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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 9

Order of Temporary Extension of Maturity Limits for Short-Term Investment Funds

AGENCY: Office of the Comptroller of the Currency, Department of Treasury.

ACTION: Order of temporary extension of maturity limits for short-term investment funds.

SUMMARY: The OCC has adopted an interim final rule adding a reservation of authority provision to the OCC's short-term investment fund (STIF) rule (STIF Rule) for national banks acting in a fiduciary capacity. The reservation of authority addresses the STIF Rule's limits on weighted average portfolio maturity, weighted average portfolio life maturity, and the method for determining those limits. The OCC has also issued an administrative order pursuant to the reservation of authority contained in the interim final rule. The order states that banks seeking to comply with the STIF Rule's portfolio maturity and life limits will be deemed to be in compliance with those requirements, if the STIF maintains a dollar-weighted average portfolio maturity of 120 days or less, and the STIF maintains a dollar-weighted average portfolio life maturity of 180 days or less.

DATES: The administrative order is effective March 23, 2020, and is applicable beginning March 21, 2020.

FOR FURTHER INFORMATION CONTACT: Patricia Dalton, Director for Asset Management Policy, Market Risk Policy Division, Bank Supervision Policy, (202) 649–6401, Stephanie Boccio, Asset Management Lead Expert, Systemic Risk Identification Support and Specialty Supervision, (202) 649–6397, or Jamey Basham, Assistant Director, Chief Counsel's Office, (202) 649–5490, for persons who are deaf or hearing impaired, TTY, (202) 649–5597, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Section 9.18 of the OCC's regulations (12 CFR 9.18) sets out regulatory requirements for certain bank-managed fiduciary investment funds that hold pooled assets which are funded through contributions by the fund's participants. For Short-term Investment Funds (STIFs) subject to § 9.18, these requirements include § 9.18(b)(4)(iii)(B), requiring the STIF to be operated pursuant to a written, board-approved plan under 12 CFR 9.18(b)(1) [1] that requires the fund to maintain a dollar-weighted average portfolio maturity of 60 days or less and a dollar-weighted average portfolio life maturity of 120 days or less, as determined in the same manner as is required by the Securities and Exchange Commission pursuant to Rule 2a–7 for money market mutual funds (*17 CFR 270.2a–7*).

Pursuant to § 9.18(b)(4)(iv), the OCC has reserved the authority to, among other things, issue an order temporarily extending these limits if the OCC determines the financial markets are in a period of market stress negatively affecting, on a temporary basis, the ability of banks to operate in compliance with the requirements of § 9.18(b)(4)(iii)(B).

Recent events have significantly and adversely impacted global financial markets, and the OCC is concerned about the potential effects on STIFs operated by national banks. The spread of the Coronavirus Disease 2019 (COVID–2019) has slowed economic activity in many countries, including the United States. Sudden disruptions in financial markets have put increasing liquidity pressure on money market mutual funds, as they have been faced with redemption requests from clients with immediate cash needs. The Board of Governor of the Federal Reserve System, with the approval of the Secretary of the Treasury, has authorized the Federal Reserve Bank of Boston to establish the Money Market Mutual Fund Liquidity Facility, pursuant to section 13(3) of the Federal Reserve Act,[2] as a measure to ameliorate these liquidity pressures. Although STIFs do not serve the same broad investor market as MMMFs, the OCC remains concerned that, in light of the acute effects the COVID–2019 virus is triggering across the markets broadly, there may be elevated participation interest withdrawals for STIFs operated by national banks, notwithstanding these differences between STIFs and MMMFs. Regulatory authorities supervising other categories of banks operating STIFs—in accordance with the legal requirements governing those banks and incorporating the OCC's STIF rules as part of those requirements—have conveyed similar concerns to the OCC.

In addition to the OCC's concerns about unusual withdrawal levels, the OCC observes that STIF investment portfolios are generally made up of the same types of securities and investments as those held by MMMFs. Accordingly, liquidity pressures related to the COVID–2019 virus in the marketplace for those assets raises similar concerns for STIFs as those presented for MMMFs. Acute market-wide disturbances in the depth of liquidity available for a bank seeking to purchase and sell portfolio assets to maintain a STIF's liquidity put pressure on the bank's ability to perform these functions.

In light of these reasons and pursuant to § 9.18(b)(4)(iv), the OCC hereby determines that, effective immediately, banks seeking to comply with the requirements of section 9.18(b)(4)(iii)(B) will be deemed to be in compliance with that section if:

1. The STIF maintains a dollar-weighted average portfolio maturity of 120 days or less, as determined in the same manner as is required by the Securities and Exchange Commission pursuant to Rule 2a–7 for money market mutual funds (*17 CFR 270.2a–7*);

2. The STIF maintains a dollar-weighted average portfolio life maturity of 180 days or less, as determined in the same manner as is required by the Securities and Exchange Commission pursuant to Rule 2a–7 for money market mutual funds (*17 CFR 270.2a–7*);

3. The bank makes a determination that using these temporary limits would be in the best interests of the STIF under applicable law. This determination may

[1] Section 9.18(b)(a) also permits the written plan to be approved by a committee authorized by the board.

