.
AMIS Account	• Each Applicant must register as an organization in AMIS and submit all Required Application Documents listed in Table 10 through the AMIS portal. • The Application of any organization that does not properly register in AMIS by the deadline set forth in Table 1—FY 2020 CDFI Program Funding Round Critical Deadlines for Applicants—will be rejected without further consideration. • The Authorized Representative and/or Application Point of Contact must be included as "users" in the Applicant's AMIS account. • An Applicant that fails to properly register and update its AMIS account may miss important communication from the CDFI Fund and/or not be able to successfully submit an Application.
501 (c)(4) status	• Pursuant to 2 U.S.C. 1611, any 501(c)(4) organization that engages in lobbying activities is not eligible to receive a CDFI or NACA Program award.
Compliance with Nondiscrimination and Equal Opportunity Statutes, Regulations, and Executive Orders.	• An Applicant may not be eligible to receive an award if proceedings have been instituted against it in, by, or before any court, governmental agency, or administrative body, and a final determination within the last three years indicates the Applicant has violated any of the following laws, including but not limited to: Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975, (42 U.S.C. 6101–6107), and Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency.
Bank Holding Company Applicant	• In the case where a CDFI Bank Holding Company Applicant intends to carry out the activities of an award through its Subsidiary CDFI Insured Depository Institution, the Application must be submitted by the CDFI Bank Holding Company and reflect the activities and financial performance of the Subsidiary CDFI Insured Depository Institution. • Authorized representatives of both the Bank Holding Company and the Subsidiary CDFI Insured Depository Institution must certify that the information included in the Application represents that of the Subsidiary CDFI Insured Depository Institution, and that the award funds will be used to support the Subsidiary CDFI Insured Depository Institution for the eligible activities outlined in the Application.
Use of award	• All awards made through this NOFA must be used to support the Applicant's activities in at least one of the FA or TA Eligible Activity Categories (see Section II. (C)). • With the exception of Bank Holding Company Applicants, awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent. The Recipient of any award made through this NOFA must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.
Requested award amount	• An Applicant must state its requested award amount in the Application in AMIS. An Applicant that does not include this amount will not be allowed to submit an Application.

TABLE 6—ELIGIBILITY REQUIREMENTS FOR ALL APPLICANTS—Continued

Pending resolution of noncompliance.	• The CDFI Fund will consider an Application submitted by an Applicant that has pending noncompliance issues of any of its previously executed award agreement(s), if the CDFI Fund has not yet made a final compliance determination.
Noncompliance or default status	• The CDFI Fund will not consider an Application submitted by an Applicant that has a previously executed award agreement(s) if, as of the date of the Application, (i) the CDFI Fund has made a determination that such entity is noncompliant or found in default with a previously executed agreement, and (ii) the CDFI Fund has provided written notification that such entity is ineligible to apply for or receive any future CDFI Fund awards or allocations. Such entities will be ineligible to submit an Application for such time period as specified by the CDFI Fund in writing. • The CDFI Fund will not consider any Applicant that has defaulted on a loan from the CDFI Fund within five years of the Application deadline.

TABLE 7—ELIGIBILITY REQUIREMENTS FOR TA APPLICANTS

CDFI certification status	(1) Emerging CDFIs (see definition in Table 5), or (2) Certified CDFIs (see Table 5) that meet the following SECA Applicant criteria: (1) Have total assets as of the end of the Applicant's most recent fiscal year end date (as stated in the Applicant's AMIS account and verified by internally prepared financial statements and/or audits) in the following amounts: • Insured Depository Institutions and Bank Holding Companies: Up to $250 million; • Insured Credit Unions and State-Insured Credit Unions: Up to $100 million; • Venture Capital Funds: [2] up to $5 million; • Other CDFIs: Up to $5 million; OR (2) Have begun operations (as indicated by the financing activity start date field in the Applicant's AMIS account) on or after January 1, 2016.
Matching funds	• Matching funds documentation is not required for TA awards.
Limitation on Awards	• An Emerging CDFI may not receive more than three TA awards as an uncertified CDFI.
Proposed Activities	• Applicants must propose to directly undertake eligible activities with TA awards. For example, an uncertified CDFI Applicant must propose to become certified as part of its Application and a Certified CDFI Applicant must propose activities that build its capacity to serve its Target Market or an Eligible Market. • With the exception of Sponsoring Entities in the NACA Program, Applicants may not propose to use a TA award to create a separate legal entity to become a certified CDFI or otherwise carry out the TA award activities.
Regulated Institution	• Each Regulated Institution TA Applicant must have a CAMELS/CAMEL rating (rating for banks and credit unions, respectively) or equivalent type of rating by its regulator (collectively referred to as "CAMELS/CAMEL rating") of at least "4". • TA Applicants with CAMELS/CAMEL ratings of "5" will not be eligible for awards. • The CDFI Fund will also evaluate material concerns identified by the Appropriate Federal Banking Agency in determining the eligibility of Regulated Institution Applicants.

[2] A Venture Capital Fund is an organization that predominantly invests funds in businesses, typically in the form of either Equity Investments or subordinated debt with equity features such as a revenue participation or warrants, and generally seeks to participate in the upside returns of such businesses in an effort to at least partially offset the risk of its investments.

TABLE 8—ELIGIBILITY REQUIREMENTS FOR FA APPLICANTS

CDFI certification status	• Each FA Applicant must be a Certified CDFI prior to the date of the release of this NOFA. • The CDFI Fund will consider an Application submitted by an Applicant that has pending noncompliance issues with its Annual Certification Report, if the CDFI Fund has not yet made a final compliance determination. • If a Certified CDFI loses its certification at any point prior to the award announcement, the Application will no longer be considered by the CDFI Fund.
Matching funds documentation	• Applicants must submit acceptable documentation attesting that they have received or will receive matching funds. Applicants that do not complete the Matching Funds section in the FA Application in AMIS, documenting the source(s) of their matching funds, will not be evaluated. The matching funds requirements for HFFI–FA and SECA FA Applicants were waived in the final FY 2020 appropriations. Therefore, HFFI–FA and SECA FA Applicants are not required to submit matching funds documentation. • Unless Congress waived the matching funds requirement, Applicants must document their matching funds in the Matching Funds section in the FA Application in AMIS. Matching funds information provided in another format will not be considered. • Unless Congress waived the matching funds requirement, awards will be limited to no more than two times the amount of In-Hand or Committed matching funds documentation provided at the time of Application. See Table 9 for the definitions of Committed and In-Hand. • Unless Congress waived the matching funds requirement, awards will be obligated in like form to the matching funds provided at time of Application. See Table 9. Matching Funds "Determination of Award Form" for additional guidance. • Unless Congress waived the matching funds requirement, award payments from the CDFI Fund will require eligible dollar-for-dollar In-Hand matching funds for the total payment amount. Recipients will not receive a payment until 100% of their matching funds are In-Hand. • Unless Congress waived the matching funds requirement, the CDFI Fund will reduce and de-obligate the remaining balance of any award that does not demonstrate full dollar-for-dollar matching funds equal to the announced award amount by the end of the Matching Funds Window.

TABLE 8—ELIGIBILITY REQUIREMENTS FOR FA APPLICANTS—Continued

$5 Million funding cap	• The CDFI Fund is prohibited from obligating more than $5 million in CDFI and NACA Program awards, in the aggregate, to any one organization and its Subsidiaries and Affiliates during any three-year period from the announcement date. • For TA Applicants, for purposes of this NOFA and per final FY 2020 appropriations language, the CDFI Fund will include CDFI and NACA Program final awards in the cap calculation that were provided to an Applicant (and/or its Subsidiaries or Affiliates) under the FY 2018, and 2019 funding rounds, as well as the requested FY 2020 award, excluding DF–FA and HFFI–FA awards. • For FA Applicants, for purposes of this NOFA and per final FY 2020 appropriations language, the CDFI Fund will include CDFI and NACA Program final awards in the cap calculation that were provided to an Applicant (and/or its Subsidiaries or Affiliates) under the FY 2018 and 2019 funding rounds, as well as the requested FY 2020 award, excluding DF–FA and HFFI–FA awards.
FA Category I (SECA)	• To be an eligible SECA Applicant, an Applicant must meet the following criteria: (1) Be a Certified CDFI; (2) Request $700,000 or less in Base-FA funds; (3) Have a total portfolio outstanding of at least $466,700 as of the most recent fiscal year end audit. AND EITHER (4) Have total assets as of the end of the Applicant's most recent fiscal year end date (as stated in the Applicant's AMIS account and verified by internally prepared financial statements and/or audits) in the following amounts: • Insured Depository Institutions and Bank Holding Companies: Up to $250 million; • Insured Credit Unions and State-Insured Credit Unions: Up to $100 million; • Venture Capital Funds: Up to $5 million; • Other CDFIs: Up to $5 million; OR • Have begun operations (as indicated by the financing activity start date field in the Applicant's AMIS account) on or after January 1, 2016.
FA Category II (Core)	• A Core Applicant must be a Certified CDFI as defined in Table 5. • A Core Applicant must have a total portfolio outstanding of at least $1,666,700 as of the most recent fiscal year end audit. • An Applicant that meets the SECA requirements stated above, and that requests more than $700,000 in Base-FA award funds is categorized as an FA Category II (Core) Applicant, regardless of its total assets and/or years in operation.
FA Applicants with Community Partners.	• A CDFI Applicant can apply for assistance jointly with a Community Partner. The CDFI Applicant must complete the CDFI Program Application and address the Community Partnership in its business plan and other sections of the Application as specified in the Application Materials. • The CDFI Applicant must be a Certified CDFI as defined in Table 5. • An Application with a Community Partner must: ○ Describe how the CDFI Applicant and Community Partner will each participate in the partnership and how the partnership will enhance eligible activities serving the Investment Area and/or Targeted Population. ○ Demonstrate that the Community Partnership activities are consistent with the strategic plan submitted by the CDFI Applicant. • Assistance provided upon approval of an Application with a Community Partner shall only be entrusted to the CDFI Applicant and shall not be used to fund any activity carried out directly by the Community Partner or an Affiliate or Subsidiary thereof.
Regulated Institution	• Each Regulated Institution FA Applicant must have a CAMELS/CAMEL rating (rating for banks and credit unions, respectively) or equivalent type of rating by its regulator (collectively referred to as "CAMELS/CAMEL rating") of at least "3". • FA Applicants with CAMELS/CAMEL ratings of "4 or 5" will not be eligible for awards. • The CDFI Fund will also evaluate material concerns identified by the appropriate regulator in determining eligibility of Regulated Applicants.
PPC–FA	• All PPC–FA Applicants must: ○ Submit a CDFI or NACA Program FA Application; ○ Meet all FA award eligibility requirements; and ○ Provide a PPC–FA award request amount in AMIS.
DF–FA	• All DF–FA Applicants must: ○ Submit a CDFI or NACA Program FA Application; ○ Meet all FA award eligibility requirements; ○ Submit the DF–FA Application; and ○ Provide a DF–FA award request amount in AMIS.
HFFI–FA	• All HFFI–FA Applicants must: ○ Submit a CDFI or NACA Program FA Application; ○ Meet all FA award eligibility requirements; ○ Submit the HFFI–FA Application; and ○ Provide a HFFI–FA award request amount in AMIS.

B. *Matching Funds Requirements:* In order to receive a Base-FA, PPC–FA, or DF–FA award, an Applicant must provide evidence of eligible dollar-for-dollar matching funds and attest that it can provide acceptable documentation upon the CDFI Fund's request as part of the Application, unless Congress waived the matching funds requirement. The matching funds requirement for HFFI–FA and SECA FA Applicants was waived in the final FY 2020 appropriations. Therefore, HFFI–FA and SECA FA Applicants are not required to submit matching funds for their award requests. An Applicant that represents that it has Equity Investments and/or deposits matching funds In-Hand at the

time of Application submission must provide documentation of such as part of the Application. An Applicant that uses retained earnings as matching funds must provide supporting documentation of In-Hand and/or Committed matching funds at the time of Application submission. The CDFI Fund will review matching funds information, attestations, and supporting matching funds documentation, if applicable, prior to award payment and will disburse funds based upon eligible In-Hand matching funds. The CDFI Fund encourages Applicants to review the Regulations, the Uniform Requirements, and the matching funds guidance materials available on the CDFI Fund's website. Table 9 provides a summary of the matching funds requirements for Category II (Core) FA Applicants applying for Base-FA, PPC–FA, and DF–FA. The matching funds requirement for HFFI–FA and SECA FA Applicants were waived in the final FY 2020 appropriations. Additional details are set forth in the Application Materials.

TABLE 9—MATCHING FUNDS REQUIREMENTS *

In-Hand matching funds definition ..	• Matching funds are In-Hand when the Applicant receives payment for the matching funds from the matching funds source and has acceptable documentation that can be provided to the CDFI Fund upon request. Acceptable In-Hand documentation must show the source, form (*e.g.,* grant, loan, deposit, and Equity Investment), amount received, and the date the funds came into physical possession of the Applicant. • The following documentation, depending on the matching funds type, must be available to be provided to the CDFI Fund upon request: • Loan—the loan agreement and/or promissory note; • grant—the grant letter or agreement; • Equity Investment—the stock certificate, documentation of total equity outstanding, and shareholder agreement; • retained earnings—Retained Earnings Calculator and audited financial statements or call reports from regulating entity for each fiscal year reported in Retained Earnings Calculator; • third party in-kind contribution—evidence of receipt of contribution and valuation; • deposits—certificates of deposit agreement; • secondary capital—secondary capital agreement and disclosure and acknowledgement statement; AND • clearly legible documentation that demonstrates actual receipt of the matching funds including the date of the transaction and the amount, such as a copy of a check or a wire transfer statement. • Unless Congress waived the matching funds requirement, Applicants must provide information on their In-Hand matching funds in the Matching Funds section of the FA Application in AMIS (refer to Table 10—Required Application Documents) at the time of Application submission. • Although Applicants are not required to provide further documentation for In-Hand matching funds at the time of Application submission, (other than supporting documentation for retained earnings, deposits, and Equity Investments, which must be provided at the time of Application submission), they must be able to provide documentation to the CDFI Fund upon request.
Matching funds requirements by Application type.	The following Applicants must provide evidence of acceptable matching funds: • Category II/Core FA Applicants applying for Base-FA, PPC–FA, and DF–FA TA Applicants are not required to provide matching funds. The matching funds requirement for HFFI–FA and SECA FA Applicants was waived in the final FY 2020 appropriations. Therefore, HFFI–FA and SECA FA Applicants are not required to provide matching funds.
Amount of required match	Unless waived by Congress, Applicants must provide evidence of eligible, In-Hand, dollar-for-dollar, non-Federal matching funds for every Base-FA, PPC–FA, and DF–FA award dollar to be paid by the CDFI Fund. If awarded, Applicants that do not demonstrate 100% In-Hand matching funds at the time of Application submission may experience a longer payment timeline.
Determination of award form	Unless waived by Congress, Base-FA, PPC–FA, and DF–FA awards will be made in comparable form and value to the eligible In-Hand and/or Committed matching funds submitted by the Applicant. • For example, if an Applicant provides documentation of eligible loan matching funds for $200,000 and eligible grant matching funds of $400,000, the CDFI Fund will obligate $200,000 of the FA award as a loan and $400,000 as a grant. • The CDFI Fund will not permit a Recipient to change the form of award from loan to grant.
Matching Funds Window definition	• The Applicant must receive eligible In-Hand matching funds between January 1, 2018 and January 15, 2021. • A Recipient must provide the CDFI Fund with all documentation demonstrating the receipt of In-Hand matching funds by January 31, 2021.
Matching funds and form of award	• Recipients will be approved for a maximum award size of two times the total amount of eligible In-Hand and/or Committed matching funds included in the Application, so long as they do not exceed the requested award amount. • The form of the matching funds documented in the Application determines the form of the award.
Committed matching funds definition.	• Matching funds are Committed when the Applicant has entered into or received a legally binding commitment from the matching funds source showing that the matching funds will be disbursed to the Applicant at a future date. • The Application must provide information on their Committed matching funds in the Matching Funds section of the FA Application in AMIS (refer to Table 10—Required Application Documents) at the time of Application submission. • Although the Applicant is not required to provide further documentation for Committed matching funds at the time of Application submission (other than supporting documentation for retained earnings, deposits, Equity Investments, and credit union shares, which must be provided at the time of Application submission), it must be able to provide the CDFI Fund, upon request, acceptable written documentation showing the source, form, and amount of the Committed matching funds (including, in the case of a loan, the terms thereof), as well as the anticipated payment date of the Committed funds.

TABLE 9—MATCHING FUNDS REQUIREMENTS *—Continued

Limitations on matching funds	• Matching funds must be from non-Federal sources. • Applicants cannot proffer matching funds that were accepted as matching funds for a prior Base-FA, PPC–FA, and/or DF–FA award under the CDFI Program, NACA Program, or under another Federal grant or award program. • Matching funds must comply with the Regulations. • Matching funds must be attributable to at least one of the five eligible FA activities (see Section II (C) of this NOFA).
Rights of the CDFI Fund	• The CDFI Fund reserves the right to contact the matching funds source to discuss the matching funds and the documentation that the Applicant provided. • The CDFI Fund may grant an extension of the Matching Funds Window (defined in Table 9), on a case-by-case basis, if the CDFI Fund deems it appropriate. • The CDFI Fund reserves the right to rescind all or a portion of a Base-FA, PPC–FA, and/or DF–FA award and re-allocate the rescinded award amount to other qualified Applicant(s), if a Recipient fails to provide evidence of In-Hand matching funds obtained during the Matching Funds Window totaling its award amount.
Matching funds in the form of third-party in-kind contributions.	• Third party in-kind contributions are non-cash contributions (*i.e.,* property or services) provided by non-Federal third parties to the Applicant. • Third party in-kind contributions will be considered to be in the form of a grant for matching funds purposes. • Third party in-kind contributions may be in the form of real property, equipment, supplies, and other expendable property. The value of goods and services must directly benefit the eligible FA activities. • For third party in-kind contributions, the fair market value of goods and services must be documented as the grant match. • Applicants will be responsible for documenting the value of all in-kind contributions pursuant to the Uniform Requirements.
Matching funds in the form of a loan.	• A Base-FA, PPC–FA, or DF–FA award made in the form of a loan will have the following standardized terms: i. A 13-year term with semi-annual interest-only payments due in years 1 through 10, and fully amortizing payments due each year in years 11 through 13; and ii. A fixed interest rate of 1.70%, which was calculated by the CDFI Fund based on the U.S. Department of the Treasury's 10-year Treasury note. • The Applicant's matching funds loan(s) must: i. Have a minimum of a 3-year term (loans presented as matching funds with less than a 3-year term will not qualify as eligible match); and ii. be from a non-Federal source.
Matching funds in the form of Equity Investments.	• The CDFI Fund reserves the right, in its sole discretion, to perform its own valuation of Equity Investment source(s) and to determine if the equity value is acceptable to the CDFI Fund.
Severe Constraints Waiver	• In the case of an Applicant demonstrating severe constraints on available sources of matching funds, the CDFI Fund, in its sole discretion, may provide a Severe Constraints Waiver, which permits such Applicant to comply with the matching funds requirements by reducing such requirements by up to 50%. • In order to be considered eligible for a Severe Constraints Waiver, an Applicant must meet all of the SECA eligibility criteria described in Table 8. Instructions for requesting a Severe Constraints Waiver will be made available if required. • No more than 25% of the total funds available for obligation under this funding round may qualify for a Severe Constraints Waiver.
Ineligible matching funds	• Applicants will not be given the opportunity to correct or amend the matching funds information included in the FA Application after Application submission if the CDFI Fund determines that any portion of the Applicant's matching funds is ineligible.
Use of matching funds from a prior CDFI Program Recipient.	If an Applicant offers matching funds documentation from an organization that was a prior Recipient under the CDFI Program or NACA Program, the Applicant must be able to prove to the CDFI Fund's satisfaction that such funds do not consist, in whole or in part, of CDFI Program funds, NACA Program funds, or other Federal funds.
Matching funds in the form of retained earnings.	• Retained earnings are eligible for use as matching funds when the CDFI Fund calculates an amount equal to: i. The increase in retained earnings that occurred over any one of the Applicant's fiscal years within the Matching Funds Window, adjusted to remove revenue and expenses derived from Federal sources and matching funds used for an award; or ii. the annual average of such increases that occurred over any three consecutive fiscal years of the Applicant with at least one of the fiscal years occurring within the Matching Funds Window, adjusted to remove revenue and expenses derived from Federal sources and matching funds used for an award; or iii. any combination of (i) and (ii) above that does not include matching funds used for an award. • Retained earnings will be matched in the form of a grant. • Bank Holding Company Applicants must provide call reports for the Bank Holding Company in order to verify their retained earnings, even if the requested FA award (including Base-FA, PPC–FA, and DF–FA) will support its Subsidiary CDFI Insured Depository Institution.
Special rule for Regulated Institutions.	• A Regulated Institution's retained earnings are eligible for use as matching funds when the CDFI Fund calculates an amount equal to: i. The increase in retained earnings that occurred over any one of the Applicant's fiscal years within the Matching Funds Window, adjusted to remove revenue from Federal sources and matching funds used for an award; or ii. the annual average of such increases that occurred over any three consecutive fiscal years of the Applicant with at least one of the fiscal years occurring within the Matching Funds Window, adjusted to remove revenue and expenses derived from Federal sources and matching funds used for an award; or

TABLE 9—MATCHING FUNDS REQUIREMENTS *—Continued

	iii. the entire retained earnings that have been accumulated since the inception of the Applicant, as provided in the Regulations. • If option (iii) is used for Insured Credit Unions or State-Insured Credit Unions, the Applicant must increase its member and/or non-member shares and/or total loans outstanding by an amount equal to the amount of retained earnings committed as matching funds. • This increase (1) will be measured on a quarterly basis from March 31, 2020; (2) must occur by the end of Year 1 of the Recipient's Performance Period, as set forth in its Assistance Agreement; and (3) will be based on amounts reported in the Applicant's National Credit Union Administration (NCUA) form 5300 Call Report, or equivalent. • The CDFI Fund will assess the likelihood of this increase during the Application review process. • An award will not be made to any Applicant that has not demonstrated in the relevant NCUA form 5300 call reports or equivalent that it has increased shares and/or total loans outstanding by at least 25% of the requested FA award amount (including Base-FA, PPC–FA, and DF–FA) between December 31, 2018, and December 31, 2019. • The matching funds are not In-Hand until the Recipient has increased its member and/or non-member shares, deposits and/or total loans outstanding by the amount of retained earnings since inception that are being used as matching funds. • If option (iii) is used for Insured Depository Institutions or Bank Holding Companies, the Applicant or its Subsidiary CDFI Insured Depository Institution (in the case of a Bank Holding Company) must increase deposits and/or total loans outstanding by an amount equal to the amount of retained earnings committed as matching funds. Bank Holding Company Applicants must use the call reports of the Subsidiary CDFI Insured Depository Institution that the requested the FA award (including Base-FA, PPC–FA, and DF–FA) will support. • This increase (1) will be measured on a quarterly basis from March 31, 2020; (2) must occur by the end of Year 1 of the Recipient's Performance Period, as set forth in its Assistance Agreement; and (3) will be based on amounts reported in the call report. • The CDFI Fund will assess the likelihood of this increase during the Application review process. • An award will not be made to any Applicant that has not demonstrated in the relevant call reports that it has increased deposits and/or total loans outstanding by at least 25% of the requested FA award amount (including Base-FA, PPC–FA, and DF–FA) between December 31, 2018, and December 31, 2019. • The matching funds are not In-Hand until the Recipient has increased its deposits and/or total loans outstanding by the amount of retained earnings since inception that are being used as matching funds. • All regulated Applicants utilizing the option (iii) should refer to the Retained Earnings Guidance included in the Retained Earnings Calculator Excel Workbook found on the CDFI Fund's website.

* The requirements set forth in Table 9 are applicable to Category II (Core) FA Applicants applying for Base-FA, PPC–FA, and DF–FA. The matching funds requirements for HFFI–FA and SECA FA Applicants were waived in the final FY 2020 appropriations, and therefore the requirements set forth in Table 9 are not applicable to HFFI–FA and SECA FA Applicants for the FY 2020 Funding Round.