[2] 12 U.S.C. 343(3).

be made under the bank's standard procedures for making such determinations in regards to the best interests of its collective investment funds; and

4. The bank must make any necessary amendments to the written plan for the STIF to reflect these temporary changes.

5. The OCC also hereby determines that the relief provided by this administrative order terminates on July 20, 2020, unless the OCC revises this order to provide otherwise before that date.

By authority of the Comptroller of the Currency.

Dated: March 21, 2020.

Morris R. Morgan,

First Deputy Comptroller, Comptroller of the Currency.

[FR Doc. 2020–06286 Filed 3–23–20; 11:15 am]

BILLING CODE 4810–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 9

[Docket No. OCC–2020–0012]

RIN 1557–AE84

Short-Term Investment Funds

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC).

ACTION: Interim final rule and request for comment.

SUMMARY: The OCC is adopting an interim final rule to revise the OCC's short-term investment fund (STIF) rule (STIF Rule) for national banks acting in a fiduciary capacity. Sudden disruptions in the financial markets have created conditions that may constrain the ability of a national bank's management team to execute certain elements of a STIF's written investment policy, specifically with regard to investment plan components addressing the weighted average maturity and weighted average life of the STIF's investment portfolio. The OCC is issuing this interim final rule to allow national banks to operate affected STIFs on a limited-time basis with increased maturity limits under these circumstances.

DATES: The interim final rule is effective March 23, 2020, and is applicable beginning March 20, 2020. Comments on the interim final rule must be received no later than May 11, 2020.

ADDRESSES: Commenters are encouraged to submit comments through the Federal eRulemaking Portal or email, if possible. Please use the title ''Short-term Investment Funds'' to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal—Regulations.gov Classic or Regulations.gov Beta:*

Regulations.gov Classic: Go to *https://www.regulations.gov/*. Enter ''Docket ID OCC–2020–0012'' in the Search Box and click ''Search.'' Click on ''Comment Now'' to submit public comments. For help with submitting effective comments please click on ''View Commenter's Checklist.'' Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for submitting public comments.

Regulations.gov Beta: Go to *https://beta.regulations.gov/* or click ''Visit New *Regulations.gov Site*'' from the *Regulations.gov* Classic homepage. Enter ''Docket ID OCC–2020–0012'' in the Search Box and click ''Search.'' Public comments can be submitted via the ''Comment'' box below the displayed document information or by clicking on the document title and then clicking the ''Comment'' box on the top-left side of the screen. For help with submitting effective comments please click on ''Commenter's Checklist.'' For assistance with the *Regulations.gov* Beta site, please call (877) 378–5457 (toll free) or (703) 454–9859 Monday–Friday, 9 a.m.–5 p.m. ET or email *regulations@erulemakinghelpdesk.com.*

- *Email: regs.comments@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''Docket ID OCC–2020–0012'' in your comment. In general, the OCC will enter all comments received into the docket and publish the comments on the *Regulations.gov* website without change, including any business or personal information provided such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this rulemaking action by any of the following methods:

- *Viewing Comments Electronically—Regulations.gov Classic or Regulations.gov Beta:*

Regulations.gov Classic: Go to *https://www.regulations.gov/*. Enter ''Docket ID OCC–2020–0012'' in the Search box and click ''Search.'' Click on ''Open Docket Folder'' on the right side of the screen. Comments and supporting materials can be viewed and filtered by clicking on ''View all documents and comments in this docket'' and then using the filtering tools on the left side of the screen. Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*. The docket may be viewed after the close of the comment period in the same manner as during the comment period.

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The docket may be viewed after the close of the comment period in the same manner as during the comment period.

- *Viewing Comments Personally:* You may personally inspect comments at the OCC, 400 7th Street SW, Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect comments.

FOR FURTHER INFORMATION CONTACT: Patricia Dalton, Director for Asset Management Policy, Market Risk Policy Division, Bank Supervision Policy, (202)

649–6401, Stephanie Boccio, Asset Management Lead Expert, Systemic Risk Identification Support and Specialty Supervision, (202) 649–6397, or Jamey Basham, Assistant Director, Chief Counsel's Office, (202) 649–5490, for persons who are deaf or hearing impaired, TTY, (202) 649–5597, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

I. Background

A. Short-Term Investment Funds

A STIF is a form of Collective Investment Fund (CIF). A CIF is a bank-managed fiduciary fund that holds pooled assets; the bank is required to establish and operate the CIF in accordance with specific criteria established by the OCC fiduciary activities regulation at 12 CFR 9.18. Under 12 CFR 9.18(b)(1), each CIF is established under a ''Plan'' approved by the bank's board of directors (or an authorized board committee) that details the terms under which the bank manages and administers the fund's assets. The bank acts as a fiduciary for the CIF and holds legal title to the fund's assets, which are funded through contributions by the CIF's participants, as discussed below. Participants in a CIF are the beneficial owners of the fund's assets. Each participant owns an undivided interest in the aggregate assets of a CIF; a participant does not directly own any specific asset held by a CIF.[1]