IV. Application and Submission Information

A. *Address to Request an Application Package:* Application Materials can be found on the CDFI Fund's website at *www.cdfifund.gov/cdfi.* Applicants may request a paper version of any Application material by contacting the CDFI Fund Help Desk at *cdfihelp@cdfi.treas.gov.* Paper versions of Application Materials will only be provided if an Applicant cannot access the CDFI Fund's website.

B. *Content and Form of Application Submission:* All Applications must be prepared using the English language, and calculations must be computed in U.S. dollars. The following table lists the Required Application Documents for the FY 2020 Funding Round. The CDFI Fund reserves the right to request and review other pertinent or public information that has not been specifically requested in this NOFA or the Application. Information submitted by the Applicant that the CDFI Fund has not specifically requested will not be reviewed or considered as part of the Application. Financial data, portfolio, and activity information provided in the Application should only include the Applicant's activities. Information submitted must accurately reflect the Applicant's activities.

TABLE 10—REQUIRED APPLICATION DOCUMENTS

Application documents	Applicant type	Submission format
Active AMIS Account	All Applicants	AMIS.
SF–424	All Applicants	Fillable PDF in *Grants.gov.*
CDFI Program Application Components: • Funding Application Detail • Data, Charts, and Narrative sections as listed in AMIS and outlined in Application Materials. • Matching Funds (FA Core Applicants only)	All Applicants	AMIS.
PPC–FA Application Components: • Funding Application Detail • Narratives • AMIS Charts	PPC–FA Applicants	AMIS.
DF–FA Application Components: • Funding Application Detail • Narratives	DF–FA Applicants	AMIS.

TABLE 10—REQUIRED APPLICATION DOCUMENTS—Continued

Application documents	Applicant type	Submission format
• AMIS Charts		
HFFI–FA Application Components:	HFFI–FA Applicants	AMIS.
• Funding Application Detail		
• Narratives		
• AMIS charts		
ATTACHMENTS TO THE APPLICATION: Add to "Related Attachments" related list in Application		
Key Staff Resumes	All Applicants	PDF or Word document in AMIS.
Organizational Chart	All Applicants	PDF in AMIS.
Audited financial statements for the Applicant's Three Most Recent Historic Fiscal Years.	FA Applicants: Loan funds, Venture Capital Funds, and other non-Regulated Institutions. TA Applicants, if available: Loan funds, Venture Capital Funds, and other non-Regulated Institutions.	PDF in AMIS.
Management Letter for the Applicant's Most Recent Historic Fiscal Year The Management Letter is prepared by the Applicant's auditor and is a communication on internal control over financial reporting, compliance, and other matters. The Management Letter contains the auditor's findings regarding the Applicant's accounting policies and procedures, internal controls, and operating policies, including any material weaknesses, significant deficiencies, and other matters identified during auditing. The Management Letter may include suggestions for improving on identified weaknesses and deficiencies and/or best practice suggestions for items that may not be considered to be weaknesses or deficiencies. The Management Letter may also include items that are not required to be disclosed in the annual audited financial statements. The Management Letter is distinct from the auditor's Opinion Letter, which is required by Generally Accepted Accounting Principles (GAAP). Management Letters are not required by GAAP, and are sometimes provided by the auditor as a separate letter from the audit itself.	FA Applicants: Loan funds, Venture Capital Funds, and other non-Regulated Institutions, TA Applicants, if audited financial statements are available: Loan funds, Venture Capital Funds, and other non-Regulated Institutions.	PDF in AMIS
Statement(s) in Lieu of Management Letter for Applicant's Most Recent Historic Fiscal Year issued by the Board Treasurer or other Board member using the template provided in the Application Materials (required only if Management Letters are not available for audited financial statements).	FA Applicants: Loan funds, Venture Capital Funds, and other non-Regulated Institutions,. TA Applicants, if audited financial statements ARE available but the Management Letters are NOT available: Loan funds, Venture Capital Funds, and other non-Regulated Institutions.	PDF in AMIS.
Unaudited financial statements for Applicant's Three Most Recent Historic Years (required only if audited financial statements are not available).	TA Applicants: Loan funds, Venture Capital Funds, and other non-Regulated Institutions.	PDF in AMIS.
Current Year to Date—December 31, 2019 Unaudited financial statements	FA and TA Applicants: Loan funds, Venture Capital Funds, and other non-Regulated Institutions.	PDF in AMIS.
Community Partnership Agreement	FA Applicants, if applicable	PDF or Word document in AMIS.
Retained Earnings Calculator Excel Workbook (required only if using retained earnings as matching funds).	FA Core Applicants, if applicable	Excel in AMIS.
Call reports for each fiscal year reported in the Retained Earnings Calculator	FA Core Applicants: Regulated Institutions that are using retained earnings as matching funds.	PDF in AMIS.
Equity Investment Matching Funds Documentation	FA Core Applicants: For-profit CDFIs that are using In-Hand Equity Investment(s) as matching funds.	PDF or Word document in AMIS.
Deposits Matching Funds Documentation	FA Core Applicants: Regulated Institutions that are using In-Hand Deposits as matching funds.	PDF or Word document in AMIS.

C. *Application Submission:* The CDFI Fund has a two-step process that requires the submission of Required Application Documents (listed in Table 10) on separate deadlines and locations. The SF–424 must be submitted through *Grants.gov* and all other Required Application Documents through the AMIS portal. The CDFI Fund will not accept Applications via email, mail, facsimile, or other forms of communication, except in extremely rare circumstances that have been pre-approved in writing by the CDFI Fund. Applicants are required to submit the OMB SF–424, Application for Federal Assistance form in *Grants.gov*. All other Required Application Documents (listed

in Table 10) will be submitted through AMIS. The deadline for submitting the SF–424 is listed in Tables 1 and 12.

All Applicants must register in the *Grants.gov* system to successfully submit the SF–424. The *Grants.gov* registration process can take 45 days or longer to complete and the CDFI Fund strongly encourages Applicants to start the *Grants.gov* registration process as early as possible (refer to the following link: *http://www.grants.gov/web/grants/register.html*). Since the *Grants.gov* registration process requires Applicants to have DUNS and EIN numbers, Applicants without these required numbers should allow for additional time to complete the *Grants.gov* registration process. Further, as described in Section IV. (E) of this NOFA, new requirements for registration in the System for Awards Management (SAM), which is required as part of the *Grants.gov* registration process, may take more time than in recent years. The CDFI Fund will not extend the Application deadline for any Applicant that started the *Grants.gov* registration process but did not complete it by the deadline. An Applicant that has previously registered with *Grants.gov* must verify that its registration is current and active. Applicants should contact *Grants.gov* directly with questions related to the registration or submission process as the CDFI Fund does not maintain the *Grants.gov* system.

Each Application must be signed by a designated Authorized Representative in AMIS before it can be submitted. Applicants must ensure that an Authorized Representative is an employee or officer and is authorized to sign legal documents on behalf of the Applicant. Consultants working on behalf of the Applicant may not be designated as Authorized Representatives. Only a designated Authorized Representative or Application Point of Contact, included in the Application, may submit the Application in AMIS. If an Authorized Representative or Application Point of Contact does not submit the Application, the Application will be deemed ineligible.

D. *Dun & Bradstreet Universal Numbering System:* Pursuant to the Uniform Requirements, each Applicant must provide as part of its Application submission, a Dun and Bradstreet Universal Numbering System (DUNS) number. Applicants without a DUNS number will not be able to register and submit an Application in the *Grants.gov* system. Allow sufficient time for Dun & Bradstreet to respond to inquiries and/or requests for DUNS numbers.

E. *System for Award Management (SAM):* Any entity applying for Federal grants or other forms of Federal financial assistance through *Grants.gov* must be registered in SAM before submitting its Application. Registration in SAM is required as part of the *Grants.gov* registration process. The SAM registration process may take one month or longer to complete. A signed notarized letter identifying the SAM authorized entity administrator for the entity associated with the DUNS number is required. This requirement is applicable to new entities registering in SAM, as well as to existing entities with registrations being updated or renewed in SAM. Applicants without DUNS and/or EIN numbers should allow for additional time as an Applicant cannot register in SAM without those required numbers. Applicants that have previously completed the SAM registration process must verify that their SAM accounts are current and active. Each Applicant must continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an Application under consideration by a Federal awarding agency. The CDFI Fund will not consider any Applicant that fails to properly register or activate its SAM account and, as a result, is unable to submit the SF–424 in *Grants.gov* or Application in AMIS by the applicable Application deadlines. These restrictions also apply to organizations that have not yet received a DUNS or EIN number. Applicants must contact SAM directly with questions related to registration or SAM account changes as the CDFI Fund does not maintain this system and has no ability to make changes or correct errors of any kind. For more information about SAM, visit *https://www.sam.gov.*

TABLE 11—*Grants.gov* REGISTRATION TIMELINE SUMMARY

Step	Agency	Estimated minimum time to complete
Obtain a DUNS number	Dun & Bradstreet	One (1) Week*.
Obtain an EIN Number	Internal Revenue Service (IRS)	Two (2) Weeks*.
Register in *SAM.gov*	System for Award Management (*SAM.gov*)	Four(4) Weeks*.
Register in *Grants.gov*	*Grants.gov*	One (1) Week**.

* Applicants are advised that the stated durations are estimates only and represent minimum timeframes. Actual timeframes may take longer. The CDFI Fund will not consider any Applicant that fails to properly register or activate its SAM account, has not yet received a DUNS or EIN number, and/or fails to properly register in *Grants.gov*.

** This estimate assumes an Applicant has a DUNS number, an EIN number, and is already registered in *SAM.gov*.

F. *Submission Dates and Times:*

1. *Submission Deadlines:* The following table provides the critical deadlines for the FY 2020 Funding Round.

TABLE 12—FY 2020 FUNDING ROUND CRITICAL DEADLINES FOR APPLICANTS

Description	Deadline	Time eastern time (ET)	Submission method
Last day to create AMIS Account (all Applicants).	March 23, 2020	11:59 p.m. ET	AMIS.
Last day to enter EIN and DUNS numbers in AMIS.	March 23, 2020	11:59 p.m. ET	AMIS.
Last day to submit SF–424 (Application for Federal Assistance).	March 23, 2020	11:59 p.m. ET	Electronically via *Grants.gov.*

TABLE 12—FY 2020 FUNDING ROUND CRITICAL DEADLINES FOR APPLICANTS—Continued

Description	Deadline	Time eastern time (ET)	Submission method
Last day to contact CDFI Program staff.	April 17, 2020	5:00 p.m. ET	Service Request via AMIS Or CDFI Fund Helpdesk: 202–653–0421.
Last day to contact AMIS–IT Help Desk (regarding AMIS technical problems only).	April 21, 2020	5:00 p.m. ET	Service Request via AMIS Or 202–653–0422 Or *AMIS@cdfi.treas.gov.*
Last day to submit CDFI Program Application for FA *or* TA.	April 21, 2020	11:59 p.m. ET	Electronically via AMIS.

2. *Confirmation of Application Submission in Grants.gov and AMIS:* Applicants are required to submit the OMB SF–424, Application for Federal Assistance through the *Grants.gov* system, under the CDFI Program Funding Opportunity Number by the applicable deadline. All other Required Application Documents (listed in Table 10) must be submitted through the AMIS website by the applicable deadline. Applicants must submit the SF–424 prior to submitting the Application in AMIS. If the SF–424 is not successfully accepted by *Grants.gov* by the deadline, the CDFI Fund will not review the Application submitted in AMIS, and the Application will be deemed ineligible.

a. *Grants.gov Submission Information:* Each Applicant will receive an email from *Grants.gov* immediately after submitting the SF–424 confirming that the submission has entered the *Grants.gov* system. This email will contain a tracking number for the submitted SF–424. Within 48 hours, the Applicant will receive a second email, which will indicate if the submitted SF–424 was either successfully validated or rejected with errors. However, Applicants should not rely on the email notification from *Grants.gov* to confirm that their SF–424 was validated. Applicants are strongly encouraged to use the tracking number provided in the first email to closely monitor the status of their SF–424 by contacting the helpdesk at *Grants.gov* directly. The Application material submitted in AMIS is not officially accepted by the CDFI Fund until *Grants.gov* has validated the SF–424.

b. *AMIS Submission Information:* AMIS is a web-based portal where Applicants will directly enter their Application information and add the required attachments listed in Table 10. AMIS will verify that the Applicant provided the minimum information required to submit an Application. Applicants are responsible for the quality and accuracy of the information and attachments included in the Application submitted in AMIS. The CDFI Fund strongly encourages Applicants to allow for sufficient time to review and complete all Required Application Documents listed in Table 10, and remedy any issues prior to the Application deadline. Each Application must be signed by an Authorized Representative in AMIS before it can be submitted. Applicants must ensure that the Authorized Representative is an employee or officer and is authorized to sign legal documents on behalf of the Applicant. Consultants working on behalf of the Applicant may not be designated as Authorized Representatives. Only an Authorized Representative or an Application Point of Contact may submit an Application. If an Authorized Representative or Application Point of Contact does not submit the Application, the Application will be deemed ineligible. Applicants may only submit one Base-FA or TA Application under the CDFI Program. Upon submission, the Application will be locked and cannot be resubmitted, edited, or modified in any way. The CDFI Fund will not unlock or allow multiple Application submissions.

3. *Late Submission:* The CDFI Fund will not accept an Application if the SF–424 is not submitted and accepted by *Grants.gov* by the SF–424 deadline. Additionally, the CDFI Fund will not accept an Application if it is not signed by an Authorized Representative and submitted in AMIS by the Application deadline. In either case, the CDFI Fund will not review any material submitted, and the Application will be deemed ineligible.

However, in cases where a Federal government administrative or technological error directly resulted in a late submission of the SF–424 or the Application, Applicants are provided two opportunities to submit a written request for acceptance of late submissions. The CDFI Fund will not consider the late submission of the SF–424 or the Application that was a direct result of a delay in a Federal Government process, unless such delay was the result of a Federal government administrative or technological error.

a. *SF–424 Late Submission:* In cases where a Federal government administrative or technological error directly resulted in the late submission of the SF–424, the Applicant must submit a written request for acceptance of the late SF–424 submission and include documentation of the error no later than two business days after the SF–424 deadline. The CDFI Fund will not respond to requests for acceptance of late SF–424 submissions after that time period. Applicants must submit late SF–424 submission requests to the CDFI Fund via an AMIS service request to the CDFI Program with a subject line of ''Late SF–424 Submission Request.''

b. *Application Late Submission:* In cases where a Federal government administrative or technological error directly resulted in a late submission of the Application in AMIS, the Applicant must submit a written request for acceptance of the late Application submission and include documentation of the error no later than two business days after the Application deadline. The CDFI Fund will not respond to requests for acceptance of late Application submissions after that time period. Applicants must submit late Application submission requests to the CDFI Fund via an AMIS service request to the CDFI Program with a subject line of ''Late Application Submission Request.''

G. *Funding Restrictions:* Base-FA, PPC–FA, DF–FA, HFFI–FA and TA awards are limited by the following:

1. *Base-FA awards:*

a. A Recipient shall use Base-FA funds only for the eligible activities described in Section II. (C)(1) of this NOFA and its Assistance Agreement.

b. With the exception of Bank Holding Company Applicants, Base-FA awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent.

c. Base-FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay Base-FA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

2. *PPC–FA awards:*

a. A Recipient shall use PPC–FA funds only for the eligible activities described in Section II. (C)(5) of this NOFA and its Assistance Agreement.

b. With the exception of Bank Holding Company Applicants, PPC–FA awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent.

c. PPC–FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay PPC–FA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

3. *DF–FA awards:*

a. A Recipient shall use DF–FA funds only for the eligible activities described in Section II. (C)(2) of this NOFA and its Assistance Agreement.

b. With the exception of Bank Holding Company Applicants, DF–FA awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent.

c. DF–FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay DF–FA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

2. *HFFI–FA awards:*

a. A Recipient shall use HFFI–FA funds only for the eligible activities described in Section II. (C)(4) of this NOFA and its Assistance Agreement.

b. With the exception of Bank Holding Company Applicants, HFFI–FA awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent.

c. HFFI–FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay HFFI–FA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

3. *TA grants:*

a. A Recipient shall use TA funds only for the eligible activities described in Section II. (C) (3) of this NOFA and its Assistance Agreement.

b. With the exception of Bank Holding Company Applicants, TA awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent.

c. TA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay TA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

V. Application Review Information

A. *Criteria:* If the Applicant has submitted an eligible Application, the CDFI Fund will conduct a substantive review in accordance with the criteria and procedures described in the Regulations, this NOFA, the Application guidance, and the Uniform Requirements. The CDFI Fund reserves the right to contact the Applicant by telephone, email, or mail for the purpose of clarifying or confirming Application information. If contacted, the Applicant must respond within the time period communicated by the CDFI Fund or risk that its Application will be rejected. The CDFI Fund will review the Base-FA, DF–FA, PPC–FA, HFFI–FA, and TA Applications in accordance with the process below. All internal and external reviewers will complete the CDFI Fund's conflict of interest process. The CDFI Fund's Application conflict of interest policy is located on the CDFI Fund's website.

1. *Base-FA Application Scoring, Award Selection, Review, and Selection Process:* The CDFI Fund will evaluate each Application using a five-step review process illustrated in the sections below. Applicants that meet the minimum criteria will advance to the next step in the review process. Applicants applying as a Community Partnership must describe the partnership in the Application pursuant to the requirements set forth in Table 8, and will be evaluated in accordance with the review process described below.

a. *Step 1: Eligibility Review:* The CDFI Fund will evaluate each Application to determine its eligibility status pursuant to Section III of this NOFA.

b. *Step 2: Financial Analysis and Compliance Risk Evaluation:*

i. *Step 2: Financial Analysis:* For Regulated Institutions, the CDFI Fund will consider financial safety and soundness information from the Appropriate Federal or State Banking Agency. As detailed in Table 8, each Regulated Institution FA Applicant must have a CAMELS/CAMEL rating of at least ''3'' and/or no significant materials concerns from its regulator.

For non-regulated Applicants, the CDFI Fund will evaluate the financial health and viability of each non-regulated Applicant using financial information provided by the Applicant. For the Financial Analysis, each non-regulated Applicant will receive a Total Financial Composite Score on a scale of one (1) to five (5), with one (1) being the highest rating. The Total Financial Composite Score is based on the analysis of twenty-three (23) financial indicators. Applications will be grouped based on the Total Financial Composite Score. Applicants must receive a Total Financial Composite Score of one (1), two (2), or three (3) to advance to Step 3. Applicants that receive an initial Total Financial Composite Score of four (4) or five (5) will be re-evaluated and re-scored by CDFI Fund staff. If the Total Financial Composite Score remains four (4) or five (5) after CDFI Fund staff review, the Applicant will not advance to Step 3.

ii. *Step 2: Compliance Risk Evaluation:* For the compliance analysis, the CDFI Fund will evaluate the compliance risk of each Applicant using information provided in the Application as well as an Applicant's reporting history, reporting capacity, and performance risk with respect to the CDFI Fund's PG&Ms. Each Applicant will receive a Total Compliance Composite Score on a scale of one (1) to

five (5), with one (1) being the highest rating. Applicants that receive an initial Total Compliance Composite Score of four (4) or five (5) will be re-evaluated by CDFI Fund Staff. If the Applicant is deemed a high compliance risk after CDFI Fund Staff review, the Applicant will not advance to Step 3.

c. *Step 3: Business Plan Review:* Applicants that proceed to Step 3 will be evaluated on the soundness of their comprehensive business plan. Two external non-CDFI Fund Reviewers will conduct the Step 3 evaluation. Reviewers will evaluate the Application sections listed in Table 13. All Applications will be reviewed in accordance with standard reviewer evaluation materials. Applications will be ranked based on Total Business Plan Scores, in descending order. In order to advance to Step 4, Applicants must receive a Total Business Plan Score that is either (1) equal to receiving a point score equivalent to a ''Good'' out of a ranking scale in descending order of Excellent, Good, Fair, Limited or Poor, in each section listed in Table 13, or (2) within the top 60% of the Core Applicant pool for Core Applicants or within the top 70% of the SECA Applicant pool for SECA Applicants, whichever is greater. In the case of tied Total Business Plan Scores that would prevent an Applicant from moving to Step 4, all Applicants with the same score will progress to Step 4. Lastly, the CDFI Fund may consider the geographic diversity of Applicants when determining the Step 4 Applicant pool.

TABLE 13—STEP 3: BASE-FA BUSINESS PLAN REVIEW SCORING CRITERIA

Base-FA application sections	Possible score	Score needed to advance
Executive Summary	([1])	N/A.
Business Strategy	12	N/A.
Market and Competitive Analysis	7	N/A.
Products and Services	12	N/A.
Management and Track Record	12	N/A.
Growth and Projections	7	N/A.
Total Business Plan Score	50	Core Applicants: Top 60% of all Core Applicant Step 3 Scores SECA Applicants: Top 70% of all SECA Applicant Step 3 Scores.

[1] Not scored.

d. *Step 4: Policy Objective Review:* The CDFI Fund internal reviewers will evaluate each Application to determine its ability to meet policy objectives of the CDFI Fund. Each Applicant will be evaluated in each of the categories listed in Table 14 below, and will receive a Total Policy Objective Review Composite Score on a scale of one (1) to five (5), with one (1) being the highest score. Applicants are then grouped according to Total Policy Objective Review Scores.

The CDFI Fund also conducts a due diligence review for Applications that includes an analysis of programmatic risk factors including, but not limited to: History of performance in managing Federal awards (including timeliness of reporting and compliance); ability to meet FA Objective(s) selected by Base-FA Applicants in their Applications; reports and findings from audits; and the Applicant's ability to effectively implement Federal requirements, each of which could impact the Total Policy Objective Review Score.

TABLE 14—STEP 4: BASE-FA POLICY REVIEW SCORING CRITERIA

Section	Possible scores	High score	Score needed to advance
Economic Distress	1, 2, 3, 4, or 5	1	N/A.
Economic Opportunities	1, 2, 3, 4, or 5	1	N/A.
Community Collaboration	1, 2, 3, 4, or 5	1	N/A.
Total Policy Objective Review Composite Score	1, 2, 3, 4, or 5	1	All Scores Advance.

e. *Step 5: Award Amount Determination:* The CDFI Fund determines an award amount for each Application based on the Step 4 Total Policy Objective Review Score, the Applicant's request amount, and on certain other factors, including but not limited to, an Applicant's deployment track record, minimum award size, and funding availability. Award amounts may be reduced from the requested award amount as a result of this analysis. For Core FA Applicants, the award cannot exceed 30% of the Applicant's total portfolio outstanding as of the end of the Applicant's most recent fiscal year. For SECA FA Applicants, the award cannot exceed 75% of the Applicant's total portfolio outstanding as of the end of the Applicant's most recent fiscal year.

2. *Healthy Food Financing Initiative-FA (HFFI–FA) Application Scoring, Award Selection, Review, and Selection Process:* A CDFI Fund internal reviewer will evaluate each HFFI–FA Application associated with a Base-FA Application that progresses to Step 4 of the FA Application review process. The reviewer will evaluate the Application sections listed in Table 15 and assign a Total HFFI- FA Score up to 60 points. The CDFI Fund will make awards to the highest scoring Applicants first. All Applications will be reviewed in accordance with standard reviewer evaluation materials. Applicants that fail to receive a Base-FA award will not be considered for a HFFI–FA award.

The CDFI Fund conducts additional levels of due diligence for Applications that are under consideration for an HFFI–FA award. Award amounts may be reduced from the requested award amount as a result of this analysis. The CDFI Fund may reduce awards sizes from requested amounts based on certain variables, including but not limited to, an Applicant's loan disbursement activity, total portfolio outstanding, or compliance with prior HFFI–FA awards. Lastly, the CDFI Fund may consider the geographic diversity of

Applicants when making its funding decisions.

TABLE 15—STEP 4 HFFI–FA APPLICATION SCORING CRITERIA

Sections	Possible score
Target Market Profile	10 points.
Healthy Food Financial Products.	10 points.
Projected HFFI-FA Activities	15 points.
HFFI Track Record	20 points.
Management Capacity for Providing Healthy Food Financing.	5 points.
Total HFFI-FA Possible Score.	60 points.