A participant's investment in a CIF is called a ''participating interest.'' Participating interests in a CIF are not insured by the Federal Deposit Insurance Corporation (FDIC) and are not subject to potential claims by a bank's creditors. In addition, a participating interest in a CIF cannot be pledged or otherwise encumbered in favor of a third party. A CIF admitting a participant (that is, allowing the participant, in effect, to purchase a proportionate interest in the assets of the CIF) or withdrawing all or part of its participating interest in the CIF may only do so on the basis of a valuation of the CIF's assets, as of the admission or withdrawal date, and only for non-cancellable requests made before or on the valuation date.[2] This general valuation rule is designed to protect all participants in the CIF from the risk that other participants will be admitted or withdrawn at valuations that dilute the value of existing participating interests in the CIF.

A STIF is a type of CIF that permits a bank to value the STIF's assets on an amortized cost basis, rather than at mark-to-market value, for purposes of admissions and withdrawals. Because a STIF's investments are limited to shorter-term assets and those assets generally are required to be held to maturity, differences between the amortized cost and mark-to-market value of the assets will be rare, absent atypical market conditions or an impaired asset. STIFs typically operate with the primary objective of maintaining a stable net asset value (NAV) per participation interest of $1.00.[3]

The OCC's STIF Rule at 12 CFR 9.18(b)(4)(iii) governs STIFs managed by national banks, but it is also common for other types of financial institutions (collectively with national banks, ''banks'') to manage collective investment funds pursuant to the requirements of other laws which, in turn, cross-reference the OCC's CIF Rule at 12 CFR 9.18 and the STIF Rule subcomponent thereof at 12 CFR 9.18(b)(4)(iii).[4]

There are also other types of funds that seek to maintain a stable NAV. The most significant of these from a financial market presence standpoint are ''money market mutual funds'' (MMMFs). These funds are organized as open-ended management investment companies and are regulated by the U.S. Securities and Exchange Commission (''SEC'') pursuant to the Investment Company Act of 1940, particularly pursuant to the provisions of SEC Rule 2a–7 thereunder (''Rule 2a–7'').

There are a number of important differences between MMMFs and STIFs; most significantly, MMMFs are open to all retail, commercial, institutional, and public sector investors, whereas, STIFs only are available to authorized fiduciary accounts of a bank and certain employee benefit plans.[5] Additionally, the combined asset value of all STIFs nationwide totals only a fraction of the combined asset value of all MMMFs.

B. Market Disturbances Impacting STIF Liquidity Management Functions

Recent events have significantly and adversely impacted global financial markets, and the OCC is concerned about the potential effects on STIFs operated by national banks. The spread of the Coronavirus Disease 2019 (COVID–2019) has slowed economic activity in many countries, including the United States. Sudden disruptions in financial markets have put increasing liquidity pressure on MMMFs, as they have been faced with redemption requests from clients with immediate cash needs. The Board of Governor of the Federal Reserve System, with the approval of the Secretary of the Treasury, has authorized the Federal Reserve Bank of Boston to establish the Money Market Mutual Fund Liquidity Facility, pursuant to section 13(3) of the Federal Reserve Act,[6] as a measure to ameliorate these liquidity pressures. Although STIFs do not serve the same broad investor market as MMMFs, the OCC remains concerned that, in light of the acute effects the COVID–2019 virus is triggering across the markets broadly, there may be elevated participation interest withdrawals for STIFs operated by national banks, notwithstanding these differences between STIFs and MMMFs. Regulatory authorities supervising other categories of banks operating STIFs—in accordance with the legal requirements governing those banks and incorporating the OCC's STIF rules as part of those requirements—have conveyed similar concerns to the OCC.

In addition to the OCC's concerns about unusual withdrawal levels, the OCC observes that STIF investment portfolios are generally made up of the same types of securities and investments as those held by MMMFs.

[1] 12 CFR 9.18.

[2] 12 CFR 9.18(b)(5).

[3] 12 CFR 9.18(b)(4)(iii)(A).

[4] For example, New York state law provides that all investments in short-term investment common trust funds may be valued at cost, if the plan of operation requires that: (i) The type or category of investments of the fund shall comply with the rules and regulations of the Comptroller of the Currency pertaining to short-term investment funds and (ii) in computing income, the difference between cost of investment and anticipated receipt on maturity of investment shall be accrued on a straight-line basis. *See* N.Y. Comp. Codes R. & Regs. Tit. 3, section 22.23 (2010). Additionally, in order to retain their tax-exempt status pursuant to the Internal Revenue Code, common trust funds must operate in compliance with § 9.18 as well as the Federal tax laws. *See* 26 U.S.C. 584. Although the direct scope of the STIF Rule provisions in § 9.18 of the OCC's regulations is national banks and Federal branches and agencies of foreign banks acting in a fiduciary capacity (12 CFR 9.1(c)) in regard to STIFs, the nomenclature of the STIF Rule refers simply to ''banks.'' For the sake of convenience, the OCC continues this approach and also applies the same convention to the discussion of the STIF final rule.