3. *Persistent Poverty Counties—Financial Assistance (PPC–FA) Application Scoring, Award Selection, Review, and Selection Process:* A CDFI Fund internal reviewer will evaluate the PPC–FA request of each associated Base-FA Application that progresses to Step 4 of the FA Application review process. PPC–FA requests are not scored. PPC–FA award amounts will be determined based on the total number of eligible Applicants and funding availability, the Applicant's requested amount, and on certain factors, including but not limited to, an Applicant's overall portfolio size, historical track record of deployment in PPC, pipeline of projects in PPC, minimum award size, and funding availability. Applicants that fail to receive a Base-FA award will not be considered for a PPC–FA award.

4. *Disability Funds-Financial Assistance (DF–FA) Application Scoring, Award Selection, Review, and Selection Process:* A CDFI Fund internal reviewer will evaluate each DF–FA Application associated with a Base-FA Application that progresses to Step 4 of the FA Application review process. The reviewer will evaluate the Application and assign a Total DF–FA Score on a scale of one (1) to three (3), with one (1) being the highest score. Applicants are then grouped according to Total DF–FA Score. All Applications will be reviewed in accordance with standard reviewer evaluation materials. Applicants that fail to receive a Base-FA award will not be considered for a DF–FA award. Award amounts will be determined on the basis of the Total DF–FA Score, the Applicant's requested amount, and on certain factors, including but not limited to, an Applicant's deployment track record, minimum award size, and funding availability. Award amounts may be reduced from the requested award amount as a result of this analysis. The CDFI Fund will make awards to the highest scoring Applicants first.

TABLE 16—STEP 3 DF–FA APPLICATION SCORING CRITERIA

Section	Possible scores	High score
DF–FA Narrative Questions.	1, 2, or 3.	1
Total DF–FA Score.	1, 2, or 3.	1

5. *Technical Assistance (TA) Application Scoring, Award Selection, Review, and Selection Process:* The CDFI Fund will evaluate each Application to determine its eligibility pursuant to Section III of this NOFA. If the Application satisfies the eligibility criteria, the CDFI Fund will evaluate the TA Application. Emerging CDFI Applicants must receive a rating of Low Risk or Medium Risk in Section I of the TA Business Plan Review to progress to Section II of the TA Business Plan Review. Emerging CDFI Applicants that receive a rating of High Risk in Section I of the TA Business Plan Review will not be considered for an award. Emerging CDFI and Certified CDFI Applicants must receive a rating of Low Risk or Medium Risk in Section II of the TA Business Plan Review to be considered for an award. Applicants that receive a rating of High Risk in Section II of the TA Business Plan Review will not be considered for an award. An Applicant that is a Certified CDFI will be evaluated on the demonstrated need for TA funding to build the CDFI's capacity, further the Applicant's strategic goals, and achieve impact within the Applicant's Target Market. An Applicant that is an Emerging CDFI will be evaluated on the Applicant's demonstrated capability and plan to achieve CDFI certification within three years, or if a prior Recipient, the certification PG&M stated in its prior Assistance Agreement. An Applicant that is an Emerging CDFI will also be evaluated on its demonstrated need for TA funding to build the CDFI's capacity and further its strategic goals. The CDFI Fund will rate each part of the TA Business Plan Review as indicated in Table 17.

TABLE 17—TA BUSINESS PLAN REVIEW

Business plan review component	Applicant type	Ratings
Section I:		
Primary Mission	Emerging CDFI Applicants	Low Risk, Medium Risk, or High Risk.
Financing Entity	Emerging CDFI Applicants.	
Target Market	Emerging CDFI Applicants.	
Accountability	Emerging CDFI Applicants.	
Development Services	Emerging CDFI Applicants.	
Section II:		
Target Market Needs & Strategy	Emerging and Certified CDFI Applicants	Low Risk, Medium Risk, or High Risk.
Organizational Capacity	Emerging and Certified CDFI Applicants.	
Management Capacity	Emerging and Certified CDFI Applicants.	

Each TA Application will be evaluated by one internal CDFI Fund reviewer. All Applications will be reviewed in accordance with CDFI Fund standard reviewer evaluation materials for the Business Plan Review.

The CDFI Fund conducts additional levels of due diligence for Applications that are under consideration for an award. This due diligence includes an analysis of programmatic and financial risk factors including, but not limited to, financial stability, history of performance in managing Federal awards (including timeliness of reporting and compliance), reports and findings from audits, and the Applicant's ability to effectively implement Federal requirements. The CDFI Fund will also evaluate the compliance risk of each Applicant using information provided in the Application as well as an Applicant's reporting history, reporting capacity, and performance risk with respect to the CDFI Fund's PG&Ms. Each Applicant will receive a Total Compliance

Composite Score on a scale of one (1) to five (5), with one (1) being the highest rating. Applicants that receive an initial Total Compliance Composite Score of four (4) or five (5) will be re-evaluated by CDFI Fund Staff. If the Applicant is deemed a high compliance risk after CDFI Staff review, the Applicant will not be considered for an award. The CDFI Fund will also evaluate the Applicant's ability to meet certification criteria of being a legal entity and a non-government entity. Award amounts may be reduced as a result of the due diligence analysis in addition to consideration of the Applicant's funding request and similar factors. Lastly, the CDFI Fund may consider the geographic diversity of Applicants when making its funding decisions.

6. *Regulated Institutions:* The CDFI Fund will consider safety and soundness information from the Appropriate Federal or State Banking Agency. If the Applicant is a CDFI Bank Holding Company, the CDFI Fund will consider information provided by the Appropriate Federal or State Banking Agencies about both the CDFI Bank Holding Company and the Certified CDFI Subsidiary Insured Depository Institution that will expend and carry out the award. If the Appropriate Federal or State Banking Agency identifies safety and soundness concerns, the CDFI Fund will assess whether such concerns cause or will cause the Applicant to be incapable of undertaking the activities for which funding has been requested.

7. *Non-Regulated Institutions:* The CDFI Fund must ensure, to the maximum extent practicable, that Recipients which are non-regulated CDFIs are financially and managerially sound, and maintain appropriate internal controls (12 U.S.C. 4707(f)(1)(A) and 12 CFR 1805.800(b)). Further, the CDFI Fund must determine that an Applicant's capacity to operate as a CDFI and its continued viability will not be dependent upon assistance from the CDFI Fund (12 U.S.C. 4704(b)(2)(A)). If it is determined that the Applicant is incapable of meeting these requirements, the CDFI Fund reserves the right to deem the Applicant ineligible or terminate the award.

B. *Anticipated Award Announcement:* The CDFI Fund anticipates making CDFI Program award announcements before September 30, 2020. However, the anticipated award announcement date is subject to change without notice.

C. *Application Rejection:* The CDFI Fund reserves the right to reject an Application if information (including administrative errors) comes to the CDFI Fund's attention that: Adversely affects an Applicant's eligibility for an award; adversely affects the Recipient's certification as a CDFI (to the extent that the award is conditional upon CDFI certification); adversely affects the CDFI Fund's evaluation or scoring of an Application; or indicates fraud or mismanagement on the Applicant's part. If the CDFI Fund determines any portion of the Application is incorrect in a material respect, the CDFI Fund reserves the right, in its sole discretion, to reject the Application. The CDFI Fund reserves the right to change its eligibility and evaluation criteria and procedures, if the CDFI Fund deems it appropriate. If the changes materially affect the CDFI Fund's award decisions, the CDFI Fund will provide information about the changes through its website. The CDFI Fund's award decisions are final, and there is no right to appeal decisions.

D. *External Non-CDFI Fund Reviewers:* All external non-CDFI Fund reviewers are selected based on criteria that includes a professional background in community and economic development finance, and experience reviewing the financial statements of all CDFI institution types. Reviewers must complete the CDFI Fund's conflict of interest process and be approved by the CDFI Fund. The CDFI Fund's Application reader conflict of interest policy is located on the CDFI Fund's website.

VI. Federal Award Administration Information

A. *Award Notification:* Each successful Applicant will receive an email ''notice of award'' notification from the CDFI Fund stating that its Application has been approved for an award. Each Applicant not selected for an award will receive an email stating that a debriefing notice has been provided in its AMIS account.

B. *Assistance Agreement:* Each Applicant selected to receive an award must enter into an Assistance Agreement with the CDFI Fund in order to receive a payment(s). The Assistance Agreement will set forth the award's terms and conditions, including but not be limited to the: (i) Award amount; (ii) award type; (iii) award uses; (iv) eligible use of funds; (v) PG&Ms; and (vi) reporting requirements. FA Assistance Agreements have three-year Periods of Performance. TA Assistance Agreements have two-year Period of Performance for Certified CDFIs and three-year Periods of Performance for Emerging CDFIs.

1. *Certificate of Good Standing:* All FA and TA Recipients that are not Regulated Institutions will be required to provide the CDFI Fund with a certificate of good standing from the secretary of state for the Recipient's jurisdiction of formation prior to closing. This certificate can often be acquired online on the secretary of state website for the Recipient's jurisdiction of formation and must generally be dated within 180 days prior to the date the Recipient executes the Assistance Agreement. Due to potential backlogs in state government offices, Applicants are advised to submit requests for certificates of good standing no later than 60 days after they submit their Applications.

2. *Closing:* Pursuant to the Assistance Agreement, there will be an initial closing at which point the Assistance Agreement and related documents will be properly executed and delivered, and an initial payment of FA or TA may be made. FA Recipients that are subject to the matching funds requirement will not receive a payment until 100% of their matching funds are In-Hand. The first payment is the estimated amount of the award that the Recipient states in its Application that it will use for eligible FA or TA activities in the first 12 months after the award announcement. The CDFI Fund reserves the right to increase the first payment amount on any award to ensure that any subsequent payments are at least $25,000 for FA and $5,000 for TA awards.

The CDFI Fund will minimize the time between the Recipient incurring costs for eligible activities and award payment(s) in accordance with the Uniform Requirements. Advanced payments for eligible activities will occur no more than one year in advance of the Recipient incurring costs for the eligible activities. Following the initial closing, there may be subsequent closings involving additional award payments. Any documentation in addition to the Assistance Agreement that is connected with such subsequent closings and payments shall be properly executed and timely delivered by the Recipient to the CDFI Fund.

3. *Requirements Prior to Entering into an Assistance Agreement:* If, prior to entering into an Assistance Agreement, information (including administrative errors) comes to the CDFI Fund's attention that: Adversely affects the Recipient's eligibility for an award; adversely affects the Recipient's certification as a CDFI (to the extent that the award is conditional upon CDFI certification); adversely affects the CDFI Fund's evaluation of the Application; indicates that the Recipient is not in compliance with any requirement listed in the Uniform Requirements; indicates the Recipient has failed to execute and

return a prior round Assistance Agreement to the CDFI Fund within the CDFI Fund's deadlines; or indicates fraud or mismanagement on the Recipient's part, the CDFI Fund may, in its discretion and without advance notice to the Recipient, terminate the award or take such other actions as it deems appropriate. The CDFI Fund reserves the right, in its sole discretion, to rescind an award if the Recipient fails to return the Assistance Agreement, signed by the Authorized Representative of the Recipient, and/or provide the CDFI Fund with any requested documentation, within the CDFI Fund's deadlines.

In addition, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Assistance Agreement and the award made under this NOFA pending the criteria described in the following table:

TABLE 18—REQUIREMENTS PRIOR TO EXECUTING AN ASSISTANCE AGREEMENT

Requirement	Criteria
Failure to meet reporting requirements.	• If a Recipient received a prior award under any CDFI Fund program and is not in compliance with the reporting requirements of the previously executed agreement(s), the CDFI Fund may delay entering into an Assistance Agreement or disbursing an award until such reporting requirements are met. If the Recipient is unable to meet the requirement(s) within the timeframe specified by the CDFI Fund, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA. • The automated systems the CDFI Fund uses only acknowledge a report's receipt and are not a determination of meeting reporting requirements.
Failure to maintain CDFI Certification.	• An FA Recipient must be a Certified CDFI. • If an FA Recipient fails to maintain CDFI Certification, the CDFI Fund will terminate and rescind the Assistance Agreement and the award made under this NOFA. • If TA Recipient is a Certified CDFI at the time of award announcement, it must maintain CDFI Certification. • If a Certified CDFI TA Recipient fails to maintain CDFI Certification, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA.
Pending resolution of noncompliance.	• The CDFI Fund will delay entering into an Assistance Agreement with a Recipient that has pending noncompliance issues with any of its previously executed CDFI award agreement(s), if the CDFI Fund has not yet made a final compliance determination. • If the Recipient is unable to satisfactorily resolve the compliance issues, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA.
Noncompliance or default status	• If, at any time prior to entering into an Assistance Agreement, the CDFI Fund determines that a Recipient is noncompliant or found in default with any previously executed award agreement(s) and the CDFI Fund has provided written notification that the Recipient is ineligible to apply for or receive any future awards or allocations for a time period specified by the CDFI Fund in writing, the CDFI Fund may delay entering into an Assistance Agreement until the Recipient has cured the noncompliance by taking actions the CDFI Fund has specified within such specified timeframe. If the Recipient is unable to cure the noncompliance within the specified timeframe, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA.
Compliance with Federal civil rights requirements.	• If, prior to entering into an Assistance Agreement under this NOFA, the Recipient receives a final determination, made within the last three years, in any proceeding instituted against the Recipient in, by, or before any court, governmental, or administrative body or agency, declaring that the Recipient has violated the following laws: Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975, (42 U.S.C. 6101–6107), and Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, the CDFI Fund will terminate and rescind the Assistance Agreement and the award made under this NOFA.
Do Not Pay	• The Do Not Pay Business Center was developed to support Federal agencies in their efforts to reduce the number of improper payments made through programs funded by the Federal government. • The CDFI Fund reserves the right, in its sole discretion, to rescind an award if the Recipient is identified as an ineligible Recipient in the Do Not Pay database.
Safety and soundness	• If it is determined the Recipient is, or will be, incapable of meeting its award obligations, the CDFI Fund will deem the Recipient to be ineligible, or require it to improve its safety and soundness prior to entering into an Assistance Agreement.

C. *Reporting:*

1. *Reporting requirements:* On an annual basis during the Period of Performance, the CDFI Fund may collect information from each Recipient including, but not limited to, an Annual Report with the following components (Annual Reporting Requirements):

TABLE 19—ANNUAL REPORTING REQUIREMENTS *

Financial Statement Audit Report (Non-profit Recipient including Insured Credit Unions and State-Insured Credit Unions).	A Non-profit Recipient (including Insured Credit Unions and State-Insured Credit Unions) must submit a Financial Statement Audit (FSA) report in AMIS, along with the Recipient's statement of financial condition audited or reviewed by an independent certified public accountant, if any are prepared. Under no circumstances should this be construed as the CDFI Fund requiring the Recipient to conduct or arrange for additional audits not otherwise required under Uniform Requirements or otherwise prepared at the request of the Recipient or parties other than the CDFI Fund.
Financial Statement Audit Report (For-Profit Recipient).	For-profit Recipients must submit a FSA report in AMIS, along with the Recipient's statement of financial condition audited or reviewed by an independent certified public accountant.

TABLE 19—ANNUAL REPORTING REQUIREMENTS *—Continued

Financial Statement Audit Report (Bank Holding Company and Insured Depository Institution).	If the Recipient is a Bank Holding Company or an Insured Depository Institution, it must submit a FSA report in AMIS.
Single Audit Report (Non-Profit Recipients, if applicable).	A non-profit Recipient must complete an annual Single Audit pursuant to the Uniform Requirements (2 CFR 200.500) if it expends $750,000 or more in Federal awards in its fiscal year, or such other dollar threshold established by OMB pursuant to 2 CFR 200.500. If a Single Audit is required, it must be submitted electronically to the Federal Audit Clearinghouse (FAC) (see 2 CFR Subpart F-Audit Requirements in the Uniform Requirements) and optionally through AMIS.
Transaction Level Report (TLR)	The Recipient must submit a TLR to the CDFI Fund through AMIS. If the Recipient is a Bank Holding Company that deploys all or a portion of its Financial Assistance through its Subsidiary CDFI Insured Depository Institution, that Subsidiary CDFI Insured Depository Institution must also submit a TLR. Furthermore, if the Bank Holding Company itself deploys any portion of the Financial Assistance, the Bank Holding Company must submit a TLR. The TLR is not required for TA Recipients.
Uses of Award Report	The Recipient must submit the Uses of Award Report to the CDFI Fund in AMIS. If the recipient is a Bank Holding Company that deploys all or a portion of its Financial Assistance through its Subsidiary CDFI Insured Depository Institution, that Subsidiary CDFI Insured Depository Institution must also submit a Uses of Award Report. Furthermore, if the Bank Holding Company itself deploys any portion of the Financial Assistance, the Bank Holding Company must submit a Uses of Award Report.
Shareholders Report	If the Assistance is in the form of an Equity Investment, the Recipient must submit shareholder information to the CDFI Fund showing the class, series, number of shares and valuation of capital stock held or to be held by each shareholder. The Shareholder Report must be submitted for as long as the CDFI Fund is an equity holder. The Shareholders Report is submitted through AMIS.
Performance Progress Report	The Recipient must submit the Performance Progress Report through AMIS. If the Recipient is a Bank Holding Company that deploys all or a portion of its Financial Assistance through its Subsidiary CDFI Insured Depository Institution, that Subsidiary CDFI Insured Depository Institution must also submit a Performance Progress Report. Furthermore, if the Bank Holding Company itself deploys any portion of the Financial Assistance, the Bank Holding Company must submit a Performance Progress Report.

* Personally Identifiable Information (PII) is information, which if lost, compromised, or disclosed without authorization, could result in substantial harm, embarrassment, inconvenience, or unfairness to an individual. Although Applicants are required to enter addresses of individual borrowers/residents of Distressed Communities in AMIS, Applicants should *not* include the following PII for the individuals who received the financial products or services in AMIS or in the supporting documentation (*i.e.*—name of the individual, Social Security Number, driver's license or state identification number, passport number, Alien Registration Number, etc.). *This information should be redacted from all supporting documentation.*

Each Recipient is responsible for the timely and complete submission of the Annual Reporting Requirements. The CDFI Fund reserves the right to contact the Recipient and additional entities or signatories to the Assistance Agreement to request additional information and/or documentation. The CDFI Fund will use such information to monitor each Recipient's compliance with the requirements of the Assistance Agreement and to assess the impact of the CDFI Program. The CDFI Fund reserves the right, in its sole discretion, to modify these reporting requirements, including increasing the scope and frequency of reporting, if it determines it to be appropriate and necessary; however, such reporting requirements will be modified only after notice to Recipients.

2. *Financial Management and Accounting:* The CDFI Fund will require Recipients to maintain financial management and accounting systems that comply with Federal statutes, regulations, and the terms and conditions of the Federal award. These systems must be sufficient to permit the preparation of reports required by the CDFI Fund to ensure compliance with the terms and conditions of the CDFI Program, including the tracing of funds to a level of expenditures adequate to establish that such funds have been used in accordance with Federal statutes, regulations, and the terms and conditions of the Federal award.

The cost principles used by Recipients must be consistent with Federal cost principles and support the accumulation of costs as required by the principles, and must provide for adequate documentation to support costs charged to the CDFI Program award. In addition, the CDFI Fund will require Recipients to: Maintain effective internal controls; comply with applicable statutes, regulations, and the Assistance Agreement; evaluate and monitor compliance; take appropriate action when not in compliance; and safeguard personally identifiable information.

VII. Agency Contacts

A. The CDFI Fund will respond to questions concerning this NOFA and the Application between the hours of 9:00 a.m. and 5:00 p.m. Eastern Time, starting on the date that the NOFA is published through the date listed in Table 1 and Table 12. The CDFI Fund strongly recommends Applicants submit questions to the CDFI Fund via an AMIS service request to the CDFI Program, Office of Certification, Compliance Monitoring and Evaluation, or IT Help Desk. The CDFI Fund will post on its website responses to reoccurring questions received about the NOFA and Application. Other information regarding the CDFI Fund and its programs may be obtained from the CDFI Fund's website at *http://www.cdfifund.gov.* Table 20 lists CDFI Fund contact information:

TABLE 20—CONTACT INFORMATION

Type of question	Preferred method	Telephone No. (not toll free)	Email addresses
CDFI Program	Service Request via AMIS	202–653–0421, option 1	*cdfihelp@cdfi.treas.gov*
CCME	Service Request via AMIS	202–653–0423	*ccme@cdfi.treas.gov*
AMIS—IT Help Desk	Service Request via AMIS	202–653–0422	*AMIS@cdfi.treas.gov*

B. *Information Technology Support:* For IT assistance, the preferred method of contact is to submit a Service Request within AMIS. For the Service Request, select ''Technical Issues'' from the Program dropdown menu of the Service Request. People who have visual or mobility impairments that prevent them from using the CDFI Fund's website should call (202) 653–0422 for assistance (this is not a toll free number).

C. *Communication with the CDFI Fund:* The CDFI Fund will use the contact information in AMIS to communicate with Applicants and Recipients. It is imperative, therefore, that Applicants, Recipients, Subsidiaries, Affiliates, and signatories maintain accurate contact information in their accounts. This includes information such as contact names (especially for the Authorized Representative), email addresses, fax and phone numbers, and office locations.

D. *Civil Rights and Diversity:* Any person who is eligible to receive benefits or services from the CDFI Fund or Recipients under any of its programs is entitled to those benefits or services without being subject to prohibited discrimination. The Department of the Treasury's Office of Civil Rights and Diversity enforces various Federal statutes and regulations that prohibit discrimination in financially assisted and conducted programs and activities of the CDFI Fund. If a person believes that s/he has been subjected to discrimination and/or reprisal because of membership in a protected group, s/he may file a complaint with: Associate Chief Human Capital Officer, Office of Civil Rights, and Diversity, 1500 Pennsylvania Ave NW, Washington, DC 20220 or (202) 622–1160 (not a toll-free number).

E. *Statutory and National Policy Requirements:* The CDFI Fund will manage and administer the Federal award in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with the U.S. Constitution, Federal Law, statutory, and public policy requirements: Including but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

VIII. Other Information

A. *Paperwork Reduction Act:* Under the Paperwork Reduction Act (44 U.S.C. chapter 35), an agency may not conduct or sponsor a collection of information, and an individual is not required to respond to a collection of information, unless it displays a valid OMB control number. If applicable, the CDFI Fund may inform Applicants that they do not need to provide certain Application information otherwise required. Pursuant to the Paperwork Reduction Act, the CDFI Program, and NACA Program Application has been assigned the following control number: 1559–0021, inclusive of PPC–FA, DF–FA, and HFFI–FA.

B. *Application Information Sessions:* The CDFI Fund may conduct webinars or host information sessions for organizations that are considering applying to, or are interested in learning about, the CDFI Fund's programs. For further information, visit the CDFI Fund's website at *http://www.cdfifund.gov.*

Authority: 12 U.S.C. 4701, et seq; 12 CFR parts 1805 and 1815; 2 CFR part 200.

Jodie L. Harris,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2020–03440 Filed 2–20–20; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Notice of Funds Availability Inviting Applications for Financial Assistance Awards or Technical Assistance Grants Under the Native American CDFI Assistance Fiscal Year 2020 Funding Round

Funding Opportunity Title: Notice of Funds Availability (NOFA) inviting Applications for Financial Assistance (FA) awards or Technical Assistance (TA) grants under the Native American CDFI Assistance (NACA Program) fiscal year (FY) 2020 Funding Round.

Announcement Type: Announcement of funding opportunity.

Funding Opportunity Number: CDFI–2020–NACA.

Catalog Of Federal Domestic Assistance (CFDA) Number: 21.012.

DATES:

TABLE 1—FY 2020 NACA PROGRAM FUNDING ROUND CRITICAL DEADLINES FOR APPLICANTS

Description	Deadline	Time (eastern time—ET)	Submission method
Last day to create an Awards Management Information Systems (AMIS) Account (all Applicants).	March 23, 2020	11:59 p.m. ET	AMIS
Last day to enter EIN and DUNS numbers in AMIS (all Applicants).	March 23, 2020	11:59 p.m. ET	AMIS
Last day to submit SF–424 (Application for Federal Assistance).	March 23, 2020	11:59 p.m. ET	Electronically via *Grants.gov*
Last day to contact NACA Program staff	April 17, 2020	5:00 p.m. ET	Service Request via AMIS Or CDFI Fund Helpdesk: 202–653–0421
Last day to contact AMIS–IT Help Desk (regarding AMIS technical problems only).	April 21, 2020	5:00 p.m. ET	Service Request via AMIS Or 202–653–0422 Or *AMIS@cdfi.treas.gov*

TABLE 1—FY 2020 NACA PROGRAM FUNDING ROUND CRITICAL DEADLINES FOR APPLICANTS—Continued

Description	Deadline	Time (eastern time—ET)	Submission method
Last day to submit NACA Program Application for Financial Assistance (FA) *or* Technical Assistance (TA).	April 21, 2020	11:59 p.m. ET	AMIS

Executive Summary: Through the NACA Program, the Community Development Financial Institutions (CDFI) Fund provides (i) FA awards of up to $1 million to Certified Community Development Financial Institutions (CDFIs) serving Native American, Alaska Native, or Native Hawaiian populations or Native American areas defined as Federally-designated reservations, Hawaiian homelands, Alaska Native Villages and U.S. Census Bureau-designated Tribal Statistical Areas (collectively, ''Native Communities'') to build their financial capacity to lend to Eligible Markets and/or their Target Markets, and (ii) TA grants of up to $150,000 to build Certified, and Emerging CDFIs' organizational capacity to serve Eligible Markets and/or their Target Markets, and Sponsoring Entities ability to create Certified CDFIs that serve Native Communities. All awards provided through this NOFA are subject to funding availability.

I. Program Description

A. *History:* The CDFI Fund was established by the Riegle Community Development Banking and Financial Institutions Act of 1994 to promote economic revitalization and community development through investment in and assistance to CDFIs. The Native American CDFI Assistance (NACA) Program made its first awards in 2002, after the CDFI Program began making awards in 1996.

B. *Priorities:* Through the NACA Program's FA awards and TA grants, the CDFI Fund invests in and builds the capacity of for-profit and non-profit community based lending organizations known as CDFIs. These organizations, certified as CDFIs by the CDFI Fund, serve Native Communities.

C. *Authorizing Statutes and Regulations:* The CDFI Program is authorized by the Riegle Community Development Banking and Financial Institutions Act of 1994 (Pub. L. 103–325, 12 U.S.C. 4701 *et seq.*) (Authorizing Statute). The regulations governing the NACA Program are found at 12 CFR parts 1805 and 1815 (the Regulations) and are used by the CDFI Fund to govern, in general, the NACA Program, setting forth evaluation criteria and other program requirements. The CDFI Fund encourages Applicants to review the Regulations; this NOFA; the NACA Program Application for Financial Assistance or Technical Assistance (the Application); all related materials and guidance documents found on the CDFI Fund's website (Application Materials); and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 1000), which is the Department of the Treasury's codification of the Office of Management and Budget (OMB) government-wide framework for grants management at 2 CFR part 200 (the Uniform Requirements) for a complete understanding of the NACA Program. Capitalized terms in this NOFA are defined in the Authorizing Statute, the Regulations, this NOFA, the Application, Application Materials, or the Uniform Requirements. Details regarding Application content requirements are found in the Application and Application Materials.

D. *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 1000):* The Uniform Requirements codify financial, administrative, procurement, and program management standards that Federal award agencies must follow. When evaluating Applications, awarding agencies must evaluate the risks to the program posed by each Applicant, and each Applicant's merits and eligibility. These requirements are designed to ensure that Applicants for Federal assistance receive a fair and consistent review prior to an award decision. This review will assess items such as the Applicant's financial stability, quality of management systems, the soundness of its business plan, history of performance, ability to achieve measurable impacts through its products and services, and audit findings. In addition, the Uniform Requirements include guidance on audit requirements and other award compliance requirements for Recipients.

E. *Funding limitations:* The CDFI Fund reserves the right to fund, in whole or in part, any, all, or none of the Applications submitted in response to this NOFA. The CDFI Fund also reserves the right to reallocate funds from the amount that is anticipated to be available through this NOFA to other CDFI Fund initiatives that are designed to benefit Native Communities, particularly if the CDFI Fund determines that the number of awards made through this NOFA is fewer than projected.

II. Federal Award Information

A. *Funding Availability:*

1. *FY 2020 Funding Round:* The CDFI Fund expects to award, through this NOFA, approximately $15.5 million as indicated in the following table:

TABLE 2—FY 2020 FUNDING ROUND ANTICIPATED CATEGORY AMOUNTS

Funding Categories (see definition in Table 7 for TA or Table 8 for FA)	Estimated total amount to be awarded (millions)	Award amount		Estimated number of awards for FY 2020	Estimate average amount awarded in FY 2020	Average amount awarded in FY 2019
		Minimum	Maximum			
Base-FA	$11	$150,000	$1,000,000	23	$475,000	$521,300
Persistent Poverty Counties—Financial Assistance (PPC–FA)	1.5	100,000	300,000	11	140,000	136,900
TA	3	10,000	150,000	20	148,000	148,000
Total (Base-FA, PPC–FA, and TA) ..	15.5	.....	.....	54	.....	.....

TABLE 2—FY 2020 FUNDING ROUND ANTICIPATED CATEGORY AMOUNTS—Continued

Funding Categories (see definition in Table 7 for TA or Table 8 for FA)	Estimated total amount to be awarded (millions)	Award amount		Estimated number of awards for FY 2020	Estimate average amount awarded in FY 2020	Average amount awarded in FY 2019
		Minimum	Maximum			
Disability Funds—Financial Assistance (DF–FA) *	3	100,000	500,000	16	187,000	187,000
Healthy Food Financing Initiative—Financial Assistance (HFFI–FA)*	22	500,000	5,000,000	14	1,600,000	1,571,000

* DF–FA and HFFI–FA appropriation will be allocated in one competitive round between the NACA and CDFI Program NOFAs.

The CDFI Fund reserves the right to award more or less than the amounts cited above in each category, based upon available funding and other factors, as appropriate.

2. *Funding Availability for the FY 2020 Funding Round:* As of the date of this NOFA, the CDFI Fund is operating under the Consolidated Appropriations Act, 2020 (Pub. L. 116–93).

3. *Anticipated Start Date and Period of Performance:* The Period of Performance for TA grants begins with the date of the award announcement and includes either (i) an Emerging CDFI Recipient's three full consecutive fiscal years after the date of the award announcement, or (ii) a Certified CDFI Recipient's two full consecutive fiscal years after the date of the award announcement, or (iii) a Sponsoring Entity Recipient's four full years after the date of the award announcement, during which the Recipient must meet the Performance Goals and Measures (PG&Ms) set forth in the Assistance Agreement. The Period of Performance for FA awards begins with the date of the award announcement and includes a Recipient's three full consecutive fiscal years after the date of the award announcement, during which time the Recipient must meet the PG&Ms set forth in the Assistance Agreement.

B. *Types of Awards:* Through the NACA Program, the CDFI Fund provides two types of awards: Financial Assistance (FA) and Technical Assistance (TA) awards. *An Applicant may submit an Application for a TA grant or an FA award under the NACA Program, but not both.* FA Awards include the Base Financial Assistance (Base-FA) award and the following awards that are provided as a supplement to the Base-FA award: Healthy Food Financing Initiative-Financial Assistance (HFFI–FA), Persistent Poverty Counties-Financial Assistance (PPC–FA), and Disability Funds-Financial Assistance (DF–FA). The HFFI–FA, PPC–FA, and DF–FA Applications will be evaluated independently from the Base-FA Application, and will not affect the Base-FA Application evaluation or Base-FA award amount.

However, Applicants that qualify for the NACA Program may submit two Applications: *one* Application—either for a TA grant or an FA award, but not both—through the CDFI Program, and *one* Application—either for a TA grant or an FA award, but not both—through the NACA Program. NACA qualified Applicants that choose to apply for awards through both the CDFI Program and the NACA Program may either apply for the same type of award under each Program or for a different type of award under each Program. NACA qualified FA Applicants that choose to apply for an FA award under both the NACA Program and CDFI Program and are selected for an award under both Programs will be provided the FA award under the CDFI Program. NACA qualified TA Applicants that choose to apply for a TA award under both the NACA Program and CDFI Program and are selected for an award under both Programs will be provided the TA award under the NACA Program. NACA qualified Applicants that choose to apply for a TA award and a FA award under separate programs will be provided the larger of the two awards. NACA Applicants cannot receive an award under both Programs within the same funding round. The matching funds requirement for NACA Program FA Applicants was waived in the enacted FY 2020 Consolidated Appropriations Act. Therefore, NACA Program FA Applicants are not required to submit matching funds for their award requests including Base-FA, DF–FA, HFFI–FA, and PPC–FA. TA Applicants are not required to provide matching funds.

1. *Base-FA Awards:* Base-FA awards can be in the form of loans, grants, Equity Investments, deposits and credit union shares. The form of the Base-FA award is based on the form of the matching funds that the Applicant includes in its Application, unless Congress waived the matching funds requirement. The matching funds requirement was waived for NACA Program Applicants and therefore the Base-FA award will be in the form of a grant for the NACA Program. The CDFI Fund reserves the right, in its sole discretion, to provide a Base-FA award in an amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its Application.

2. *Persistent Poverty Counties—Financial Assistance (PPC–FA) Awards:* PPC–FA awards will be provided as a supplement to Base-FA awards; therefore, only those Applicants that are selected to receive a Base-FA award through the NACA Program FY 2020 Funding Round will be eligible to receive a PPC–FA award. PPC–FA awards can be in the form of loans, grants, Equity Investment, deposits and credit union shares. The form of the PPC–FA award is based on the form of the matching funds that the Applicant includes in its Application, unless Congress waived the matching funds requirement. The matching funds requirement was waived for NACA Program Applicants and therefore the PPC–FA award will be in the form of a grant for NACA Program Applicants. The CDFI Fund reserves the right, in its sole discretion, to provide a PPC–FA award in an amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its Application.

3. *Disability Funds—Financial Assistance (DF–FA) Awards:* DF–FA awards will be provided as a supplement to Base-FA awards; therefore, only those Applicants that have been selected to receive a Base-FA award through the NACA Program FY 2020 Funding Round will be eligible to receive a DF–FA award. DF–FA awards can be in the form of loans, grants, Equity Investments, deposits and credit union shares. The form of the DF–FA award is based on the form of the matching funds that the Applicant includes in its Application, unless Congress waived the matching funds requirement. The matching funds

requirement was waived for NACA Program Applicants and therefore the DF–FA award will be in the form of a grant for NACA Program Applicants. The CDFI Fund reserves the right, in its sole discretion, to provide a DF–FA award in an amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its Application.

4. *Healthy Food Financing Initiative—Financial Assistance (HFFI–FA) Awards:* HFFI–FA awards will be provided as a supplement to Base-FA awards; therefore, only those Applicants that have been selected to receive a Base-FA award through the NACA Program FY 2020 Funding Round will be eligible to receive an HFFI–FA award. HFFI–FA awards can be in the form of loans, grants, Equity Investments, deposits and credit union shares. The form of the HFFI–FA award is based on the form of the matching funds that the Applicant includes in its Application, unless Congress waived the matching funds requirement. The matching funds requirement was waived for HFFI–FA Applicants and therefore the HFFI–FA awards will be in the form of a grant. The CDFI Fund reserves the right, in its sole discretion, to provide an HFFI–FA award in an amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its Application.

5. *TA Grants:* TA is provided in the form of grants. The CDFI Fund reserves the right, in its sole discretion, to provide a TA grant in an amount other than that which the Applicant requests; however, the TA grant amount will not exceed the Applicant's request as stated in its Application.

C. *Eligible Activities:*

1. *FA Awards:* Base-FA, PPC–FA, DF–FA, and HFFI–FA award funds may be expended for activities serving Commercial Real Estate, Small Business, Microenterprise, Community Facilities, Consumer Financial Products, Consumer Financial Services, Commercial Financial Products, Commercial Financial Services, Affordable Housing, Intermediary Lending to Non-Profits and CDFIs, and other lines of business as deemed appropriate by the CDFI Fund in the following five categories: (i) Financial Products; (ii) Financial Services; (iii) Loan Loss Reserves; (iv) Development Services; and (v) Capital Reserves. The FA budget is the amount of the award and must be expended in the five eligible activity categories prior to the end of the Period of Performance. Base-FA Recipients must meet PG&Ms, which will be derived from projections and attestations provided by the Applicant in its Application, to achieve one or more of the following FA Objectives: (i) Increase Volume of Financial Products in an Eligible Market(s) and/or in the Applicant's approved Target Market and/or Increase Volume of Financial Services in an Eligible Market(s) and/or in the Applicant's approved Target Market; (ii) Serve Eligible Market(s) or the Applicant's approved Target Market in New Geographic Area or Areas; (iii) Provide New Financial Products in an Eligible Market(s) and/or in the Applicant's approved Target Market, Provide New Financial Services in an Eligible Market(s) and/or in the Applicant's approved Target Market, or Provide New Development Services in an Eligible Market(s) and/or in the Applicant's approved Target Market; and (iv) Serve New Targeted Population or Populations. At the end of each year of the Period of Performance, 50% or more of the Financial Products closed by NACA Recipients must be in Native Communities. FA awards may only be used for Direct Costs associated with an eligible activity; no indirect expenses are allowed. Up to 15% of the FA award may be used for Direct Administrative Expenses associated with an eligible FA activity. ''Direct Administrative Expenses'' shall mean Direct Costs, as described in section 2 CFR 200.413 of the Uniform Requirements, which are incurred by the Recipient to carry out the Financial Assistance. Direct Costs incurred to provide Development Services or Financial Services do not constitute Direct Administrative Expenses.

The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs. For purposes of this NOFA, the five eligible activity categories are defined below:

TABLE 3—BASE-FA, PPC–FA, DF–FA, AND HFFI–FA ELIGIBLE ACTIVITY CATEGORIES

FA eligible activity	FA eligible activity definition *	Eligible CDFI institution types
i. Financial Products	FA expended as loans, Equity Investments and similar financing activities (as determined by the CDFI Fund) including the purchase of loans originated by certified CDFIs and the provision of loan guarantees. In the case of CDFI Intermediaries, Financial Products may also include loans to CDFIs and/or emerging CDFIs, and deposits in Insured Credit Union CDFIs, emerging Insured Credit Union CDFIs, and/or State-Insured Credit Union CDFIs. For HFFI–FA, however, the purchase of loans originated by certified CDFIs, loan refinancing, or any type of financing for prepared food outlets are not eligible activities.	All
ii. Financial Services	FA expended for providing checking, savings accounts, check cashing, money orders, certified checks, automated teller machines, deposit taking, safe deposit box services, and other similar services.	Regulated Institutions [1] only Not applicable for HFFI–FA Recipients
iii. Loan Loss Reserves	FA set aside in the form of cash reserves, or through accounting-based accrual reserves, to cover losses on loans, accounts, and notes receivable or for related purposes that the CDFI Fund deems appropriate.	All
iv. Development Services	FA expended for activities undertaken by a CDFI, its Affiliate or contractor that (i) promote community development and (ii) prepare or assist current or potential borrowers or investees to use the CDFI's Financial Products or Financial Services. For example, such activities include financial or credit counseling; homeownership counseling; business planning; and management assistance.	All

TABLE 3—BASE-FA, PPC–FA, DF–FA, AND HFFI–FA ELIGIBLE ACTIVITY CATEGORIES—Continued

FA eligible activity	FA eligible activity definition *	Eligible CDFI institution types
v. Capital Reserves	FA set aside as reserves to support the Applicant's ability to leverage other capital, for such purposes as increasing its net assets or providing financing, or for related purposes as the CDFI Fund deems appropriate.	Regulated Institutions only. Not applicable for DF–FA

* All FA eligible activities must be in an Eligible Market or the Applicant's approved Target Market. Eligible Market is defined as (i) a geographic area meeting the requirements set forth in 12 CFR 1805.201(b)(3)(ii), or (ii) individuals that are Low-Income, African American, Hispanic, Native American, Native Hawaiians residing in Hawaii, Alaska Natives residing in Alaska, or Other Pacific Islanders residing in American Samoa, Guam or the Northern Mariana Islands.

2. *DF–FA Award:* DF–FA award funds may only be expended for eligible FA activities (referenced in Table 3) to directly or indirectly benefit individuals with disabilities. The DF–FA Recipient must close Financial Products for the primary purpose of directly or indirectly benefiting people with disabilities, where the majority of the DF–FA supported loans or investments benefit individuals with disabilities, in an amount equal to or greater than 85% of the total DF–FA provided. Eligible DF–FA financing activities may include, among other activities, loans to develop or purchase affordable, accessible, and safe housing; loans to provide or facilitate employment opportunities; and loans to purchase assistive technology.

For the purposes of DF–FA, a person with a Disability is a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment, as defined by the American Disabilities Act (ADA) at *https://www.ada.gov/cguide.htm.*

3. *TA Grants:* TA grant funds may be expended for the following eight eligible activity categories: (i) Compensation—Personal Services; (ii) Compensation—Fringe Benefits; (iii) Professional Service Costs; (iv) Travel Costs; (v) Training and Education Costs; (vi) Equipment; (vii) Supplies; and (viii) Incorporation Costs. Only Sponsoring Entities may use TA grant funds for incorporation costs. The TA budget is the amount of the award and must be expended in the eight eligible activity categories before the end of the Period of Performance. None of the eligible activity categories will be authorized for indirect costs or an associated indirect cost rate. Any expenses that are prohibited by the Uniform Requirements are unallowable and are generally found in Subpart E-Cost Principles. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs. For purposes of this NOFA, the eight eligible activity categories are defined below:

TABLE 4—TA ELIGIBLE ACTIVITY CATEGORIES, SUBJECT TO THE APPLICABLE PROVISIONS OF THE UNIFORM REQUIREMENTS

(i) Compensation— Personal Services	TA paid to cover all remuneration paid currently or accrued, for services of Applicant's employees rendered during the Period of Performance under the TA grant in accordance with section 200.430 of the Uniform Requirements. Any work performed directly but unrelated to the purposes of the TA grant may not be paid as Compensation through a TA grant. For example, the salaries for building maintenance would not carry out the purpose of a TA grant and would be deemed unallowable.
(ii) Compensation—fringe benefits	TA paid to cover allowances and services provided by the Applicant to its employees as compensation in addition to regular salaries and wages, in accordance with section 200.431 of the Uniform Requirements. Such expenditures are allowable as long as they are made under formally established and consistently applied organizational policies of the Applicant.
(iii) Professional service costs	TA used to pay for professional and consultant services (*e.g.* such as strategic and marketing plan development), rendered by persons who are members of a particular profession or possess a special skill (*e.g.* credit analysis, portfolio management), and who are not officers or employees of the Applicant, in accordance with section 200.459 of the Uniform Requirements. Payment for a consultant's services may not exceed the current maximum of the daily equivalent rate paid to an Executive Schedule Level IV Federal employee. Professional and consultant services must build the capacity of the CDFI. For example, professional services that provide direct development services to the customers does not build the capacity of the CDFI to provide those services and would not be eligible.
(iv) Travel costs	TA used to pay costs of transportation, lodging, subsistence, and related items incurred by the Applicant's personnel who are on travel status on business related to the TA award, in accordance with section 200.474 of the Uniform Requirements. Travel costs do not include costs incurred by the Applicant's consultants who are on travel status. Any payments for travel expenses incurred by the Applicant's personnel but unrelated to carrying out the purpose of the TA grant would be deemed unallowable. As such, documentation must be maintained that justifies the travel as necessary to the TA grant.
(v) Training and education costs	TA used to pay the cost of training and education provided by the Applicant for employees' development in accordance with section 200.472 of the Uniform Requirements. TA can only be used to pay for training costs incurred by the Applicant's employees. Training and education costs may not be incurred by the Applicant's consultants.

[1] Regulated Institutions include Insured Credit Unions, Insured Depository Institutions, State-Insured Credit Unions and Bank Holding Companies.

TABLE 4—TA ELIGIBLE ACTIVITY CATEGORIES, SUBJECT TO THE APPLICABLE PROVISIONS OF THE UNIFORM REQUIREMENTS—Continued

(vi) Equipment	TA used to pay for tangible personal property, having a useful life of more than one year and a per-unit acquisition cost of at least $5,000, in accordance with section 200.33 of the Uniform Requirements. For example, items such as office furnishings and information technology systems are allowable as Equipment costs. The Applicant must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 with respect to the purchase of Equipment.
(vii) Supplies	TA used to pay for tangible personal property with a per unit acquisition cost of less than $5,000 in accordance with section 200.94 of the Uniform Requirements. For example, a desktop computer costing $1,000 is allowable as a Supply cost. The Applicant must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 with respect to the purchase of Supplies.
(viii) Incorporation Costs (*Sponsoring Entities only*).	TA used to pay for incorporation fees in connection with the establishment or reorganization of an organization as a CDFI, in accordance with section 200.455 of the Uniform Requirements. Incorporation Costs are allowable for NACA Program Sponsoring Entity Applicants only.

4. *HFFI–FA Award:* HFFI–FA award funds may only be expended for eligible FA activities referenced in Table 3. The HFFI–FA investments must comply with the following guidelines:

a. Recipient must close Financial Products for Healthy Food Retail Outlets and Healthy Food Non-Retail Outlets in its approved Target Market in an amount equal to or greater than 100% of the total HFFI Financial Assistance provided. Eligible financing activities to Healthy Food Retail Outlets and Healthy Food Non-Retail Outlets require that the majority of the loan or investment be devoted to offering a range of Healthy Food choices, which may include, among other activities, investments supporting an existing retail store or wholesale operation upgrade to offer an expanded range of Healthy Food choices, or supporting a nonprofit organization that expands the availability of Healthy Foods in underserved areas.

b. Recipient must demonstrate that it has closed Financial Products to Healthy Food Retail Outlets located in Food Deserts in the Recipient's approved Target Market in an amount equal to 75% of the total HFFI Financial Assistance provided.

Definitions

Healthy Foods. Healthy Foods include unprepared nutrient-dense foods and beverages as set forth in the USDA Dietary Guidelines for Americans 2015–2020 including whole fruits and vegetables, whole grains, fat free or low-fat dairy foods, lean meats and poultry (fresh, refrigerated, frozen or canned). Healthy Foods should have low or no added sugars, and be low-sodium, reduced sodium, or no-salt-added. (See USDA Dietary Guidelines: *http://www.choosemyplate.gov/dietary-guidelines*).

Healthy Food Retail Outlets. Commercial sellers of Healthy Foods including, but not limited to, grocery stores, mobile food retailers, farmers markets, retail cooperatives, corner stores, bodegas, stores that sell other food and non-food items along with a range of Healthy Foods.

Healthy Food Non-Retail Outlets. Wholesalers of Healthy Foods including, but not limited to, wholesale food outlets, wholesale cooperatives, or other non-retail food producers that supply for sale a range of Healthy Food options; entities that produce or distribute Healthy Foods for eventual retail sale, and entities that provide consumer education regarding the consumption of Healthy Foods.

Food Deserts. Distressed geographic areas where either a substantial number or share of residents has low access to a supermarket or large grocery store. For the purpose of satisfying this requirement, a Food Desert must either: (1) Be a census tract determined to be a Food Desert by the U.S. Department of Agriculture (USDA), in its USDA Food Access Research Atlas; (2) be a census tract adjacent to a census tract determined to be a Food Desert by the USDA, in its USDA Food Access Research Atlas; which has a median family income less than or equal to 120% of the applicable Area Median Family Income; or (3) be a Geographic Unit as defined in 12 CFR part 1805.201(b)(3)(ii)(B), which (i) individually meets at least one of the criteria in 12 CFR part 1805.201(b)(3)(ii)(D), and (ii) has been identified as having low access to a supermarket or grocery store through a methodology that has been adopted for use by another governmental or philanthropic healthy food initiative.