[5] 15 U.S.C. 80a; 17 CFR 270.2a–7. Because STIFs are a form of CIF, they are generally exempt from the SEC's rules under the Investment Company Act. STIFs used exclusively for (1) the collective investment of money by a bank in its fiduciary capacity as trustee, executor, administrator, or guardian and (2) the collective investment of assets of certain employee benefit plans are exempt from the Investment Company Act under 15 U.S.C. 80a–3(c)(3) and (c)(11), respectively. MMMFs are not subject to comparable restrictions as to the type of participant who may invest in the fund or the purpose of such investment.

[6] 12 U.S.C. 343(3).

Accordingly, liquidity pressures related to the COVID–2019 virus in the marketplace for those assets raise similar concerns as those presented for MMMFs. The OCC's STIF Rule requires management to operate the fund pursuant to liquidity management standards allowing the STIF to balance appropriately the volume of the STIF's daily admissions and withdrawals in conjunction with the maturities of the fund's investments. Under the OCC STIF Rule, these standards must address contingent funding needs, and the bank must operate an independent program of stress testing to assess the STIF's ability to maintain a stable NAV in varying market conditions.[7] Acute market-wide disturbances in the depth of liquidity available for a bank seeking to purchase and sell portfolio assets to maintain a STIF's liquidity put pressure on the bank's ability to perform these functions.

In addition, the OCC's STIF Rule requires the STIF to be operated pursuant to a written, board-approved plan that requires the fund to maintain a dollar-weighted average portfolio maturity of 60 days or less and a dollar-weighted average portfolio life maturity of 120 days or less, as determined in the same manner as is required by the Securities and Exchange Commission pursuant to Rule 2a–7 for money market mutual funds (17 CFR 270.2a–7). The OCC is concerned that the current market-wide liquidity disturbances may put pressure on bank management's ability to comply with these maturity limits.

II. Description of the Interim Final Rule

The OCC is amending the OCC STIF Rule to add a reservation of authority provision addressing the rule's limits on weighted average portfolio maturity, weighted average portfolio life maturity, and the method for determining those limits. The OCC believes that the temporary nature of the need for relief, and the uncertainty associated with future market conditions, counsel the OCC's use of a flexible method of administering relief from the limits, rather than a direct rule amendment to the limits themselves. In designing the proposed rule, the OCC is also mindful that banks other than national banks supervised and regulated by the OCC also operate their STIFs under applicable legal requirements that cross-reference the OCC STIF Rule. The OCC believes it is important to include a mechanism in the reservation of authority that provides these banks access to public information about the OCC's use of the reservation of authority.

Accordingly, the interim final rule sets out a framework under which the OCC's reservation of authority will be exercised in the format of an OCC administrative order. The administrative order will be issued by authorization of the Comptroller of the Currency. The OCC will publish the administrative order on its website at *www.occ.gov* and through other methods, as appropriate. The interim final rule provides that a bank seeking to comply with the requirements of the OCC STIF Rule on weighted average portfolio maturity, weighted average portfolio life maturity, and the method for determining them will deemed to be in compliance with the rule's limits if the bank complies with the limits or other revisions, and any applicable conditions, described in the administrative order.

III. Description of the Administrative Order

Concurrently with the OCC's issuance of this interim final rule, the OCC is issuing an administrative order pursuant to provisions of the interim final rule.

The order states that banks seeking to comply with the requirements of section 9.18(b)(4)(iii)(B) will be deemed to be in compliance with that section, if (1) the STIF maintains a dollar-weighted average portfolio maturity of 120 days or less, and (2) the STIF maintains a dollar-weighted average portfolio life maturity of 180 days or less. Consistent with the terms of section 9.18(b)(4)(iii)(B), both maturities must be determined in the same manner as is required by the Securities and Exchange Commission pursuant to Rule 2a–7 for money market mutual funds (17 CFR 270.2a–7).

The relief provided by the OCC's order terminates on July 20, 2020, unless the OCC revises the order to provide otherwise before that date. The OCC will monitor market conditions during this period to assess whether extensions beyond that date are necessary and appropriate.

The order also states the bank must determine it is acting in the best interests of the STIF under applicable law in connection with using these temporary limits. This determination may be made under the bank's standard procedures for making determinations in regards to the best interests of its collective investment funds.[8] In addition, the order states the bank must make any necessary amendments to the written plan for the STIF to reflect these temporary changes.

The OCC seeks comment on all aspects of the interim final rule.

IV. Administrative Law Matters

A. Administrative Procedure Act

The OCC is issuing the interim final rule without prior notice and the opportunity for public comment and the delayed effective date ordinarily prescribed by the Administrative Procedure Act (APA).[9] Pursuant to section 553(b)(B) of the APA, general notice and the opportunity for public comment are not required with respect to a rulemaking when an ''agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' [10]

The OCC believes that the public interest is best served by implementing the interim final rule immediately upon publication in the **Federal Register**. The spread of the COVID–19 virus has slowed economic activity in many countries, including the United States, and have put increasing liquidity pressure on the markets in which STIFs buy and sell their portfolio assets. These market conditions make it unusually difficult for banks to operate STIFs on a current basis in compliance with the maturity limits of the OCC STIF Rule. For these reasons, the OCC finds that there is good cause consistent with the public interest to issue the rule without advance notice and comment.[11]

The APA also requires a 30-day delayed effective date, except for (1) substantive rules which grant or recognize an exemption or relieve a restriction; (2) interpretative rules and statements of policy; or (3) as otherwise provided by the agency for good cause.[12] Because the interim final rule relieve a restriction, it is exempt from the APA's delayed effective date requirement.[13]

While the OCC believes that there is good cause to issue the rule without advance notice and comment and with an immediate effective date, the agencies are interested in the views of the public and requests comment on all aspects of the interim final rule.

B. Congressional Review Act

For purposes of Congressional Review Act, the OMB makes a determination as

[7] 12 CFR 9.18(b)(4)(iii)(F), (H).

[8] For national banks and federal savings associations, *see, e.g.* 12 CFR 9.11 and 9.18(a); *see also* 12 CFR 9.2(b).

[9] 5 U.S.C. 553.

[10] 5 U.S.C. 553(b)(3)(A).

[11] 5 U.S.C. 553(b)(B); 553(d)(3).

[12] 5 U.S.C. 553(d).

[13] 5 U.S.C. 553(d)(1).

to whether a final rule constitutes a ''major'' rule.[14] If a rule is deemed a ''major rule'' by the Office of Management and Budget (OMB), the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication.[15]

The Congressional Review Act defines a ''major rule'' as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in (A) an annual effect on the economy of $100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.[16]

For the same reasons set forth above, the OCC is adopting the interim final rule without the delayed effective date generally prescribed under the Congressional Review Act. The delayed effective date required by the Congressional Review Act does not apply to any rule for which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.[17] In light of current market uncertainty, the OCC believes that delaying the effective date of the rule would be contrary to the public interest.

As required by the Congressional Review Act, the OCC will submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (PRA) states that no agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid OMB control number. The interim final rule contains no collection of information under the PRA.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)[18] requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities.[19] The RFA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b). As discussed previously, consistent with section 553(b)(B) of the APA, the OCC has determined for good cause that general notice and opportunity for public comment is unnecessary, and therefore the OCC is not issuing a notice of proposed rulemaking. Accordingly, the OCC has concluded that the RFA's requirements relating to initial and final regulatory flexibility analysis do not apply.

Nevertheless, the OCC seeks comment on whether, and the extent to which, the interim final rule would affect a significant number of small entities.

E. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA),[20] in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions (IDIs), each Federal banking agency must consider, consistent with the principle of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form, with certain exceptions, including for good cause.[21] For the reasons described above, the OCC finds good cause exists under section 302 of RCDRIA to publish this interim final rule with an immediate effective date.

As such, the final rule will be effective immediately. Nevertheless, the OCC seeks comment on RCDRIA.

F. Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act[22] requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The OCC has sought to present the interim final rule in a simple and straightforward manner. The OCC invites comments on whether there are additional steps it could take to make the rule easier to understand. For example:

- Have the OCC organized the material to suit your needs? If not, how could this material be better organized?
- Are the requirements in the regulation clearly stated? If not, how could the regulation be more clearly stated?
- Does the regulation contain language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes to the format would make the regulation easier to understand? What else could we do to make the regulation easier to understand?

G. Unfunded Mandates

As a general matter, the Unfunded Mandates Act of 1995 (UMRA), 2 U.S.C. 1531 *et seq.,* requires the preparation of a budgetary impact statement before promulgating a rule that includes 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 million or more in any one year. However, the UMRA does not apply to final rules for which a general notice of proposed rulemaking was not published. See 2 U.S.C. 1532(a). Therefore, because the OCC has found good cause to dispense with notice and comment for this interim final rule, the OCC has not prepared an economic analysis of the rule under the UMRA.

List of Subjects in 12 CFR Part 9

Estates, Investments, National banks, Reporting and recordkeeping requirements, Trusts and trustees.

For the reasons set forth in the preamble, chapter I of title 12 of the Code of Federal Regulations is amended as follows:

PART 9—FIDUCIARY ACTIVITIES OF NATIONAL BANKS

■ 1. The authority citation for part 9 continues to read as follows:

[14] 5 U.S.C. 801 *et seq.*

[15] 5 U.S.C. 801(a)(3).