5. *PPC–FA Award:* PPC–FA award funds may only be expended for eligible FA activities referenced in Table 3. The PPC–FA Recipient must close Financial Products in PPC in an Eligible Market or in the Applicant's approved Target Market in an amount equal to or greater than 100% of the total PPC Financial Assistance provided. The specific counties that meet the criteria for ''persistent poverty'' can be found at: *https://www.cdfifund.gov/Documents/PPC%20updated%20Feb.2020.xlsx.*

III. Eligibility Information

A. *Eligible Applicants:* For the purposes of this NOFA, the following tables set forth the eligibility criteria to receive an award from the CDFI Fund, along with certain definitions of terms. There are four categories of Applicant eligibility criteria: (1) CDFI certification criteria (Table 5); (2) requirements that apply to all Applicants (Table 6); (3) requirements that apply to TA Applicants (Table 7); and (4) requirements that apply to FA Applicants (Table 8).

TABLE 5—CDFI CERTIFICATION CRITERIA DEFINITIONS

Certified CDFI	• An entity that the CDFI Fund has officially notified that it meets all CDFI certification requirements.
Emerging CDFI (TA Applicants)	• A non-Certified entity that demonstrates to the CDFI Fund in its Application that it has an acceptable plan to meet CDFI certification requirements by the end of its Period of Performance, or another date that the CDFI Fund selects. • An Emerging CDFI that has prior award(s) must comply with CDFI certification PG&M(s) stated in its prior Assistance Agreement(s). • An Emerging CDFI selected to receive a TA grant will be required to become a Certified CDFI by a date specified in the Assistance Agreement.

TABLE 5—CDFI CERTIFICATION CRITERIA DEFINITIONS—Continued

Sponsoring Entity	• Sponsoring Entities include any legal organization that primarily serves Native Community with "primary" meaning, at least 50% of its activities are directed toward the Native Community. • An eligible organization that proposes to create a separate legal organization that will become a Certified CDFI serving Native Communities. • Each Sponsoring Entity selected to receive a TA grant will be required to create a CDFI and ensure that this newly created CDFI becomes certified by the dates specified in the Assistance Agreement.
Definition of Native Other Targeted Population as Target Market.	The CDFI Fund uses the following definitions, set forth in the Office of Management and Budget (OMB) Notice, Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity (October 30, 1997), as amended and supplemented: • American Indian, Native American, or Alaska Native: A person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment; and • Native Hawaiian (living in Hawaii): A person having origins in any of the original peoples of Hawaii.

TABLE 6—ELIGIBILITY REQUIREMENTS FOR ALL APPLICANTS

Applicant	• Only the entity that will carry out the proposed award activities may apply for an award (other than Bank Holding Companies—see below) and Sponsoring Entities. Recipients may not create a new legal entity to carry out the proposed award activities (except for Sponsoring Entities). • The information in the Application should only reflect the activities of the Applicant, including the presentation of financial and portfolio information. Do not include financial or portfolio information from parent companies, Affiliates, or Subsidiaries in the Application unless it relates to the provision of Development Services. • An Applicant that applies on behalf of another organization will be rejected without further consideration, other than Bank Holding Companies (see below).
Application type and submission overview through *Grants.gov* and Awards Management Information System (AMIS).	• Applicants must submit the Required Application Documents listed in Table 10. • The CDFI Fund will only accept Applications that use the official application templates provided on the *Grants.gov* and AMIS websites. Applications submitted with alternative or altered templates will not be considered. • Applicants undergo a two-step process that requires the submission of Application documents by two separate deadlines in two different locations: (1) The SF–424 in *Grants.gov* and (2) all other Required Application Documents in AMIS. • *Grants.gov* and the SF–424: ○ *Grants.gov:* Applicants must submit the Office of Management and Budget (OMB) Standard Form (SF) OMB SF–424, Application for Federal Assistance. ○ All Applicants must register in the *Grants.gov* system to successfully submit an Application. The *Grants.gov* registration process can take 30 days or more to complete. The CDFI Fund strongly encourages Applicants to register as early as possible. ○ The CDFI Fund will not extend the SF–424 application deadline for any Applicant that started the *Grants.gov* registration process on, before, or after the date of the publication of this NOFA, but did not complete it by the deadline except in the case of a Federal government administrative or technological error that directly resulted in a late submission of the SF–424. ○ The SF–424 must be submitted in *Grants.gov* on or before the deadline listed in Table 1 and Table 12. Applicants are strongly encouraged to submit their SF–424 as early as possible in the *Grants.gov* portal. ○ The deadline for the *Grants.gov* submission is before the AMIS submission deadline. ○ The SF–424 must be submitted under the NACA Program Funding Opportunity Number for the NACA Program Application. *NACA Program Applicants should be careful to not select the CDFI Program Funding Opportunity Number when submitting their SF–424 for the NACA Program.* NACA Program Applicants that submit their SF–424 for the NACA Program Application under the CDFI Program Funding Opportunity Number will be deemed ineligible for the NACA Program Application. ○ If the SF–424 is not accepted by *Grants.gov* by the deadline, the CDFI Fund will not review any material submitted in AMIS and the Application will be deemed ineligible. • AMIS and all other Required Application Documents listed in Table 10: ○ AMIS is an enterprise-wide information technology system. Applicants will use AMIS to submit and store organization and Application information with the CDFI Fund. ○ Applicants are only allowed one NACA Program Application submission in AMIS. ○ Each Application in AMIS must be signed by an Authorized Representative. ○ Applicants must ensure that the Authorized Representative is an employee or officer of the Applicant, authorized to sign legal documents on behalf of the organization. *Consultants working on behalf of the organization may not be designated as Authorized Representatives.* ○ Only the Authorized Representative or Application Point of Contact, included in the Application, may submit the Application in AMIS. ○ All Required Application Documents must be submitted in AMIS on or before the deadline specified in Tables 1 and 12. ○ The CDFI Fund will not extend the deadline for any Applicant except in the case of a Federal government administrative or technological error that directly resulted in the late submission of the Application in AMIS.
Employer Identification Number (EIN).	• Applicants must have a unique EIN assigned by the Internal Revenue Service (IRS). • The CDFI Fund will reject an Application submitted with the EIN of a parent or Affiliate organization. • The EIN in the Applicant's AMIS account must match the EIN in the Applicant's *Grants.gov* and System for Award Management (SAM) accounts. The CDFI Fund will reject an Application if the EIN in the Applicant's AMIS account does not match the EIN in its *Grants.gov* and SAM accounts.

TABLE 6—ELIGIBILITY REQUIREMENTS FOR ALL APPLICANTS—Continued

	• Applicants must enter their EIN into their AMIS profile on or before the deadline specified in Tables 1 and 12.
Dun & Bradstreet, (DUNS) number	• Pursuant to OMB guidance (68 FR 38402), an Applicant must apply using its unique DUNS number in *Grants.gov*. • The CDFI Fund will reject an Application submitted with the DUNS number of a parent or Affiliate organization. • The DUNS number in the Applicant's AMIS account must match the DUNS number in the Applicant's *Grants.gov* and SAM accounts. The CDFI Fund will reject an Application if the DUNS number in the Applicant's AMIS account does not match the DUNS number in its *Grants.gov* and SAM accounts. • Applicants must enter their DUNS number into their AMIS profile on or before the deadline specified in Tables 1 and 12.
System for Award Management (SAM).	• SAM is a web-based, government-wide application that collects, validates, stores, and disseminates business information about the federal government's trading partners in support of the contract awards, grants, and electronic payment processes. • Applicants must register in SAM as part of the *Grants.gov* registration process. • Applicants must have a DUNS number and an EIN number in order to register in SAM. • Applicants must be registered in SAM in order to submit an SF–424 in *Grants.gov*. • The CDFI Fund reserves the right to deem an Application ineligible if the Applicant's SAM account expires during the Application evaluation period, or is set to expire before September 30, 2020, and the Applicant does not re-activate, or renew, as applicable, the account within the deadlines that the CDFI Fund communicates to affected Applicants during the Application evaluation period.
AMIS Account	• Each Applicant must register as an organization in AMIS and submit all Required Application Documents listed in Table 10 through the AMIS portal. • The Application of any organization that does not properly register in AMIS by the deadline set forth in Table 1—FY 2020 NACA Program Funding Round Critical Deadlines for Applicants—will be rejected without further consideration. • The Authorized Representative and/or Application Point of Contact must be included as ''users'' in the Applicant's AMIS account. • An Applicant that fails to properly register and update its AMIS account may miss important communication from the CDFI Fund and/or not be able to successfully submit an Application.
501(c)(4) status	• Pursuant to 2 U.S.C. 1611, any 501(c)(4) organization that engages in lobbying activities is not eligible to receive a CDFI or NACA Program award.
Compliance with Nondiscrimination and Equal Opportunity Statutes, Regulations, and Executive Orders.	• An Applicant may not be eligible to receive an award if proceedings have been instituted against it in, by, or before any court, governmental agency, or administrative body, and a final determination within the last three years indicates the Applicant has violated any of the following laws, including but not limited to: Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975, (42 U.S.C. 6101–6107), and Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency.
Bank Holding Company Applicant	• In the case where a CDFI Bank Holding Company Applicant intends to carry out the activities of an award through its Subsidiary CDFI Insured Depository Institution, the Application must be submitted by the CDFI Bank Holding Company and reflect the activities and financial performance of the Subsidiary CDFI Insured Depository Institution. • Authorized representatives of both the Bank Holding Company and the Subsidiary CDFI Insured Depository Institution must certify that the information included in the Application represents that of the Subsidiary CDFI Insured Depository Institution, and that the award funds will be used to support the Subsidiary CDFI Insured Depository Institution for the eligible activities outlined in the Application.
Use of award	• All awards made through this NOFA must be used to support the Applicant's activities in at least one of the FA or TA Eligible Activity Categories (see Section II. (C)). • With the exception of Bank Holding Company Applicants, awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent. The Recipient of any award made through this NOFA must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.
Requested award amount	• An Applicant must state its requested award amount in the Application in AMIS. An Applicant that does not include this amount will not be allowed to submit an Application.
Pending resolution of noncompliance.	• The CDFI Fund will consider an Application submitted by an Applicant that has pending noncompliance issues of any of its previously executed award agreement(s), if the CDFI Fund has not yet made a final compliance determination.
Noncompliance or default status	• The CDFI Fund will not consider an Application submitted by an Applicant that has a previously executed award agreement(s) if, as of the date of the Application, (i) the CDFI Fund has made a determination that such entity is noncompliant or found in default with a previously executed agreement, and (ii) the CDFI Fund has provided written notification that such entity is ineligible to apply for or receive any future CDFI Fund awards or allocations. Such entities will be ineligible to submit an Application for such time period as specified by the CDFI Fund in writing. • The CDFI Fund will not consider any Applicant that has defaulted on a loan from the CDFI Fund within five years of the Application deadline.

TABLE 7—ELIGIBILITY REQUIREMENTS FOR TA APPLICANTS

CDFI certification status	Certified CDFIs, Emerging CDFIs, or Sponsoring Entities (see definitions in Table 5).
Matching funds	• Matching funds documentation is not required for TA awards.

TABLE 7—ELIGIBILITY REQUIREMENTS FOR TA APPLICANTS—Continued

Limitation on Awards	• An Emerging CDFI serving Native Communities may not receive more than three TA awards as an uncertified CDFI. • A Sponsoring Entity is only eligible to apply for an award if (i) it does not have an active prior award or (ii) the certification goal in its active award's Assistance Agreement has been satisfied and it proposes to create another CDFI that will serve one or more Native Communities.
Proposed Activities	• Applicants must propose to directly undertake eligible activities with TA awards. For example, an uncertified CDFI Applicant must propose to become certified as part of its Application and a Certified CDFI Applicant must propose activities that build its capacity to serve its Target Market or an Eligible Market. • With the exception of Sponsoring Entities, Applicants may not propose to use a TA award to create a separate legal entity to become a certified CDFI or otherwise carry out the TA award activities.
Regulated Institution	• Each Regulated Institution TA Applicant must have a CAMELS/CAMEL rating (rating for banks and credit unions, respectively) or equivalent type of rating by its regulator (collectively referred to as "CAMELS/CAMEL rating") of at least "4". • TA Applicants with CAMELS/CAMEL ratings of "5" will not be eligible for awards. • The CDFI Fund will also evaluate material concerns identified by the Appropriate Federal Banking Agency in determining the eligibility of Regulated Institution Applicants.
Target Market	• TA Applicants must demonstrate that the Certified CDFI, Emerging CDFI, or the CDFI to be created by the Sponsoring Entity will primarily serve one or more Native Communities as its Target Market.

TABLE 8—ELIGIBILITY REQUIREMENTS FOR FA APPLICANTS

CDFI certification status	• Each FA Applicant must be a Certified CDFI prior to the date of the release of this NOFA. • The CDFI Fund will consider an Application submitted by an Applicant that has pending noncompliance issues with its Annual Certification Report, if the CDFI Fund has not yet made a final compliance determination. • If a Certified CDFI loses its certification at any point prior to the award announcement, the Application will no longer be considered by the CDFI Fund.
Activities in Native Communities	• For consideration under this NOFA, each FA Applicant must: ○ Demonstrate that at least 50% of its past activities were in one or more Native Communities; and ○ Describe how it will target its lending/investing activities to one or more Native Communities.
Target Market	• For consideration under this NOFA, an FA Applicant's certification Target Market must have one or more of the following characteristics: ○ For qualifying with an *investment area* Target Market, the Applicant must demonstrate that the investment area approved for certification is *also* a geographic area of Federally-designated reservations, Hawaiian homelands, Alaska Native Villages and U.S. Census Bureau designated Tribal Statistical Areas; and/or ○ For qualifying with an *Other Targeted Population (OTP)* Target Market, the applicant's Target Market approved for certification must be an OTP of Native Americans or American Indians, including Alaska Natives living in Alaska and Native Hawaiians living in Hawaii. • Any FA Applicant whose certification Target Market does not meet either of the conditions above will not be eligible for an FA award under this NOFA.
Community Collaboration	• All FA Applicants must demonstrate strong community collaboration with Native Communities.
Matching funds documentation	• Applicants must submit acceptable documentation attesting that they have received or will receive matching funds. Applicants that do not complete the Matching Funds section in the FA Application in AMIS, documenting the source(s) of their matching funds, will not be evaluated. The matching funds requirements for NACA Program FA and HFFI–FA Applicants were waived in the final FY 2020 appropriations. Therefore, NACA Program and HFFI–FA Applicants are not required to submit matching funds documentation. • Unless Congress waived the matching funds requirement, Applicants must document their matching funds in the Matching Funds section in the FA Application in AMIS. Matching funds information provided in another format will not be considered. • Unless Congress waived the matching funds requirement, awards will be limited to no more than two times the amount of In-Hand or Committed matching funds documentation provided at the time of Application. See Table 9 for the definitions of Committed and In-Hand. • Unless Congress waived the matching funds requirement, awards will be obligated in like form to the matching funds provided at time of Application. See Table 9. Matching Funds "Determination of Award Form" for additional guidance. • Unless Congress waived the matching funds requirement, award payments from the CDFI Fund will require eligible dollar-for-dollar In-Hand matching funds for the total payment amount. Recipients will not receive a payment until 100% of their matching funds are In-Hand. • Unless Congress waived the matching funds requirement, the CDFI Fund will reduce and de-obligate the remaining balance of any award that does not demonstrate full dollar-for-dollar matching funds equal to the announced award amount by the end of the Matching Funds Window.
$5 Million funding cap	• The CDFI Fund is prohibited from obligating more than $5 million in CDFI and NACA Program awards, in the aggregate, to any one organization and its Subsidiaries and Affiliates during any three-year period from the announcement date. • For TA Applicants, for purposes of this NOFA and per final FY 2020 appropriations language, the CDFI Fund will include CDFI and NACA Program final awards in the cap calculation that were provided to an Applicant (and/or its Subsidiaries or Affiliates) under the FY 2018, and 2019 funding rounds, as well as the requested FY 2020 award, excluding DF–FA and HFFI–FA awards.

TABLE 8—ELIGIBILITY REQUIREMENTS FOR FA APPLICANTS—Continued

	• For FA Applicants, for purposes of this NOFA and per final FY 2020 appropriations language, the CDFI Fund will include CDFI and NACA Program final awards in the cap calculation that were provided to an Applicant (and/or its Subsidiaries or Affiliates) under the FY 2018 and 2019 funding rounds, as well as the requested FY 2020 award, excluding DF–FA and HFFI–FA awards.
FA Applicants with Community Partners.	• A NACA Applicant can apply for assistance jointly with a Community Partner. The CDFI Applicant must complete the NACA Program Application and address the Community Partnership in its business plan and other sections of the Application as specified in the Application Materials. • The CDFI Applicant must be a Certified CDFI as defined in Table 5. • An Application with a Community Partner must: ○ Describe how the NACA Applicant and Community Partner will each participate in the partnership and how the partnership will enhance eligible activities serving the Investment Area and/or Targeted Population. ○ Demonstrate that the Community Partnership activities are consistent with the strategic plan submitted by the NACA Applicant. • Assistance provided upon approval of an Application with a Community Partner shall only be entrusted to the NACA Applicant and shall not be used to fund any activity carried out directly by the Community Partner or an Affiliate or Subsidiary thereof.
Regulated Institution	• Each Regulated Institution FA Applicant must have a CAMELS/CAMEL rating (rating for banks and credit unions, respectively) or equivalent type of rating by its regulator (collectively referred to as "CAMELS/CAMEL rating") of at least "3". • FA Applicants with CAMELS/CAMEL ratings of "4 or 5" will not be eligible for awards. • The CDFI Fund will also evaluate material concerns identified by the appropriate regulator in determining eligibility of Regulated Applicants.
PPC–FA	• All PPC–FA Applicants must: ○ Submit a CDFI or NACA Program FA Application; ○ Meet all NACA FA award eligibility requirements; and ○ Provide a PPC–FA award request amount in AMIS.
DF–FA	• All DF–FA Applicants must: ○ Submit a CDFI or NACA Program FA Application; ○ Meet all NACA FA award eligibility requirements; ○ Submit the DF–FA Application; and ○ Provide a DF–FA award request amount in AMIS.
HFFI–FA	• All HFFI–FA Applicants must: ○ Submit a CDFI or NACA Program FA Application; ○ Meet all NACA FA award eligibility requirements; ○ Submit the HFFI–FA Application; and ○ Provide a HFFI–FA award request amount in AMIS.

B. *Matching Funds Requirements:* In order to receive a Base-FA, PPC–FA, or DF–FA award, an Applicant must provide evidence of eligible dollar-for-dollar matching funds and attest that it can provide acceptable documentation upon the CDFI Fund's request as part of the Application, unless Congress waived the matching funds requirement. The matching funds requirement for NACA Program FA and HFFI–FA Applicants was waived in the final FY 2020 appropriations. Therefore, NACA Program FA and HFFI–FA Applicants are not required to submit matching funds for their award requests. An Applicant that represents that it has Equity Investments and/or deposits matching funds In-Hand at the time of Application submission must provide documentation of such as part of the Application. An Applicant that uses retained earnings as matching funds must provide supporting documentation of In-Hand and/or Committed matching funds at the time of Application submission. The CDFI Fund will review matching funds information, attestations, and supporting matching funds documentation, if applicable, prior to award payment and will disburse funds based upon eligible In-Hand matching funds. The CDFI Fund encourages Applicants to review the Regulations, the Uniform Requirements, and the matching funds guidance materials available on the CDFI Fund's website. Table 9 provides a summary of the matching funds requirements for Base-FA, PPC–FA, and DF–FA. The matching funds requirements for NACA Program FA and HFFI–FA Applicants were waived in the final FY 2020 appropriations. Additional details are set forth in the Application Materials.

TABLE 9—MATCHING FUNDS REQUIREMENTS *

In-Hand matching funds definition	• Matching funds are In-Hand when the Applicant receives payment for the matching funds from the matching funds source and has acceptable documentation that can be provided to the CDFI Fund upon request. Acceptable In-Hand documentation must show the source, form (*e.g.,* grant, loan, deposit, and Equity Investment), amount received, and the date the funds came into physical possession of the Applicant. • The following documentation, depending on the matching funds type, must be available to be provided to the CDFI Fund upon request: • loan—the loan agreement and/or promissory note; • grant—the grant letter or agreement; • Equity Investment—the stock certificate, documentation of total equity outstanding, and shareholder agreement; • retained earnings—Retained Earnings Calculator and audited financial statements or call reports from regulating entity for each fiscal year reported in Retained Earnings Calculator; • third party in-kind contribution—evidence of receipt of contribution and valuation;

TABLE 9—MATCHING FUNDS REQUIREMENTS *—Continued

	• deposits—certificates of deposit agreement; • secondary capital—secondary capital agreement and disclosure and acknowledgement statement; AND • clearly legible documentation that demonstrates actual receipt of the matching funds including the date of the transaction and the amount, such as a copy of a check or a wire transfer statement. • Unless Congress waived the matching funds requirement, Applicants must provide information on their In-Hand matching funds in the Matching Funds section of the FA Application in AMIS (refer to Table 10—Required Application Documents) at the time of Application submission. • Although Applicants are not required to provide further documentation for In-Hand matching funds at the time of Application submission, (other than supporting documentation for retained earnings, deposits, and Equity Investments, which must be provided at the time of Application submission), they must be able to provide documentation to the CDFI Fund upon request.
Matching funds requirements by Application type.	The matching funds requirement for HFFI–FA and NACA Program FA Applicants was waived in the final FY 2020 appropriations. Therefore, NACA Program FA and HFFI–FA Applicants are not required to provide matching funds.
Amount of required match	Unless waived by Congress, Applicants must provide evidence of eligible, In-Hand, dollar-for-dollar, non-Federal matching funds for every Base–FA, PPC–FA, and DF–FA award dollar to be paid by the CDFI Fund. If awarded, Applicants that do not demonstrate 100% In-Hand matching funds at the time of Application submission may experience a longer payment timeline.
Determination of award form	Unless waived by Congress, Base–FA, PPC–FA, and DF–FA awards will be made in comparable form and value to the eligible In-Hand and/or Committed matching funds submitted by the Applicant. • For example, if an Applicant provides documentation of eligible loan matching funds for $200,000 and eligible grant matching funds of $400,000, the CDFI Fund will obligate $200,000 of the FA award as a loan and $400,000 as a grant. • The CDFI Fund will not permit a Recipient to change the form of award from loan to grant.
Matching Funds Window definition	• The Applicant must receive eligible In-Hand matching funds between January 1, 2018 and January 15, 2021. • A Recipient must provide the CDFI Fund with all documentation demonstrating the receipt of In-Hand matching funds by January 31, 2021.
Matching funds and form of award	• Recipients will be approved for a maximum award size of two times the total amount of eligible In-Hand and/or Committed matching funds included in the Application, so long as they do not exceed the requested award amount. • The form of the matching funds documented in the Application determines the form of the award.
Committed matching funds definition.	• Matching funds are Committed when the Applicant has entered into or received a legally binding commitment from the matching funds source showing that the matching funds will be disbursed to the Applicant at a future date. • The Application must provide information on their Committed matching funds in the Matching Funds section of the FA Application in AMIS (refer to Table 10—Required Application Documents) at the time of Application submission. • Although the Applicant is not required to provide further documentation for Committed matching funds at the time of Application submission (other than supporting documentation for retained earnings, deposits, Equity Investments, and credit union shares, which must be provided at the time of Application submission), it must be able to provide the CDFI Fund, upon request, acceptable written documentation showing the source, form, and amount of the Committed matching funds (including, in the case of a loan, the terms thereof), as well as the anticipated payment date of the Committed funds.
Limitations on matching funds	• Matching funds must be from non-Federal sources. • Applicants cannot proffer matching funds that were accepted as matching funds for a prior Base–FA, PPC–FA, and/or DF–FA award under the CDFI Program, NACA Program, or under another Federal grant or award program. • Matching funds must comply with the Regulations. • Matching funds must be attributable to at least one of the five eligible FA activities (see Section II. (C) of this NOFA).
Rights of the CDFI Fund	• The CDFI Fund reserves the right to contact the matching funds source to discuss the matching funds and the documentation that the Applicant provided. • The CDFI Fund may grant an extension of the Matching Funds Window (defined in Table 9), on a case-by-case basis, if the CDFI Fund deems it appropriate. • The CDFI Fund reserves the right to rescind all or a portion of a Base–FA, PPC–FA, and/or DF–FA award and re-allocate the rescinded award amount to other qualified Applicant(s), if a Recipient fails to provide evidence of In-Hand matching funds obtained during the Matching Funds Window totaling its award amount.
Matching funds in the form of third-party in-kind contributions.	• Third party in-kind contributions are non-cash contributions (*i.e.,* property or services) provided by non-Federal third parties to the Applicant. • Third party in-kind contributions will be considered to be in the form of a grant for matching funds purposes. • Third party in-kind contributions may be in the form of real property, equipment, supplies, and other expendable property. The value of goods and services must directly benefit the eligible FA activities. • For third party in-kind contributions, the fair market value of goods and services must be documented as the grant match. • Applicants will be responsible for documenting the value of all in-kind contributions pursuant to the Uniform Requirements.
Matching funds in the form of a loan.	• A Base–FA, PPC–FA, or DF–FA award made in the form of a loan will have the following standardized terms: i. A 13-year term with semi-annual interest-only payments due in years 1 through 10, and fully amortizing payments due each year in years 11 through 13; and

TABLE 9—MATCHING FUNDS REQUIREMENTS *—Continued

	ii. A fixed interest rate of 1.70%, which was calculated by the CDFI Fund based on the U.S. Department of the Treasury's 10-year Treasury note. • The Applicant's matching funds loan(s) must: i. have a minimum of a 3-year term (loans presented as matching funds with less than a 3-year term will not qualify as eligible match); and ii. be from a non-Federal source.
Matching funds in the form of Equity Investments.	• The CDFI Fund reserves the right, in its sole discretion, to perform its own valuation of Equity Investment source(s) and to determine if the equity value is acceptable to the CDFI Fund.
Severe Constraints Waiver	• In the case of an Applicant demonstrating severe constraints on available sources of matching funds, the CDFI Fund, in its sole discretion, may provide a Severe Constraints Waiver, which permits such Applicant to comply with the matching funds requirements by reducing such requirements by up to 50%. • In order to be considered eligible for a Severe Constraints Waiver, an Applicant must meet all of the NACA FA eligibility criteria described in Table 8. Instructions for requesting a Severe Constraints Waiver will be made available if required. • No more than 25% of the total funds available for obligation under this funding round may qualify for a Severe Constraints Waiver.
Ineligible matching funds	• Applicants will not be given the opportunity to correct or amend the matching funds information included in the FA Application after Application submission if the CDFI Fund determines that any portion of the Applicant's matching funds is ineligible.
Use of matching funds from a prior CDFI Program Recipient.	If an Applicant offers matching funds documentation from an organization that was a prior Recipient under the CDFI Program or NACA Program, the Applicant must be able to prove to the CDFI Fund's satisfaction that such funds do not consist, in whole or in part, of CDFI Program funds, NACA Program funds, or other Federal funds.
Matching funds in the form of retained earnings.	• Retained earnings are eligible for use as matching funds when the CDFI Fund calculates an amount equal to: i. the increase in retained earnings that occurred over any one of the Applicant's fiscal years within the Matching Funds Window, adjusted to remove revenue and expenses derived from Federal sources and matching funds used for an award; or ii. the annual average of such increases that occurred over any three consecutive fiscal years of the Applicant with at least one of the fiscal years occurring within the Matching Funds Window, adjusted to remove revenue and expenses derived from Federal sources and matching funds used for an award; or iii. any combination of (i) and (ii) above that does not include matching funds used for an award. • Retained earnings will be matched in the form of a grant. • Bank Holding Company Applicants must provide call reports for the Bank Holding Company in order to verify their retained earnings, even if the requested FA award (including Base–FA, PPC–FA, and DF–FA) will support its Subsidiary CDFI Insured Depository Institution.
Special rule for Regulated Institutions.	• A Regulated Institution's retained earnings are eligible for use as matching funds when the CDFI Fund calculates an amount equal to: i. the increase in retained earnings that occurred over any one of the Applicant's fiscal years within the Matching Funds Window, adjusted to remove revenue from Federal sources and matching funds used for an award; or ii. the annual average of such increases that occurred over any three consecutive fiscal years of the Applicant with at least one of the fiscal years occurring within the Matching Funds Window, adjusted to remove revenue and expenses derived from Federal sources and matching funds used for an award; or iii. the entire retained earnings that have been accumulated since the inception of the Applicant, as provided in the Regulations. • If option (iii) is used for Insured Credit Unions or State-Insured Credit Unions, the Applicant must increase its member and/or non-member shares and/or total loans outstanding by an amount equal to the amount of retained earnings committed as matching funds. • This increase (1) will be measured on a quarterly basis from March 31, 2020; (2) must occur by the end of Year 1 of the Recipient's Performance Period, as set forth in its Assistance Agreement; and (3) will be based on amounts reported in the Applicant's National Credit Union Administration (NCUA) form 5300 Call Report, or equivalent. • The CDFI Fund will assess the likelihood of this increase during the Application review process. • An award will not be made to any Applicant that has not demonstrated in the relevant NCUA form 5300 call reports or equivalent that it has increased shares and/or total loans outstanding by at least 25% of the requested FA award amount (including Base–FA, PPC–FA, and DF–FA) between December 31, 2018, and December 31, 2019. • The matching funds are not In-Hand until the Recipient has increased its member and/or non-member shares, deposits and/or total loans outstanding by the amount of retained earnings since inception that are being used as matching funds. • If option (iii) is used for Insured Depository Institutions or Bank Holding Companies, the Applicant or its Subsidiary CDFI Insured Depository Institution (in the case of a Bank Holding Company) must increase deposits and/or total loans outstanding by an amount equal to the amount of retained earnings committed as matching funds. Bank Holding Company Applicants must use the call reports of the Subsidiary CDFI Insured Depository Institution that the requested FA award (including Base–FA, PPC–FA, and DF–FA) will support. • This increase (1) will be measured on a quarterly basis from March 31, 2020; (2) must occur by the end of Year 1 of the Recipient's Performance Period, as set forth in its Assistance Agreement; and (3) will be based on amounts reported in the call report. • The CDFI Fund will assess the likelihood of this increase during the Application review process.

TABLE 9—MATCHING FUNDS REQUIREMENTS *—Continued

	• An award will not be made to any Applicant that has not demonstrated in the relevant call reports that it has increased deposits and/or total loans outstanding by at least 25% of the requested FA award amount (including Base–FA, PPC–FA, and DF–FA) between December 31, 2018, and December 31, 2019. • The matching funds are not In-Hand until the Recipient has increased its deposits and/or total loans outstanding by the amount of retained earnings since inception that are being used as matching funds. • All regulated Applicants utilizing the option (iii) should refer to the Retained Earnings Guidance included in the Retained Earnings Calculator Excel Workbook found on the CDFI Fund's website.

* Unless Congress waived the matching funds requirement, the requirements set forth in Table 9 are applicable to NACA Program FA Applicants applying for Base–FA, PPC–FA, and DF–FA, and for HFFI–FA Applicants. The matching funds requirements for NACA Program FA Applicants and HFFI–FA Applicants were waived in the final FY 2020 appropriations, and therefore the requirements set forth in Table 9 are not applicable to NACA FA and HFFI–FA Applicants for the FY 2020 Funding Round.

IV. Application and Submission Information

A. *Address to Request an Application Package:* Application Materials can be found on the CDFI Fund's website at *www.cdfifund.gov/programs-training/Programs/native-initiatives.* Applicants may request a paper version of any Application material by contacting the CDFI Fund Help Desk at *cdfihelp@cdfi.treas.gov.* Paper versions of Application Materials will only be provided if an Applicant cannot access the CDFI Fund's website.

B. *Content and Form of Application Submission:* All Applications must be prepared using the English language, and calculations must be computed in U.S. dollars. The following table lists the Required Application Documents for the FY 2020 Funding Round. The CDFI Fund reserves the right to request and review other pertinent or public information that has not been specifically requested in this NOFA or the Application. Information submitted by the Applicant that the CDFI Fund has not specifically requested will not be reviewed or considered as part of the Application. Financial data, portfolio, and activity information provided in the Application should only include the Applicant's activities. Information submitted must accurately reflect the Applicant's activities.

TABLE 10—REQUIRED APPLICATION DOCUMENTS

Application documents	Applicant type	Submission format
Active AMIS Account	All Applicants	AMIS.
SF–424	All Applicants	Fillable PDF in *Grants.gov.*
NACA Program Application Components: • Funding Application Detail • Data, Charts, and Narrative sections as listed in AMIS and outlined in Application Materials • Matching Funds (CDFI Program FA Core Applicants only)	All Applicants	AMIS.
PPC–FA Application Components: • Funding Application Detail • Narratives • AMIS Charts	PPC–FA Applicants	AMIS.
DF–FA Application Components: • Funding Application Detail • Narratives • AMIS Charts	DF–FA Applicants	AMIS.
HFFI–FA Application Components: • Funding Application Detail • Narratives • AMIS charts	HFFI–FA Applicants	AMIS.
ATTACHMENTS TO THE APPLICATION: Add to "Related Attachments" related list in Application		
Key Staff Resumes	All Applicants	PDF or Word document in AMIS.
Organizational Chart	All Applicants	PDF in AMIS.
Audited financial statements for the Applicant's Three Most Recent Historic Fiscal Years.	FA Applicants: Loan funds, Venture Capital Funds,[2] and other non-Regulated Institutions. TA Applicants, if available: Loan funds, Venture Capital Funds, and other non-Regulated Institutions.	PDF in AMIS.

TABLE 10—REQUIRED APPLICATION DOCUMENTS—Continued

Application documents	Applicant type	Submission format
Management Letter for the Applicant's Most Recent Historic Fiscal Year. The Management Letter is prepared by the Applicant's auditor and is a communication on internal control over financial reporting, compliance, and other matters. The Management Letter contains the auditor's findings regarding the Applicant's accounting policies and procedures, internal controls, and operating policies, including any material weaknesses, significant deficiencies, and other matters identified during auditing. The Management Letter may include suggestions for improving on identified weaknesses and deficiencies and/or best practice suggestions for items that may not be considered to be weaknesses or deficiencies. The Management Letter may also include items that are not required to be disclosed in the annual audited financial statements. The Management Letter is distinct from the auditor's Opinion Letter, which is required by Generally Accepted Accounting Principles (GAAP). Management Letters are not required by GAAP, and are sometimes provided by the auditor as a separate letter from the audit itself.	FA Applicants: Loan funds, Venture Capital Funds, and other non-Regulated Institutions, TA Applicants, if audited financial statements are available: Loan funds, Venture Capital Funds, and other non-Regulated Institutions.	PDF in AMIS.
Statement(s) in Lieu of Management Letter for Applicant's Most Recent Historic Fiscal Year issued by the Board Treasurer or other Board member using the template provided in the Application Materials (required only if Management Letters are not available for audited financial statements).	FA Applicants: Loan funds, Venture Capital Funds, and other non-Regulated Institutions, TA Applicants, if audited financial statements ARE available but the Management Letters are NOT available: Loan funds, Venture Capital Funds, and other non-Regulated Institutions.	PDF in AMIS.
Unaudited financial statements for Applicant's Three Most Recent Historic Years (required only if audited financial statements are not available).	TA Applicants: Loan funds, Venture Capital Funds, and other non-Regulated Institutions.	PDF in AMIS.
Current Year to Date—December 31, 2019 Unaudited financial statements.	FA and TA Applicants: Loan funds, Venture Capital Funds, and other non-Regulated Institutions.	PDF in AMIS.
Community Partnership Agreement	FA Applicants, if applicable	PDF or Word document in AMIS.
Retained Earnings Calculator Excel Workbook (required only if using retained earnings as matching funds).	CDFI Program FA Core Applicants, if applicable.	Excel in AMIS.
Call reports for each fiscal year reported in the Retained Earnings Calculator.	CDFI Program FA Core Applicants: Regulated Institutions that are using retained earnings as matching funds only.	PDF in AMIS.
Equity Investment Matching Funds Documentation	CDFI Program FA Core Applicants: For-profit CDFIs that are using In-Hand Equity Investment(s) as matching funds.	PDF or Word document in AMIS.
Deposits Matching Funds Documentation	CDFI Program FA Core Applicants: Regulated Institutions that are using In-Hand Deposits as matching funds.	PDF or Word document in AMIS.

C. *Application Submission:* The CDFI Fund has a two-step process that requires the submission of Required Application Documents (listed in Table 10) on separate deadlines and locations. The SF–424 must be submitted through *Grants.gov* and all other Required Application Documents through the AMIS portal. The CDFI Fund will not accept Applications via email, mail, facsimile, or other forms of communication, except in extremely rare circumstances that have been pre-approved in writing by the CDFI Fund. Applicants are required to submit the OMB SF–424, Application for Federal Assistance form in *Grants.gov*. All other Required Application Documents (listed in Table 10) will be submitted through AMIS. The deadline for submitting the SF–424 is listed in Tables 1 and 12.

All Applicants must register in the *Grants.gov* system to successfully submit the SF–424. The *Grants.gov* registration process can take 45 days or longer to complete and the CDFI Fund strongly encourages Applicants to start the *Grants.gov* registration process as early as possible (refer to the following link: *http://www.grants.gov/web/grants/register.html*). Since the *Grants.gov* registration process requires Applicants to have DUNS and EIN numbers, Applicants without these required numbers should allow for additional time to complete the *Grants.gov* registration process. Further, as described in Section IV. (E) of this NOFA, new requirements for registration in the System for Awards Management (SAM), which is required as part of the *Grants.gov* registration process, may take more time than in recent years. The CDFI Fund will not extend the Application deadline for any Applicant that started the *Grants.gov* registration process but did not complete it by the deadline. An Applicant that has previously registered with *Grants.gov* must verify that its registration is current and active. Applicants should contact *Grants.gov* directly with questions related to the registration or submission process as the CDFI Fund does not maintain the *Grants.gov* system.

[2] A Venture Capital Fund is an organization that predominantly invests funds in businesses, typically in the form of either Equity Investments or subordinated debt with equity features such as revenue participation or warrants, and generally seeks to participate in the upside returns of such businesses in an effort to at least partially offset the risk of its investments.

Each Application must be signed by a designated Authorized Representative in AMIS before it can be submitted. Applicants must ensure that an Authorized Representative is an employee or officer and is authorized to sign legal documents on behalf of the Applicant. Consultants working on behalf of the Applicant may not be designated as Authorized Representatives. Only a designated Authorized Representative or Application Point of Contact, included in the Application, may submit the Application in AMIS. If an Authorized Representative or Application Point of Contact does not submit the Application, the Application will be deemed ineligible.

D. *Dun & Bradstreet Universal Numbering System:* Pursuant to the Uniform Requirements, each Applicant must provide as part of its Application submission, a Dun and Bradstreet Universal Numbering System (DUNS) number. Applicants without a DUNS number will not be able to register and submit an Application in the *Grants.gov* system. Allow sufficient time for Dun & Bradstreet to respond to inquiries and/or requests for DUNS numbers.

E. *System for Award Management (SAM):* Any entity applying for Federal grants or other forms of Federal financial assistance through *Grants.gov* must be registered in SAM before submitting its Application. Registration in SAM is required as part of the *Grants.gov* registration process. The SAM registration process may take one month or longer to complete. A signed notarized letter identifying the SAM authorized entity administrator for the entity associated with the DUNS number is required. This requirement is applicable to new entities registering in SAM, as well as to existing entities with registrations being updated or renewed in SAM. Applicants without DUNS and/or EIN numbers should allow for additional time as an Applicant cannot register in SAM without those required numbers. Applicants that have previously completed the SAM registration process must verify that their SAM accounts are current and active. Each Applicant must continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an Application under consideration by a Federal awarding agency. The CDFI Fund will not consider any Applicant that fails to properly register or activate its SAM account and, as a result, is unable to submit the SF–424 in *Grants.gov* or Application in AMIS by the applicable Application deadlines. These restrictions also apply to organizations that have not yet received a DUNS or EIN number. Applicants must contact SAM directly with questions related to registration or SAM account changes as the CDFI Fund does not maintain this system and has no ability to make changes or correct errors of any kind. For more information about SAM, visit *https://www.sam.gov.*

TABLE 11—*Grants.gov* REGISTRATION TIMELINE SUMMARY

Step	Agency	Estimated minimum time to complete
Obtain a DUNS number	Dun & Bradstreet	One (1) Week*.
Obtain an EIN Number	Internal Revenue Service (IRS)	Two (2) Weeks*.
Register in *SAM.gov*	System for Award Management (*SAM.gov*)	Four (4) Weeks*.
Register in *Grants.gov*	*Grants.gov*	One (1) Week**.

* Applicants are advised that the stated durations are estimates only and represent minimum timeframes. Actual timeframes may take longer. The CDFI Fund will not consider any Applicant that fails to properly register or activate its SAM account, has not yet received a DUNS or EIN number, and/or fails to properly register in *Grants.gov*.

** This estimate assumes an Applicant has a DUNS number, an EIN number, and is already registered in *SAM.gov*.

F. *Submission Dates and Times:*

1. *Submission Deadlines:* The following table provides the critical deadlines for the FY 2020 Funding Round.

TABLE 12—FY 2020 FUNDING ROUND CRITICAL DEADLINES FOR APPLICANTS

Description	Deadline	Time eastern time (ET)	Submission method
Last day to create AMIS Account (all Applicants)	March 23, 2020	11:59 p.m	AMIS.
Last day to enter EIN and DUNS numbers in AMIS	March 23, 2020	11:59 p.m	AMIS.
Last day to submit SF–424 (Application for Federal Assistance).	March 23, 2020	11:59 p.m	Electronically via *Grants.gov*.
Last day to contact NACA Program staff	April 17, 2020	5:00 p.m	Service Request via AMIS Or CDFI Fund Helpdesk: 202–653–0421.
Last day to contact AMIS–IT Help Desk (regarding AMIS technical problems only).	April 21, 2020	5:00 p.m	Service Request via AMIS Or 202–653–0422 Or *AMIS@cdfi.treas.gov*.
Last day to submit NACA Program Application for FA *or* TA.	April 21, 2020	11:59 p.m	Electronically via AMIS.

2. *Confirmation of Application Submission in Grants.gov and AMIS:* Applicants are required to submit the OMB SF–424, Application for Federal Assistance through the *Grants.gov* system, under the NACA Program Funding Opportunity Number by the applicable deadline. All other Required Application Documents (listed in Table 10) must be submitted through the AMIS website by the applicable deadline. Applicants must submit the SF–424 prior to submitting the Application in AMIS. If the SF–424 is not successfully accepted by *Grants.gov* by the deadline, the CDFI Fund will not review the Application submitted in AMIS, and the Application will be deemed ineligible.

a. *Grants.gov Submission Information:* Each Applicant will receive an email

from *Grants.gov* immediately after submitting the SF–424 confirming that the submission has entered the *Grants.gov* system. This email will contain a tracking number for the submitted SF–424. Within 48 hours, the Applicant will receive a second email, which will indicate if the submitted SF–424 was either successfully validated or rejected with errors. However, Applicants should not rely on the email notification from *Grants.gov* to confirm that their SF–424 was validated. Applicants are strongly encouraged to use the tracking number provided in the first email to closely monitor the status of their SF–424 by contacting the helpdesk at *Grants.gov* directly. The Application material submitted in AMIS is not officially accepted by the CDFI Fund until *Grants.gov* has validated the SF–424.

b. *AMIS Submission Information:* AMIS is a web-based portal where Applicants will directly enter their Application information and add the required attachments listed in Table 10. AMIS will verify that the Applicant provided the minimum information required to submit an Application. Applicants are responsible for the quality and accuracy of the information and attachments included in the Application submitted in AMIS. The CDFI Fund strongly encourages Applicants to allow for sufficient time to review and complete all Required Application Documents listed in Table 10, and remedy any issues prior to the Application deadline. Each Application must be signed by an Authorized Representative in AMIS before it can be submitted. Applicants must ensure that the Authorized Representative is an employee or officer and is authorized to sign legal documents on behalf of the Applicant. Consultants working on behalf of the Applicant may not be designated as Authorized Representatives. Only an Authorized Representative or an Application Point of Contact may submit an Application. If an Authorized Representative or Application Point of Contact does not submit the Application, the Application will be deemed ineligible. Applicants may only submit one Base–FA or TA Application under the NACA Program. Upon submission, the Application will be locked and cannot be resubmitted, edited, or modified in any way. The CDFI Fund will not unlock or allow multiple Application submissions.

3. *Late Submission:* The CDFI Fund will not accept an Application if the SF–424 is not submitted and accepted by *Grants.gov* by the SF–424 deadline. Additionally, the CDFI Fund will not accept an Application if it is not signed by an Authorized Representative and submitted in AMIS by the Application deadline. In either case, the CDFI Fund will not review any material submitted, and the Application will be deemed ineligible.

However, in cases where a Federal government administrative or technological error directly resulted in a late submission of the SF–424 or the Application, Applicants are provided two opportunities to submit a written request for acceptance of late submissions. The CDFI Fund will not consider the late submission of the SF–424 or the Application that was a direct result of a delay in a Federal Government process, unless such delay was the result of a Federal government administrative or technological error.

a. *SF–424 Late Submission:* In cases where a Federal government administrative or technological error directly resulted in the late submission of the SF–424, the Applicant must submit a written request for acceptance of the late SF–424 submission and include documentation of the error no later than two business days after the SF–424 deadline. The CDFI Fund will not respond to requests for acceptance of late SF–424 submissions after that time period. Applicants must submit late SF–424 submission requests to the CDFI Fund via an AMIS service request to the NACA Program with a subject line of ''Late SF–424 Submission Request.''

b. *Application Late Submission:* In cases where a Federal government administrative or technological error directly resulted in a late submission of the Application in AMIS, the Applicant must submit a written request for acceptance of the late Application submission and include documentation of the error no later than two business days after the Application deadline. The CDFI Fund will not respond to requests for acceptance of late Application submissions after that time period. Applicants must submit late Application submission requests to the CDFI Fund via an AMIS service request to the NACA Program with a subject line of ''Late Application Submission Request.''

G. *Funding Restrictions:* Base-FA, PPC–FA, DF–FA, HFFI–FA and TA awards are limited by the following:

1. *Base-FA awards:*

a. A Recipient shall use Base-FA funds only for the eligible activities described in Section II. (C)(1) of this NOFA and its Assistance Agreement.

b. With the exception of Bank Holding Company Applicants, Base-FA awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent.

c. Base-FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay Base-FA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

2. *PPC–FA awards:*

a. A Recipient shall use PPC–FA funds only for the eligible activities described in Section II. (C)(5) of this NOFA and its Assistance Agreement.

b. With the exception of Bank Holding Company Applicants, PPC–FA awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent.

c. PPC–FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay PPC–FA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

3. *DF–FA awards:*

a. A Recipient shall use DF–FA funds only for the eligible activities described in Section II. (C)(2) of this NOFA and its Assistance Agreement.

b. With the exception of Bank Holding Company Applicants, DF–FA awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent.

c. DF–FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay DF–FA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

2. *HFFI–FA awards:*

a. A Recipient shall use HFFI–FA funds only for the eligible activities described in Section II. (C)(4) of this NOFA and its Assistance Agreement.

b. With the exception of Bank Holding Company Applicants, HFFI–FA awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent.

c. HFFI–FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay HFFI–FA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

3. *TA grants:*

a. A Recipient shall use TA funds only for the eligible activities described in Section II. (C) (3) of this NOFA and its Assistance Agreement.

b. A Sponsoring Entity Recipient must create the Emerging CDFI as a legal entity no later than the end of the first year of the Period of Performance. Upon creation of the Emerging CDFI, the Sponsoring Entity must request the CDFI Fund to amend the Assistance Agreement to add the Emerging CDFI as a co-Recipient. The Sponsoring Entity must add the Emerging CDFI as a co-Recipient within 90 days the end of the first year of the Period of Performance. The Sponsoring Entity must then transfer any remaining balances and/or assets derived from the TA award to the Emerging CDFI.

c. With the exception of Bank Holding Company Applicants, TA awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent.

d. TA funds shall only be paid to the Recipient.

e. The CDFI Fund, in its sole discretion, may pay TA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

f. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

V. Application Review Information

A. *Criteria:* If the Applicant has submitted an eligible Application, the CDFI Fund will conduct a substantive review in accordance with the criteria and procedures described in the Regulations, this NOFA, the Application guidance, and the Uniform Requirements. The CDFI Fund reserves the right to contact the Applicant by telephone, email, or mail for the purpose of clarifying or confirming Application information. If contacted, the Applicant must respond within the time period communicated by the CDFI Fund or risk that its Application will be rejected. The CDFI Fund will review the Base-FA, DF–FA, PPC–FA, HFFI–FA, and TA Applications in accordance with the process below. All internal and external reviewers will complete the CDFI Fund's conflict of interest process. The CDFI Fund's Application conflict of interest policy is located on the CDFI Fund's website.