[16] 5 U.S.C. 804(2).

[17] 5 U.S.C. 808.

[18] 5 U.S.C. 601 *et seq.*

[19] Under regulations issued by the Small Business Administration, a small entity includes a depository institution, bank holding company, or savings and loan holding company with total assets of $600 million or less and trust companies with total assets of $41.5 million or less. *See* 13 CFR 121.201.

[20] 12 U.S.C. 4802(a).

[21] 12 U.S.C. 4802.

[22] 12 U.S.C. 4809.

Authority: 12 U.S.C. 24(Seventh), 92a, and 93a; 12 U.S.C. 78q, 78q–1, and 78w.

■ 2. Section 9.18 is amended by adding paragraph (b)(4)(iv) to read as follows:

§ 9.18 Collective investment funds.

* * * * *

(b) * * *

(4) * * *

(iv) *Reservation of authority.* Notwithstanding paragraph (b)(4)(iii)(B) of this section, during periods of market stress negatively affecting, on a temporary basis, the ability of banks to operate STIFs in compliance with the requirements of the paragraph:

(A) The OCC may issue an administrative order specifying, for purposes of paragraph (b)(4)(iii)(B) of this section, temporary revisions to the length of the dollar-weighted average portfolio maturity requirement, the length of dollar-weighted average portfolio life maturity, and the manner of determining such limits;

(B) A bank seeking to comply with paragraph (b)(4)(iii)(B) will be deemed to be in compliance with that paragraph's requirements by complying with the limits or other revisions, and any applicable conditions, described in the administrative order; and

(C) The OCC will publish the administrative order on *www.occ.gov* and through other methods, as appropriate.

* * * * *

Dated: March 21, 2020.

Morris R. Morgan,

First Deputy Comptroller, Comptroller of the Currency.

[FR Doc. 2020–06293 Filed 3–23–20; 11:15 am]

BILLING CODE 4810–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2020–0223; Special Conditions No. 25–768–SC]

Special Conditions: GDC Technics, Boeing Model 777–300ER Series Airplane; Lower Lobe Crew Rest Compartment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Boeing Model 777–300ER series airplane. This airplane, as modified by GDC Technics, will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is a lower lobe crew rest (LLCR) compartment located under the passenger cabin floor of the Boeing Model 777–300ER series airplane. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on GDC Technics on March 25, 2020. Send comments on or before May 11, 2020.

ADDRESSES: Send comments identified by Docket No. FAA–2020–0223 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket website, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478).

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Shannon Lennon, Airframe and Cabin Safety Section, AIR–675, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone and fax 206–231–3209; email *Shannon.Lennon@faa.gov.*

SUPPLEMENTARY INFORMATION: The substance of these special conditions previously has been published in the **Federal Register** for public comment. These special conditions have been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary, and finds that, for the same reason, good cause exists for adopting these special conditions upon publication in the **Federal Register**.

Comments Invited

The FAA invites interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

The FAA will consider all comments received by the closing date for comments. The FAA may change these special conditions based on the comments received.

Background

On April 25, 2016, GDC Technics applied for a supplemental type certificate for a LLCR compartment in the Boeing Model 777–300ER series airplane. The Boeing Model 777–300ER series airplane is a twin-engine, transport category airplane, with capacity for 550 passengers, and a maximum takeoff weight of 775,000 pounds.

The LLCR is located under the passenger cabin floor in the aft cargo compartment of Boeing Model 777–300ER series airplanes. Occupancy for the LLCR compartment is limited to a maximum of six (6) occupants. The LLCR will only be occupied in flight, *i.e.,* not during taxi, takeoff, or landing. Six berths are able to withstand the maximum flight loads when the LLCR compartment is at maximum capacity. New components for smoke detection system, oxygen system, emergency lighting system and manual firefighting system (fire extinguisher) will be installed and integrated into existing systems.

Main access to the LLCR compartment is gained via fixed stairs through a hatch in the floor of the main deck. The hatch is hidden from cabin passengers by a full size cabinet. Secondary emergency egress is provided via an additional hatch located forward of the main entrance.

Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.101, GDC Technics must show that the Boeing Model 777–300ER series airplane, as changed, continues to meet the applicable provisions of the regulations listed in Type Certificate No. T00001SE, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*e.g.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing Model 777–300ER series airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 777–300ER series airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34, and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Features

The Boeing Model 777–300ER series airplane will incorporate the following novel or unusual design features:

A LLCR compartment located under the passenger cabin floor of the Boeing Model 777–300ER series airplane.

Discussion

While the installation of a crew rest compartment is not a new concept for large transport category airplanes, each crew rest compartment has unique features based on design, location, and use on the airplane. The LLCR compartment is novel in that it will be located below the passenger cabin floor in the aft cargo compartment of the Boeing Model 777–300ER series airplane. Due to the novel or unusual features associated with the installation of a LLCR compartment, special conditions are considered necessary to provide a level of safety equal to that established by the airworthiness regulations incorporated by reference in the type certificates of these airplanes, as applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature.