1. *Base-FA Application Scoring, Award Selection, Review, and Selection Process:* The CDFI Fund will evaluate each Application using a five-step review process illustrated in the sections below. Applicants that meet the minimum criteria will advance to the next step in the review process. Applicants applying as a Community Partnership must describe the partnership in the Application pursuant to the requirements set forth in Table 8, and will be evaluated in accordance with the review process described below.

a. *Step 1:* Eligibility Review: The CDFI Fund will evaluate each Application to determine its eligibility status pursuant to Section III of this NOFA.

b. *Step 2:* Financial Analysis and Compliance Risk Evaluation:

i. *Step 2:* Financial Analysis: For Regulated Institutions, the CDFI Fund will consider financial safety and soundness information from the Appropriate Federal or State Banking Agency. As detailed in Table 8, each Regulated Institution FA Applicant must have a CAMELS/CAMEL rating of at least ''3'' and/or no significant materials concerns from its regulator.

For non-regulated Applicants, the CDFI Fund will evaluate the financial health and viability of each non-regulated Applicant using financial information provided by the Applicant. For the Financial Analysis, each non-regulated Applicant will receive a Total Financial Composite Score on a scale of one (1) to five (5), with one (1) being the highest rating. The Total Financial Composite Score is based on the analysis of twenty-three (23) financial indicators. Applications will be grouped based on the Total Financial Composite Score. Applicants must receive a Total Financial Composite Score of one (1), two (2), or three (3) to advance to Step 3. Applicants that receive an initial Total Financial Composite Score of four (4) or five (5) will be re-evaluated and re-scored by CDFI Fund staff. If the Total Financial Composite Score remains four (4) or five (5) after CDFI Fund staff review, the Applicant will not advance to Step 3.

ii. *Step 2:* Compliance Risk Evaluation: For the compliance analysis, the CDFI Fund will evaluate the compliance risk of each Applicant using information provided in the Application as well as an Applicant's reporting history, reporting capacity, and performance risk with respect to the CDFI Fund's PG&Ms. Each Applicant will receive a Total Compliance Composite Score on a scale of one (1) to five (5), with one (1) being the highest rating. Applicants that receive an initial Total Compliance Composite Score of four (4) or five (5) will be re-evaluated by CDFI Fund Staff. If the Applicant is deemed a high compliance risk after CDFI Fund Staff review, the Applicant will not advance to Step 3.

c. *Step 3:* Business Plan Review: Applicants that proceed to Step 3 will be evaluated on the soundness of their comprehensive business plan. Two external non-CDFI Fund Reviewers will conduct the Step 3 evaluation. Reviewers will evaluate the Application sections listed in Table 13. All Applications will be reviewed in accordance with standard reviewer evaluation materials. Applications will be ranked based on Total Business Plan Scores, in descending order. In order to advance to Step 4, Applicants must receive a Total Business Plan Score that is either (1) equal to receiving a point score equivalent to a ''Good'' out of a ranking scale in descending order of Excellent, Good, Fair, Limited or Poor, in each section listed in Table 13, or (2) within the top 70% of the NACA FA Applicant pool, whichever is greater. In the case of tied Total Business Plan Scores that would prevent an Applicant from moving to Step 4, all Applicants with the same score will progress to Step 4. Lastly, the CDFI Fund may consider the geographic diversity of Applicants when determining the Step 4 Applicant pool.

TABLE 13—STEP 3: BASE-FA BUSINESS PLAN REVIEW SCORING CRITERIA

Base-FA application sections	Possible score	Score needed to advance
Executive Summary	(1)	N/A.
Business Strategy	12	N/A.
Market and Competitive Analysis	7	N/A.
Products and Services	12	N/A.
Management and Track Record	12	N/A.
Growth and Projections	7	N/A.
Total Business Plan Score	50	NACA Applicants: Top 70% of all NACA Applicant Step 3 Scores.

[1] Not Scored.

d. *Step 4:* Policy Objective Review: The CDFI Fund internal reviewers will evaluate each Application to determine its ability to meet policy objectives of the CDFI Fund. Each Applicant will be evaluated in each of the categories listed in Table 14 below, and will receive a Total Policy Objective Review Composite Score on a scale of one (1) to five (5), with one (1) being the highest score. Applicants are then grouped according to Total Policy Objective Review Scores. The CDFI Fund also conducts a due diligence review for Applications that includes an analysis of programmatic risk factors including, but not limited to: History of performance in managing Federal awards (including timeliness of reporting and compliance); ability to meet FA Objective(s) selected by Base-FA Applicants in their Applications; reports and findings from audits; and the Applicant's ability to effectively implement Federal requirements, each of which could impact the Total Policy Objective Review Score.

TABLE 14—STEP 4: BASE-FA POLICY REVIEW SCORING CRITERIA

Section	Possible scores	High score	Score needed to advance
Economic Distress	1, 2, 3, 4, or 5	1	N/A.
Economic Opportunities	1, 2, 3, 4, or 5	1	N/A.
Community Collaboration	1, 2, 3, 4, or 5	1	N/A.
Total Policy Objective Review Composite Score	1, 2, 3, 4, or 5	1	All Scores Advance

e. *Step 5:* Award Amount Determination: The CDFI Fund determines an award amount for each Application based on the Step 4 Total Policy Objective Review Score, the Applicant's request amount, and on certain other factors, including but not limited to, an Applicant's deployment track record, minimum award size, and funding availability. Award amounts may be reduced from the requested award amount as a result of this analysis. For NACA FA Applicants, the award cannot exceed 100% of the Applicant's total portfolio outstanding as of the end of the Applicant's most recent fiscal year.

2. *Healthy Food Financing Initiative-FA (HFFI–FA) Application Scoring, Award Selection, Review, and Selection Process:* A CDFI Fund internal reviewer will evaluate each HFFI–FA Application associated with a Base-FA Application that progresses to Step 4 of the FA Application review process. The reviewer will evaluate the Application sections listed in Table 15 and assign a Total HFFI- FA Score up to 60 points. The CDFI Fund will make awards to the highest scoring Applicants first. All Applications will be reviewed in accordance with standard reviewer evaluation materials. Applicants that fail to receive a Base-FA award will not be considered for a HFFI–FA award.

The CDFI Fund conducts additional levels of due diligence for Applications that are under consideration for an HFFI–FA award. Award amounts may be reduced from the requested award amount as a result of this analysis. The CDFI Fund may reduce awards sizes from requested amounts based on certain variables, including but not limited to, an Applicant's loan disbursement activity, total portfolio outstanding, or compliance with prior HFFI–FA awards. Lastly, the CDFI Fund may consider the geographic diversity of Applicants when making its funding decisions.

TABLE 15—STEP 4 HFFI–FA APPLICATION SCORING CRITERIA

Sections	Possible score (points)
Target Market Profile	10
Healthy Food Financial Products	10
Projected HFFI–FA Activities	15
HFFI Track Record	20
Management Capacity for Providing Healthy Food Financing	5
Total HFFI–FA Possible Score	60

3. *Persistent Poverty Counties—Financial Assistance (PPC–FA) Application Scoring, Award Selection, Review, and Selection Process:* A CDFI Fund internal reviewer will evaluate the PPC–FA request of each associated Base-FA Application that progresses to Step 4 of the FA Application review process. PPC–FA requests are not scored. PPC–FA award amounts will be determined based on the total number of eligible Applicants and funding availability, the Applicant's requested amount, and on certain factors, including but not limited to, an Applicant's overall portfolio size, historical track record of deployment in PPC, pipeline of projects in PPC, minimum award size, and funding availability. Applicants that fail to receive a Base-FA award will not be considered for a PPC–FA award.

4. *Disability Funds-Financial Assistance (DF–FA) Application Scoring, Award Selection, Review, and Selection Process:* A CDFI Fund internal reviewer will evaluate each DF–FA Application associated with a Base-FA Application that progresses to Step 4 of the FA Application review process. The reviewer will evaluate the Application and assign a Total DF- FA Score on a scale of one (1) to three (3), with one (1) being the highest score. Applicants are then grouped according to Total DF- FA Score. All Applications will be reviewed in accordance with standard reviewer evaluation materials. Applicants that fail to receive a Base-FA award will not be considered for a DF–FA award. Award amounts will be determined on the basis of the Total DF–FA Score, the Applicant's requested amount, and on certain factors, including but not limited to, an Applicant's deployment track record, minimum award size, and funding availability. Award amounts may be reduced from the requested award amount as a result of this analysis. The CDFI Fund will make awards to the highest scoring Applicants first.

TABLE 16—STEP 3 DF–FA APPLICATION SCORING CRITERIA

Section	Possible scores	High score
DF–FA Narrative Questions	1, 2, or 3	1
Total DF–FA Score	1, 2, or 3	1

5. *Technical Assistance (TA) Application Scoring, Award Selection, Review, and Selection Process:* The CDFI Fund will evaluate each Application to determine its eligibility pursuant to Section III of this NOFA. If the Application satisfies the eligibility criteria, the CDFI Fund will evaluate the TA Application. Sponsoring Entity or Emerging CDFI Applicants must receive a rating of Low Risk or Medium Risk in Section I of the TA Business Plan Review to progress to Section II of the TA Business Plan Review. Sponsoring Entity, or Emerging CDFI Applicants that receive a rating of High Risk in Section I of the TA Business Plan Review will not be considered for an award. Sponsoring Entity, Emerging CDFI, and Certified CDFI Applicants must receive a rating of Low Risk or Medium Risk in Section II of the TA Business Plan Review to be considered for an award. Applicants that receive a rating of High Risk in Section II of the TA Business Plan Review will not be considered for an award.

An Applicant that is a Certified CDFI will be evaluated on the demonstrated need for TA funding to build the CDFI's capacity, further the Applicant's strategic goals, and achieve impact within the Applicant's Target Market. An Applicant that is an Emerging CDFI will be evaluated on the Applicant's demonstrated capability and plan to achieve CDFI certification within three years, or if a prior Recipient, the certification PG&M stated in its prior Assistance Agreement.

An Applicant that is an Emerging CDFI will also be evaluated on its demonstrated need for TA funding to build the CDFI's capacity and further its strategic goals. An Applicant that is a Sponsoring Entity will be rated on its demonstrated capability to create a separate legal entity within one year that will achieve CDFI certification within four years. An Applicant that is a Sponsoring Entity will also be rated on its demonstrated need for TA funding to build the CDFI's capacity and further its strategic goals.

The CDFI Fund will rate each part of the TA Business Plan Review as indicated in Table 17.

TABLE 17—TA BUSINESS PLAN REVIEW

Business plan review component	Applicant type	Ratings
Section I:		
Primary Mission	Sponsoring Entity and Emerging CDFI Applicants.	Low Risk, Medium Risk, or High Risk.
Financing Entity	Sponsoring Entity and Emerging CDFI Applicants.	
Target Market	Sponsoring Entity and Emerging CDFI Applicants.	
Accountability	Sponsoring Entity and Emerging CDFI Applicants.	
Development Services	Sponsoring Entity and Emerging CDFI Applicants.	
Section II:		
Target Market Needs & Strategy	Sponsoring Entity, Emerging CDFI, and Certified Applicants.	Low Risk, Medium Risk, or High Risk.
Organizational Capacity	Sponsoring Entity, Emerging CDFI, and Certified Applicants.	
Management Capacity	Sponsoring Entity, Emerging CDFI, and Certified Applicants.	

Each TA Application will be evaluated by one internal CDFI Fund reviewer. All Applications will be reviewed in accordance with CDFI Fund standard reviewer evaluation materials for the Business Plan Review.

The CDFI Fund conducts additional levels of due diligence for Applications that are under consideration for an award. This due diligence includes an analysis of programmatic and financial risk factors including, but not limited to, financial stability, history of performance in managing Federal awards (including timeliness of reporting and compliance), reports and findings from audits, and the Applicant's ability to effectively implement Federal requirements. The CDFI Fund will also evaluate the compliance risk of each Applicant using information provided in the Application as well as an Applicant's reporting history, reporting capacity, and performance risk with respect to the CDFI Fund's PG&Ms. Each Applicant will receive a Total Compliance Composite Score on a scale of one (1) to five (5), with one (1) being the highest rating. Applicants that receive an initial Total Compliance Composite Score of four (4) or five (5) will be re-evaluated by CDFI Fund Staff. If the Applicant is deemed a high compliance risk after CDFI Staff review, the Applicant will not be considered for an award. The CDFI Fund will also evaluate the Applicant's ability to meet certification criteria of being a legal entity and a non-government entity. Award amounts may be reduced as a result of the due diligence analysis in addition to consideration of the Applicant's funding request and similar factors. Lastly, the CDFI Fund may consider the geographic diversity of Applicants when making its funding decisions.

6. *Regulated Institutions:* The CDFI Fund will consider safety and soundness information from the Appropriate Federal or State Banking Agency. If the Applicant is a CDFI Bank Holding Company, the CDFI Fund will consider information provided by the Appropriate Federal or State Banking Agencies about both the CDFI Bank Holding Company and the Certified CDFI Subsidiary Insured Depository Institution that will expend and carry out the award. If the Appropriate Federal or State Banking Agency identifies safety and soundness concerns, the CDFI Fund will assess whether such concerns cause or will cause the Applicant to be incapable of undertaking the activities for which funding has been requested.

7. *Non-Regulated Institutions:* The CDFI Fund must ensure, to the maximum extent practicable, that Recipients which are non-regulated CDFIs are financially and managerially sound, and maintain appropriate internal controls (12 U.S.C. 4707(f)(1)(A) and 12 CFR 1805.800(b)). Further, the CDFI Fund must determine that an Applicant's capacity to operate as a CDFI and its continued viability will not be dependent upon assistance from the CDFI Fund (12 U.S.C. 4704(b)(2)(A)). If it is determined that the Applicant is incapable of meeting these requirements, the CDFI Fund reserves the right to deem the Applicant ineligible or terminate the award.

B. *Anticipated Award Announcement:* The CDFI Fund anticipates making NACA Program award announcement before September 30, 2020. However, the anticipated award announcement date is subject to change without notice.

C. *Application Rejection:* The CDFI Fund reserves the right to reject an Application if information (including administrative errors) comes to the CDFI Fund's attention that: Adversely affects an Applicant's eligibility for an award; Adversely affects the Recipient's certification as a CDFI (to the extent that the award is conditional upon CDFI certification); adversely affects the CDFI Fund's evaluation or scoring of an Application; or indicates fraud or mismanagement on the Applicant's part. If the CDFI Fund determines any portion of the Application is incorrect in a material respect, the CDFI Fund reserves the right, in its sole discretion, to reject the Application. The CDFI Fund reserves the right to change its eligibility and evaluation criteria and procedures, if the CDFI Fund deems it appropriate. If the changes materially affect the CDFI Fund's award decisions, the CDFI Fund will provide information about the changes through its website. The CDFI Fund's award decisions are final, and there is no right to appeal decisions.

D. *External Non-CDFI Fund Reviewers:* All external non-CDFI Fund reviewers are selected based on criteria that includes a professional background in community and economic development finance, and experience reviewing the financial statements of all CDFI institution types. Reviewers must complete the CDFI Fund's conflict of interest process and be approved by the CDFI Fund. The CDFI Fund's Application reader conflict of interest policy is located on the CDFI Fund's website.

VI. Federal Award Administration Information

A. *Award Notification:* Each successful Applicant will receive an email ''notice of award'' notification from the CDFI Fund stating that its Application has been approved for an award. Each Applicant not selected for an award will receive an email stating that a debriefing notice has been provided in its AMIS account.

B. *Assistance Agreement:* Each Applicant selected to receive an award must enter into an Assistance Agreement with the CDFI Fund in order to receive a payment(s). The Assistance Agreement will set forth the award's terms and conditions, including but not be limited to the: (i) Award amount; (ii) award type; (iii) award uses; (iv) eligible use of funds; (v) PG&Ms; and (vi) reporting requirements. FA Assistance Agreements have three-year Periods of Performance. TA Assistance Agreements have two-year Periods of Performance for Certified CDFIs, three-year Periods of Performance for Emerging CDFIs, and four-year Periods of Performance for Sponsoring Entity Recipients. Upon creation of the Emerging CDFI, the Sponsoring Entity must request the CDFI Fund to amend the Assistance Agreement and add the Emerging CDFI as a party thereto. The Emerging CDFI, as co-Recipient, will be subject to all of the terms and conditions of the Assistance Agreement, including all PG&Ms.

1. *Certificate of Good Standing:* All FA and TA Recipients that are not Regulated Institutions will be required to provide the CDFI Fund with a certificate of good standing from the secretary of state for the Recipient's jurisdiction of formation prior to closing. This certificate can often be acquired online on the secretary of state website for the Recipient's jurisdiction of formation and must generally be dated within 180 days prior to the date the Recipient executes the Assistance Agreement. Due to potential backlogs in state government offices, Applicants are advised to submit requests for certificates of good standing no later than 60 days after they submit their Applications.

2. *Closing:* Pursuant to the Assistance Agreement, there will be an initial closing at which point the Assistance Agreement and related documents will be properly executed and delivered, and an initial payment of FA or TA may be made. FA Recipients that are subject to the matching funds requirement will not receive a payment until 100% of their matching funds are In-Hand. The first payment is the estimated amount of the award that the Recipient states in its Application that it will use for eligible FA or TA activities in the first 12 months after the award announcement. The CDFI Fund reserves the right to

increase the first payment amount on any award to ensure that any subsequent payments are at least $25,000 for FA and $5,000 for TA awards.

The CDFI Fund will minimize the time between the Recipient incurring costs for eligible activities and award payment(s) in accordance with the Uniform Requirements. Advanced payments for eligible activities will occur no more than one year in advance of the Recipient incurring costs for the eligible activities. Following the initial closing, there may be subsequent closings involving additional award payments. Any documentation in addition to the Assistance Agreement that is connected with such subsequent closings and payments shall be properly executed and timely delivered by the Recipient to the CDFI Fund.

3. *Requirements Prior to Entering into an Assistance Agreement:* If, prior to entering into an Assistance Agreement, information (including administrative errors) comes to the CDFI Fund's attention that: Adversely affects the Recipient's eligibility for an award; adversely affects the Recipient's certification as a CDFI (to the extent that the award is conditional upon CDFI certification); adversely affects the CDFI Fund's evaluation of the Application; indicates that the Recipient is not in compliance with any requirement listed in the Uniform Requirements; indicates the Recipient has failed to execute and return a prior round Assistance Agreement to the CDFI Fund within the CDFI Fund's deadlines; or indicates fraud or mismanagement on the Recipient's part, the CDFI Fund may, in its discretion and without advance notice to the Recipient, terminate the award or take such other actions as it deems appropriate. The CDFI Fund reserves the right, in its sole discretion, to rescind an award if the Recipient fails to return the Assistance Agreement, signed by the Authorized Representative of the Recipient, and/or provide the CDFI Fund with any requested documentation, within the CDFI Fund's deadlines. In addition, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Assistance Agreement and the award made under this NOFA pending the criteria described in the following table:

TABLE 18—REQUIREMENTS PRIOR TO EXECUTING AN ASSISTANCE AGREEMENT

Requirement	Criteria
Failure to meet reporting requirements.	• If a Recipient received a prior award under any CDFI Fund program and is not in compliance with the reporting requirements of the previously executed agreement(s), the CDFI Fund may delay entering into an Assistance Agreement or disbursing an award until such reporting requirements are met. If the Recipient is unable to meet the requirement(s) within the timeframe specified by the CDFI Fund, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA. • The automated systems the CDFI Fund uses only acknowledge a report's receipt and are not a determination of meeting reporting requirements.
Failure to maintain CDFI Certification	• An FA Recipient must be a Certified CDFI. • If an FA Recipient fails to maintain CDFI Certification, the CDFI Fund will terminate and rescind the Assistance Agreement and the award made under this NOFA. • If TA Recipient is a Certified CDFI at the time of award announcement, it must maintain CDFI Certification. • If a Certified CDFI TA Recipient fails to maintain CDFI Certification, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA.
Pending resolution of noncompliance	• The CDFI Fund will delay entering into an Assistance Agreement with a Recipient that has pending noncompliance issues with any of its previously executed CDFI award agreement(s), if the CDFI Fund has not yet made a final compliance determination. • If the Recipient is unable to satisfactorily resolve the compliance issues, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA.
Noncompliance or default status	• If, at any time prior to entering into an Assistance Agreement, the CDFI Fund determines that a Recipient is noncompliant or found in default with any previously executed award agreement(s) and the CDFI Fund has provided written notification that the Recipient is ineligible to apply for or receive any future awards or allocations for a time period specified by the CDFI Fund in writing, the CDFI Fund may delay entering into an Assistance Agreement until the Recipient has cured the noncompliance by taking actions the CDFI Fund has specified within such specified timeframe. If the Recipient is unable to cure the noncompliance within the specified timeframe, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA.
Compliance with Federal civil rights requirements.	• If prior to entering into an Assistance Agreement under this NOFA, the Recipient receives a final determination, made within the last three years, in any proceeding instituted against the Recipient in, by, or before any court, governmental, or administrative body or agency, declaring that the Recipient has violated the following laws: Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Age Discrimination Act of 1975, (42 U.S.C. §§ 6101–6107), and Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, the CDFI Fund will terminate and rescind the Assistance Agreement and the award made under this NOFA.
Do Not Pay	• The Do Not Pay Business Center was developed to support Federal agencies in their efforts to reduce the number of improper payments made through programs funded by the Federal government. • The CDFI Fund reserves the right, in its sole discretion, to rescind an award if the Recipient is identified as an ineligible Recipient in the Do Not Pay database.
Safety and soundness	• If it is determined the Recipient is, or will be, incapable of meeting its award obligations, the CDFI Fund will deem the Recipient to be ineligible, or require it to improve its safety and soundness prior to entering into an Assistance Agreement.

C. *Reporting*

1. *Reporting requirements:* On an annual basis during the Period of Performance, the CDFI Fund may collect information from each Recipient

including, but not limited to, an Annual Report with the following components (Annual Reporting Requirements):

TABLE 19—ANNUAL REPORTING REQUIREMENTS *

Financial Statement Audit Report (Non-profit Recipient including Insured Credit Unions and State-Insured Credit Unions).	A Non-profit Recipient (including Insured Credit Unions and State-Insured Credit Unions) must submit a Financial Statement Audit (FSA) report in AMIS, along with the Recipient's statement of financial condition audited or reviewed by an independent certified public accountant, if any are prepared. Under no circumstances should this be construed as the CDFI Fund requiring the Recipient to conduct or arrange for additional audits not otherwise required under Uniform Requirements or otherwise prepared at the request of the Recipient or parties other than the CDFI Fund.
Financial Statement Audit Report (For-Profit Recipient).	For-profit Recipients must submit an FSA report in AMIS, along with the Recipient's statement of financial condition audited or reviewed by an independent certified public accountant.
Financial Statement Audit Report (Bank Holding Company and Insured Depository Institution).	If the Recipient is a Bank Holding Company or an Insured Depository Institution, it must submit a FSA report in AMIS.
Financial Statement Audit Report (Sponsoring Entities).	A Sponsoring Entity must submit a FSA report in AMIS, along with a statement of financial condition audited or reviewed by an independent certified public accountant, if any are prepared. Under no circumstances should this be construed as the CDFI Fund requiring the Sponsoring Entity to conduct or arrange for additional audits not otherwise required under Uniform Requirements or otherwise prepared at the request of the Sponsoring Entity or parties other than the CDFI Fund.
Single Audit Report (Non-Profit Recipients, if applicable).	A non-profit Recipient must complete an annual Single Audit pursuant to the Uniform Requirements (2 CFR 200.500) if it expends $750,000 or more in Federal awards in its fiscal year, or such other dollar threshold established by OMB pursuant to 2 CFR 200.500. If a Single Audit is required, it must be submitted electronically to the Federal Audit Clearinghouse (FAC) (see 2 CFR Subpart F-Audit Requirements in the Uniform Requirements) and optionally through AMIS.
Transaction Level Report (TLR)	The Recipient must submit a TLR to the CDFI Fund through AMIS. If the Recipient is a Bank Holding Company that deploys all or a portion of its Financial Assistance through its Subsidiary CDFI Insured Depository Institution, that Subsidiary CDFI Insured Depository Institution must also submit a TLR. Furthermore, if the Bank Holding Company itself deploys any portion of the Financial Assistance, the Bank Holding Company must submit a TLR. The TLR is not required for TA Recipients.
Uses of Award Report	The Recipient must submit the Uses of Award Report to the CDFI Fund in AMIS. If the recipient is a Bank Holding Company that deploys all or a portion of its Financial Assistance through its Subsidiary CDFI Insured Depository Institution, that Subsidiary CDFI Insured Depository Institution must also submit a Uses of Award Report. Furthermore, if the Bank Holding Company itself deploys any portion of the Financial Assistance, the Bank Holding Company must submit a Uses of Award Report.
Shareholders Report	If the Assistance is in the form of an Equity Investment, the Recipient must submit shareholder information to the CDFI Fund showing the class, series, number of shares and valuation of capital stock held or to be held by each shareholder. The Shareholder Report must be submitted for as long as the CDFI Fund is an equity holder. The Shareholders Report is submitted through AMIS.
Performance Progress Report	The Recipient must submit the Performance Progress Report through AMIS. If the Recipient is a Bank Holding Company that deploys all or a portion of its Financial Assistance through its Subsidiary CDFI Insured Depository Institution, that Subsidiary CDFI Insured Depository Institution must also submit a Performance Progress Report. Furthermore, if the Bank Holding Company itself deploys any portion of the Financial Assistance, the Bank Holding Company must submit a Performance Progress Report.

* Personally Identifiable Information (PII) is information, which if lost, compromised, or disclosed without authorization, could result in substantial harm, embarrassment, inconvenience, or unfairness to an individual. Although Applicants are required to enter addresses of individual borrowers/residents of Distressed Communities in AMIS, Applicants should *not* include the following PII for the individuals who received the financial products or services in AMIS or in the supporting documentation (*i.e.* name of the individual, Social Security Number, driver's license or state identification number, passport number, Alien Registration Number, etc.). *This information should be redacted from all supporting documentation.*

Each Recipient is responsible for the timely and complete submission of the Annual Reporting Requirements. Sponsoring Entities with co-Recipients will be informed of any changes to reporting obligations at the time the Emerging CDFI is joined to the Assistance Agreement. The CDFI Fund reserves the right to contact the Recipient and additional entities or signatories to the Assistance Agreement to request additional information and/or documentation. The CDFI Fund will use such information to monitor each Recipient's compliance with the requirements of the Assistance Agreement and to assess the impact of the NACA Program. The CDFI Fund reserves the right, in its sole discretion, to modify these reporting requirements, including increasing the scope and frequency of reporting, if it determines it to be appropriate and necessary; however, such reporting requirements will be modified only after notice to Recipients.

2. *Financial Management and Accounting:* The CDFI Fund will require Recipients to maintain financial management and accounting systems that comply with Federal statutes, regulations, and the terms and conditions of the Federal award. These systems must be sufficient to permit the preparation of reports required by the CDFI Fund to ensure compliance with the terms and conditions of the NACA Program, including the tracing of funds to a level of expenditures adequate to establish that such funds have been used in accordance with Federal statutes, regulations, and the terms and conditions of the Federal award.

The cost principles used by Recipients must be consistent with Federal cost principles and support the accumulation of costs as required by the principles, and must provide for adequate documentation to support costs charged to the NACA Program award. In addition, the CDFI Fund will require Recipients to: Maintain effective internal controls; comply with applicable statutes, regulations, and the

Assistance Agreement; evaluate and monitor compliance; take appropriate action when not in compliance; and safeguard personally identifiable information.

VII. Agency Contacts

A. The CDFI Fund will respond to questions concerning this NOFA and the Application between the hours of 9:00 a.m. and 5:00 p.m. Eastern Time, starting on the date that the NOFA is published through the date listed in Table 1 and Table 12. The CDFI Fund strongly recommends Applicants submit questions to the CDFI Fund via an AMIS service request to the NACA Program, Office of Certification, Compliance Monitoring and Evaluation, or IT Help Desk. The CDFI Fund will post on its website responses to reoccurring questions received about the NOFA and Application. Other information regarding the CDFI Fund and its programs may be obtained from the CDFI Fund's website at *http://www.cdfifund.gov.* Table 20 lists CDFI Fund contact information:

TABLE 20—CONTACT INFORMATION

Type of question	Preferred method	Telephone No. (not toll free)	Email addresses
NACA Program	Service Request via AMIS	202–653–0421, option 1	*cdfihelp@cdfi.treas.gov.*
CCME	Service Request via AMIS	202–653–0423	*ccme@cdfi.treas.gov.*
AMIS—IT Help Desk	Service Request via AMIS	202–653–0422	*AMIS@cdfi.treas.gov.*

B. *Information Technology Support:* For IT assistance, the preferred method of contact is to submit a Service Request within AMIS. For the Service Request, select ''Technical Issues'' from the Program dropdown menu of the Service Request. People who have visual or mobility impairments that prevent them from using the CDFI Fund's website should call (202) 653–0422 for assistance (this is not a toll free number).

C. *Communication with the CDFI Fund:* The CDFI Fund will use the contact information in AMIS to communicate with Applicants and Recipients. It is imperative, therefore, that Applicants, Recipients, Subsidiaries, Affiliates, and signatories maintain accurate contact information in their accounts. This includes information such as contact names (especially for the Authorized Representative), email addresses, fax and phone numbers, and office locations.

D. *Civil Rights and Diversity:* Any person who is eligible to receive benefits or services from the CDFI Fund or Recipients under any of its programs is entitled to those benefits or services without being subject to prohibited discrimination. The Department of the Treasury's Office of Civil Rights and Diversity enforces various Federal statutes and regulations that prohibit discrimination in financially assisted and conducted programs and activities of the CDFI Fund. If a person believes that s/he has been subjected to discrimination and/or reprisal because of membership in a protected group, s/he may file a complaint with: Associate Chief Human Capital Officer, Office of Civil Rights, and Diversity, 1500 Pennsylvania Ave. NW, Washington, DC 20220 or (202) 622–1160 (not a toll-free number).

E. *Statutory and National Policy Requirements:* The CDFI Fund will manage and administer the Federal award in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with the U.S. Constitution, Federal Law, statutory, and public policy requirements: Including but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

VIII. Other Information

A. *Paperwork Reduction Act:* Under the Paperwork Reduction Act (44 U.S.C. chapter 35), an agency may not conduct or sponsor a collection of information, and an individual is not required to respond to a collection of information, unless it displays a valid OMB control number. If applicable, the CDFI Fund may inform Applicants that they do not need to provide certain Application information otherwise required. Pursuant to the Paperwork Reduction Act, the CDFI Program, and NACA Program Application has been assigned the following control number: 1559–0021 inclusive of PPC–FA, DF–FA, and HFFI–FA.

B. *Application Information Sessions:* The CDFI Fund may conduct webinars or host information sessions for organizations that are considering applying to, or are interested in learning about, the CDFI Fund's programs. For further information, visit the CDFI Fund's website at *http://www.cdfifund.gov.*

Authority: 12 U.S.C. 4701, *et seq;* 12 CFR parts 1805 and 1815; 2 CFR part 200.

Jodie L. Harris,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2020–03442 Filed 2–20–20; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See Supplementary Information section for effective date(s).

FOR FURTHER INFORMATION CONTACT: *OFAC:* Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On February 18, 2020, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons subject to U.S. jurisdiction are blocked under the relevant sanctions authorities listed below.

Entity

1. ROSNEFT TRADING S.A., Rue Place du Lac 2, 1204, Geneva, Switzerland; website *www.rosneft.com;* Executive Order 13662 Directive Determination—Subject to Directive 2; alt. Executive Order 13662 Directive Determination—Subject to Directive 4; Tax ID No. CHE–309.842.573 (Switzerland); Registration Number CH–660.0.257.011–8 (Switzerland); For more information on directives, please visit the following link: *http://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives.* [UKRAINE–EO13662] [VENEZUELA–EO13850] (Linked To: OPEN JOINT-STOCK COMPANY ROSNEFT OIL COMPANY).

Designated pursuant to section 1(a)(i) of Executive Order 13850 (E.O. 13850) of November 1, 2018, ''Blocking Property of Additional Persons Contributing to the Situation in Venezuela,'' 83 FR 55243, 3 CFR, 2019 Comp., p. 881, as amended by Executive Order 13857 (E.O. 13857), ''Taking Additional Steps to Address the National Emergency with Respect to Venezuela,'' of January 25, 2019, 84 FR 509, for operating in the oil sector of the Venezuelan economy.

Individual

1. CASIMIRO, Didier, Moscow, Russia; DOB 15 Nov 1966; POB Vilvoorde, Belgium; Gender Male (individual) [VENEZUELA–EO13850] (Linked To: ROSNEFT TRADING S.A.).

Designated pursuant to section 1(a)(iv) of E.O. 13850, as amended by E.O. 13857, for having acted or purported to act for or on behalf of, directly or indirectly, ROSNEFT TRADING S.A., a person whose property and interests in property are blocked pursuant to E.O. 13850.

Dated: February 18, 2020.

Andrea Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2020–03482 Filed 2–20–20; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning tax information authorization and IRS disclosure authorization for victims of identity theft.

DATES: Written comments should be received on or before April 21, 2020 to be assured of consideration.

ADDRESSES: Direct all written comments to Dr. Philippe Thomas, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Kerry Dennis, at (202) 317–5751 or Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Tax Information Authorization and IRS Disclosure Authorization for Victims of Identity Theft.

OMB Number: 1545–1165.

Form Number: Form 8821 and Form 8821–A.

Abstract: Form 8821 is used to appoint someone to receive or inspect certain tax information. The information on the form is used to identify appointees and to ensure that confidential tax information is not divulged to unauthorized persons. Form 8821–A is an authorization signed by a taxpayer for the IRS to disclose returns and return information to local law enforcement in the event of a possible identity theft.

Current Actions: There are no changes being made to the form at this time. However, the agency has updated the respondent estimates based on the most recent filing data.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not for profit institutions, and farms.

Form 8821:

Estimated Number of Respondents: 672,990.

Estimated Time per Respondent: 1 hours, 3 minutes.

Form 8821 A:

Estimated Number of Respondents: 182.

Estimated Time per Respondent: 9 minutes.

Estimated Total Annual Burden Hours: 708,181 hours.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 14, 2020.

Philippe Thomas,

Supervisor Tax Analyst.

[FR Doc. 2020–03438 Filed 2–20–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning information collect requirements related to the treatment of distributions to foreign persons under sections 367(e)(1) and 367(e)(2).

DATES: Written comments should be received on or before April 21, 2020 to be assured of consideration.

ADDRESSES: Direct all written comments to Dr. Philippe Thomas, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Kerry Dennis, at (202) 317–5751 or Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Treatment of Distributions to Foreign Persons Under Sections 367(e)(1) and 367(e)(2).

OMB Number: 1545–1487.

Form Number: Regulation Project Number: REG–209827–96 and REG–111672–99.

Abstract: Section 367(e)(1) provides that, to the extent provided in regulations, a domestic corporation must recognize gain on a section 355 distribution of stock or securities to a foreign person. Section 367(e)(2) provides that section 337(a) and (b)(1) does not apply to a section 332 distribution by a domestic corporation to a foreign parent corporation that owns 80 percent of the domestic liquidating corporation (as described in section 337(c)). Section 6038B(a) requires a U.S. person who transfers property to a foreign corporation in an exchange described in sections 332 or 355, among other sections, to furnish to the Secretary of the Treasury certain information with respect to the transfer, as provided in regulations.

The final regulations under section 367(e)(1) require gain recognition only for distributions of the stock or securities of foreign corporations to foreign persons. The final regulations under section 367(e)(2) generally require gain recognition when a domestic corporation liquidates into its foreign parent corporation; the regulations generally do not require gain recognition when a foreign corporation liquidates into its foreign parent corporation.

Document (TD 9704) contains final and temporary regulations relating to the consequences to U.S. and foreign persons for failing to satisfy reporting obligations associated with certain transfers of property to foreign corporations in nonrecognition exchanges. TD 9704 permits transferors to remedy ''not willful'' failures to file, and ''not willful'' failures to comply with the terms of, liquidation documents required under section 367(e)(2). In addition, it modifies the reporting obligations under section 6038B associated with transfers that are subject to section 367(e)(2). Further, TD 9704 provides similar rules for certain transfers that are subject to section 367(a). The regulations are necessary to update the rules that apply when a U.S. or foreign person fails to file required documents or statements or satisfy reporting obligations. The regulations affect U.S. and foreign persons that transfer property to foreign corporations in certain non-recognition exchanges.

Current Actions: There are no changes being made to the regulations at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 414.

Estimated Time per Respondent: 5 hours, 58 minutes.

Estimated Total Annual Burden Hours: 2,471 hours.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 14, 2020.

Philippe Thomas,

Supervisor Tax Analyst.

[FR Doc. 2020–03435 Filed 2–20–20; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 85 Friday,

No. 35 February 21, 2020

Part II

Department of Justice

28 CFR Part 14

Administrative Claims; Final Rules

DEPARTMENT OF JUSTICE

28 CFR Part 14

[Docket No. CIV 156]

Administrative Claims Under the Federal Tort Claims Act; Delegation of Authority

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This Directive delegates authority to the Secretary of Defense to settle administrative tort claims presented pursuant to the Federal Tort Claims Act where the amount of the settlement does not exceed $500,000. This Directive implements the Administrative Dispute Resolution Act. This Directive will alert the general public to the new authority and is being published in the Code of Federal Regulations to provide a permanent record of this Delegation.

DATES: This rule is effective on March 23, 2020.

FOR FURTHER INFORMATION CONTACT: James G. Touhey, Jr., Director, Torts Branch, Civil Division, Department of Justice, Washington, DC 20530, (202) 616–4400.

SUPPLEMENTARY INFORMATION: This Directive has been issued to delegate settlement authority and is a matter solely related to the division of responsibility between the Department of Justice and the Department of Defense. As such, this rule is a rule of agency organization, procedure, and practice that is limited to matters of agency management and personnel. Accordingly, this rule is exempt from the requirements of 5 U.S.C. 553(b) of prior notice and comment and is made effective without prior notice and public comment. In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Assistant Attorney General for the Civil Division has reviewed this rule, and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule has been drafted and reviewed in accordance with section 1(b) of Executive Order 12866. This rule is limited to agency organization, management, or personnel matters, under section 3(d)(3) of Executive Order 12866. The Assistant Attorney General for the Civil Division has determined that this rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and accordingly this rule has not been reviewed by the Office of Management and Budget.

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, ''Civil Justice Reform.'' This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Finally, this action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a ''rule'' as that term is used by the Congressional Review Act, 5 U.S.C. 804(3)(B). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 28 CFR Part 14

Authority delegations (government agencies), Claims.

By virtue of the authority vested in me by part 0 of title 28 of the Code of Federal Regulations, including §§ 0.45, 0.160, 0.162, 0.164, and 0.168, 28 CFR part 14 is amended as follows:

PART 14—ADMINISTRATIVE CLAIMS UNDER FEDERAL TORT CLAIMS ACT

■ 1. The authority citation for part 14 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, and 2672.

■ 2. The appendix to part 14 is amended by designating the appendix as appendix A to part 14 and revising the entry ''Delegation of Authority to the Secretary of Defense'' to read as follows:

Appendix A to Part 14—Delegations of Settlement Authority

* * * * *

Delegation of Authority to the Secretary of Defense

Section 1. Authority To Compromise Tort Claims

(a) The Secretary of Defense shall have the authority to adjust, determine, compromise, and settle a claim involving the Department of Defense under section 2672 of title 28, United States Code, relating to the administrative settlement of Federal tort claims, if the amount of the proposed adjustment, compromise, or award does not exceed $500,000. When the Secretary believes a pending administrative claim presents a novel question of law or of policy, the Secretary shall obtain the advice of the Assistant Attorney General in charge of the Civil Division.

(b) The Secretary may redelegate, in writing, the settlement authority delegated under this section.

Section 2. Memorandum

Whenever the Secretary of Defense settles any administrative claim pursuant to the authority granted by section 1 for an amount in excess of $200,000 and within the amount delegated under section 1, a memorandum fully explaining the basis for the action taken shall be executed. A copy of this memorandum shall be sent contemporaneously to the Director, FTCA Staff, Torts Branch of the Civil Division.

* * * * *

Dated: January 31, 2020.

Joseph H. Hunt,

Assistant Attorney General, Civil Division.

[FR Doc. 2020–02763 Filed 2–20–20; 8:45 am]

BILLING CODE 4410–12–P

DEPARTMENT OF JUSTICE

28 CFR Part 14

[Docket No. CIV 157]

Administrative Claims Under the Federal Tort Claims Act; Delegation of Authority

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This Directive delegates authority to the Postmaster General to settle administrative tort claims presented pursuant to the Federal Tort Claims Act where the amount of the settlement does not exceed $500,000. This Directive implements the Administrative Dispute Resolution Act. This Directive will alert the general public to the new authority and is being published in the Code of Federal Regulations to provide a permanent record of this Delegation.

DATES: This rule is effective on March 23, 2020.

FOR FURTHER INFORMATION CONTACT: James G. Touhey, Jr., Director, Torts Branch, Civil Division, Department of Justice, Washington, DC 20530, (202) 616–4400.

SUPPLEMENTARY INFORMATION: This Directive has been issued to delegate settlement authority and is a matter solely related to the division of responsibility between the Department of Justice and the United States Postal

Service. As such, this rule is a rule of agency organization, procedure, and practice that is limited to matters of agency management and personnel. Accordingly, this rule is exempt from the requirements of 5 U.S.C. 553(b) of prior notice and comment and is made effective without prior notice and public comment. In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Assistant Attorney General for the Civil Division has reviewed this rule, and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule has been drafted and reviewed in accordance with section 1(b) of Executive Order 12866. This rule is limited to agency organization, management, or personnel matters, under section 3(d)(3) of Executive Order 12866. The Assistant Attorney General for the Civil Division has determined that this rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and accordingly this rule has not been reviewed by the Office of Management and Budget.

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, ''Civil Justice Reform.'' This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Finally, this action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a ''rule'' as that term is used by the Congressional Review Act, 5 U.S.C. 804(3)(B). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 28 CFR Part 14

Authority delegations (government agencies), Claims.

By virtue of the authority vested in me by part 0 of title 28 of the Code of Federal Regulations, including §§ 0.45, 0.160, 0.162, 0.164, and 0.168, 28 CFR part 14 is amended as follows:

PART 14—ADMINISTRATIVE CLAIMS UNDER FEDERAL TORT CLAIMS ACT

■ 1. The authority citation for part 14 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, and 2672.

■ 2. Appendix A to part 14 is amended by revising the entry ''Delegation of Authority to the Postmaster General'' to read as follows:

Appendix A to Part 14—Delegations of Settlement Authority

* * * * *

Delegation of Authority to the Postmaster General

Section 1. Authority To Compromise Tort Claims

(a) The Postmaster General shall have the authority to adjust, determine, compromise, and settle a claim involving the United States Postal Service under section 2672 of title 28, United States Code, relating to the administrative settlement of Federal tort claims, if the amount of the proposed adjustment, compromise, or award does not exceed $500,000. When the Postmaster General believes a pending administrative claim presents a novel question of law or of policy, the Postmaster General shall obtain the advice of the Assistant Attorney General in charge of the Civil Division.

(b) The Postmaster General may redelegate, in writing, the settlement authority delegated under this section.

Section 2. Memorandum

Whenever the Postmaster General settles any administrative claim pursuant to the authority granted by section 1 for an amount in excess of $200,000 and within the amount delegated under section 1, a memorandum fully explaining the basis for the action taken shall be executed. A copy of this memorandum shall be sent contemporaneously to the Director, FTCA Staff, Torts Branch of the Civil Division.

* * * * *

Dated: January 31, 2020.

Joseph H. Hunt,

Assistant Attorney General, Civil Division.

[FR Doc. 2020–02764 Filed 2–20–20; 8:45 am]

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DEPARTMENT OF JUSTICE

28 CFR Part 14

[Docket No. CIV 158]

Administrative Claims Under the Federal Tort Claims Act; Delegation of Authority

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This Directive delegates authority to the Secretary of Veterans Affairs to settle administrative tort claims presented pursuant to the Federal Tort Claims Act where the amount of the settlement does not exceed $500,000. This Directive implements the Administrative Dispute Resolution Act. This Directive will alert the general public to the new authority and is being published in the Code of Federal Regulations to provide a permanent record of this Delegation.

DATES: This rule is effective on March 23, 2020.

FOR FURTHER INFORMATION CONTACT: James G. Touhey, Jr., Director, Torts Branch, Civil Division, Department of Justice, Washington, DC 20530, (202) 616–4400.

SUPPLEMENTARY INFORMATION: This Directive has been issued to delegate settlement authority and is a matter solely related to the division of responsibility between the Department of Justice and the Department of Veterans Affairs. As such, this rule is a rule of agency organization, procedure, and practice that is limited to matters of agency management and personnel. Accordingly, this rule is exempt from the requirements of 5 U.S.C. 553(b) of prior notice and comment and is made effective without prior notice and public comment. In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Assistant Attorney General for the Civil Division has reviewed this rule, and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule has been drafted and reviewed in accordance with section 1(b) of Executive Order 12866. This rule is limited to agency organization, management, or personnel matters, under section 3(d)(3) of Executive Order 12866. The Assistant Attorney General for the Civil Division has determined that this rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and accordingly this rule has not been reviewed by the Office of Management and Budget.

This rule will not have substantial direct effects on the States, on the

relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, ''Civil Justice Reform.'' This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Finally, this action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a ''rule'' as that term is used by the Congressional Review Act, 5 U.S.C. 804(3)(B). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 28 CFR Part 14

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By virtue of the authority vested in me by part 0 of title 28 of the Code of Federal Regulations, including §§ 0.45, 0.160, 0.162, 0.164, and 0.168, 28 CFR part 14 is amended as follows:

PART 14—ADMINISTRATIVE CLAIMS UNDER FEDERAL TORT CLAIMS ACT

■ 1. The authority citation for part 14 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, and 2672.

■ 2. Appendix A to part 14 is amended by revising the entry ''Delegation of Authority to the Secretary of Veterans Affairs'' to read as follows:

Appendix A to Part 14—Delegations of Settlement Authority

Delegation of Authority to the Secretary of Veterans Affairs

Section 1. Authority To Compromise Tort Claims

(a) The Secretary of Veterans Affairs shall have the authority to adjust, determine, compromise, and settle a claim involving the Department of Veterans Affairs under section 2672 of title 28, United States Code, relating to the administrative settlement of Federal tort claims, if the amount of the proposed adjustment, compromise, or award does not exceed $500,000. When the Secretary believes a pending administrative claim presents a novel question of law or of policy, the Secretary shall obtain the advice of the Assistant Attorney General in charge of the Civil Division.

(b) The Secretary may redelegate, in writing, the settlement authority delegated under this section.

Section 2. Memorandum

Whenever the Secretary of Veterans Affairs settles any administrative claim pursuant to the authority granted by section 1 for an amount in excess of $200,000 and within the amount delegated under section 1, a memorandum fully explaining the basis for the action taken shall be executed. A copy of this memorandum shall be sent contemporaneously to the Director, FTCA Staff, Torts Branch of the Civil Division.

* * * * *

Dated: January 31, 2020.

Joseph H. Hunt,

Assistant Attorney General, Civil Division.

[FR Doc. 2020–02765 Filed 2–20–20; 8:45 am]

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