Most of these special conditions come from § 25.819, but more stringent standards for fire protection and emergency egress are required because of design features and location of the LLCR compartment. The applicant should note that the FAA considers smoke or fire detection and fire suppression systems (including airflow management features that prevent hazardous quantities of smoke or fire extinguishing agent from entering any other compartment occupied by crewmembers or passengers) for crew rest compartments complex in terms of paragraph 6d of Advisory Circular (AC) 25.1309–1A, ''System Design and Analysis,'' dated June 21, 1988. In addition, the FAA considers failure of the crew rest compartment fire protection system (*i.e.,* smoke or fire detection and fire suppression systems), in conjunction with a crew rest fire, to be a catastrophic event. Based on the ''Depth of Analysis Flowchart'' shown in figure 2 of AC 25.1309–1A, the depth of analysis should include both qualitative and quantitative assessments. Refer to paragraphs 8d, 9, and 10 of AC 25.1309–1A. Note that flammable fluids, explosives, or other dangerous cargo are prohibited from being carried in the crew rest areas.

The requirements to enable crewmembers' quick entry to the crew rest compartment, and to locate a fire source, inherently places limits on the amount of baggage that may be carried and the size of the crew rest area. The FAA considers that the crew rest area must be limited to the stowage of crew personal luggage and must not be used for the stowage of cargo or passenger baggage. The design of such a system to include cargo or passenger baggage would require additional requirements to ensure safe operation.

Furthermore, the addition of galley equipment or a kitchenette incorporating a heat source (*e.g.,* cook tops, microwaves, coffee pots, etc.), other than a conventional lavatory or kitchenette hot water heater within the LLCR compartment as defined in the ''Novel or Unusual Design Features'' section, may require additional special conditions to be considered. A hot water heater is acceptable without need for special conditions.

Finally, amendment 25–38 modified the requirements of § 25.1439(a) by adding, ''In addition, protective breathing equipment must be installed in each isolated separate compartment in the airplane, including upper and lower lobe galleys, in which crewmember occupancy is permitted during flight for the maximum number of crewmembers expected to be in the area during any operation.'' The LLCR compartment is an isolated separate compartment, so § 25.1439(a) is applicable. However, the § 25.1439(a) protective breathing equipment (PBE) requirements for isolated separate compartments are not appropriate because the LLCR compartment is novel or unusual in terms of the number of occupants.

In 1976, when amendment 25–38 was adopted, small galleys were the only isolated compartments that had been certificated. Two crewmembers were the maximum expected to occupy those galleys.

This crew rest compartment can accommodate up to six crewmembers. This large number of occupants in an isolated compartment was not envisioned at the time amendment 25–38 was adopted. It is not appropriate for all occupants to don PBEs in the event of a fire because the first action should be to leave the confined space unless the occupant is fighting the fire. Taking the time to don the PBE would prolong the time for the emergency evacuation of the occupants and possibly interfere with efforts to extinguish the fire. These special conditions therefore provide procedures that establish a level of safety equivalent to the PBE requirements.

Operational Evaluations and Approval

These special conditions outline requirements for flightcrew and cabin crew rest compartment design approvals (*e.g.,* type design change or supplemental type certificate) administered by the FAA's Aircraft Certification Service. Prior to operational use of a flight (cabin) crew rest compartment, the FAA's Flight Standards Service must evaluate the flight (cabin) crew sleeping quarters and rest facilities for operational suitability. Refer to §§ 91.1061(b)(1), 121.485(a), 121.523(b), and 135.269(b)(5).

Compliance with these special conditions does not ensure that the applicant has demonstrated compliance

with the requirements of 14 CFR part 91, 121, or 135.

To obtain an operational evaluation, the type design holder must contact the appropriate Aircraft Evaluation Group (AEG) in the Flight Standards Service and request an evaluation for operational suitability of the flightcrew sleeping quarters in their crew rest facility. Results of these evaluations should be documented and appended to the applicable Flight Standardization Board Report. Individual operators may reference these standardized evaluations in discussions with their FAA Principal Operating Inspector as the basis for an operational approval, in lieu of an on-site operational evaluation.

Any changes to the approved flight (cabin) crew rest compartment configuration that affect crewmember emergency egress, or any other procedures affecting the safety of the occupying crewmembers and related training requires a re-evaluation and approval. In the event of any design change that affects egress, safety procedures, or training, the applicant is responsible for notifying the FAA's AEG that a new crew rest facility evaluation is required.

All instructions for continued airworthiness (ICAs) will be submitted to the Seattle AEG for approval acceptance, including service bulletins, before issuance of the FAA modification approval.

These special conditions are similar to Special Conditions No. 25–752–SC, except the maximum occupancy is 6 rather than 10 occupants, and the supplemental oxygen requirements have been expanded to include destination areas. The conditions provide an appropriate level of safety for the occupancy limit as only the size of the compartment volume will change to accommodate the occupants, but all other requirements for safety, fire suppression, and emergency evacuation will remain the same.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Boeing Model 777–300ER series airplane, as modified by GDC Technics. Should GDC Technics apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. T00001SE to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on one model series of airplanes, as modified by GDC Technics. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Boeing Model 777–300ER series airplanes, as modified by GDC Technics.

1. Occupancy of the LLCR compartment is limited to the total number of installed bunks and seats in each compartment. For each occupant permitted in the LLCR compartment, there must be an approved seat or berth able to withstand the maximum flight loads when occupied. The maximum occupancy in the LLCR compartment is six (6).

a. There must be appropriate placards displayed in a conspicuous place at each entrance to the LLCR compartment indicating the following information:

(1) The maximum number of occupants allowed;

(2) That occupancy is restricted to crewmembers who are trained in the evacuation procedures for the LLCR compartment;

(3) That occupancy is prohibited during taxi, take-off, and landing;

(4) That smoking is prohibited in the LLCR compartment; and

(5) That the LLCR compartment is limited to the stowage of personal luggage of crewmembers and must not be used for the stowage of cargo or passenger baggage.

b. There must be at least one ashtray located conspicuously on or near the entry side of any entrance to the LLCR compartment.

c. There must be a means to prevent passengers from entering the LLCR compartment in an emergency or when no flight attendant is present.

d. There must be a means for any door installed between the LLCR compartment and the passenger cabin to be capable of being quickly opened from inside the compartment, even when crowding occurs at each side of the door.

e. For all doors installed in the evacuation routes, there must be a means to preclude anyone from being trapped inside a compartment. If a locking mechanism is installed, it must be capable of being unlocked from the outside without the aid of special tools. The lock must not prevent opening from the inside of the compartment at any time.

2. There must be at least two emergency evacuation routes, which could be used by each occupant of the LLCR compartment to rapidly evacuate to the main cabin and could be closed from the main passenger cabin after evacuation.

a. The routes must be located with one at each end of the LLCR compartment, or with two having sufficient separation within the LLCR compartment and between the routes to minimize the possibility of an event (either inside or outside of the LLCR compartment) rendering both routes inoperative.

b. The routes must be designed to minimize the possibility of blockage, which might result from fire, mechanical or structural failure, or from persons standing on top of or against the escape route. If an evacuation route utilizes an area where normal movement of passengers occurs, it must be demonstrated that passengers would not impede egress to the main deck. If a hatch is installed in an evacuation route, the point at which the evacuation route terminates in the passenger cabin should not be located where normal movement by passengers or crew occurs, such as in a main aisle, cross aisle, passageway, or galley complex. If such a location cannot be avoided, special consideration must be taken to ensure that the hatch or door can be opened when a person who is the weight of a 95th percentile male is standing on the hatch or door. The use of evacuation routes must not be dependent on any powered device. If there is low headroom at or near an evacuation route, provision must be made to prevent or to protect occupants of the LLCR compartment from head injury.

c. Emergency evacuation procedures, including the emergency evacuation of an incapacitated crewmember from the LLCR compartment, must be established. All of these procedures must be transmitted to the operator for incorporation into its training programs and appropriate operational manuals.

d. There must be a limitation in the Airplane Flight Manual or other suitable means requiring that crewmembers be trained in the use of evacuation routes.

3. There must be a means for the evacuation of an incapacitated person (representative of a 95th percentile male) from the LLCR compartment to the passenger cabin floor.

a. The evacuation must be demonstrated for all evacuation routes. A flight attendant or crew member (a total of one assistant within the LLCR compartment) may provide assistance in the evacuation. Up to three persons in the main passenger compartment may provide additional assistance.

b. For evacuation routes having stairways, the additional assistants may descend down to one-half the elevation change from the main deck to the LLCR compartment, or to the first landing, whichever is higher.

4. The following signs and placards must be provided in the LLCR compartment:

a. At least one exit sign, which meets the requirements of § 25.812(b)(1)(i) must be located near each exit. However, a sign with reduced background area of no less than 5.3 square inches (excluding the letters) may be utilized, provided that it is installed such that the material surrounding the exit sign is light in color (*e.g.,* white, cream, light beige). If the material surrounding the exit sign is not light in color, a sign with a minimum of a one-inch-wide background border around the letters would also be acceptable.

b. An appropriate placard that defines the location and the operating instructions for each evacuation route must be located near each exit;

c. Placards must be readable from a distance of 30 inches under emergency lighting conditions; and

d. The exit handles and the placards with the evacuation path operating instructions must be illuminated to at least 160 micro lamberts under emergency lighting conditions.

5. There must be a means for emergency illumination to be automatically provided for the LLCR compartment in the event of failure of the main power system of the airplane, or of the normal lighting system of the LLCR compartment.

a. This emergency illumination must be independent of the main lighting system.

b. The sources of general cabin illumination may be common to both the emergency and the main lighting systems, if the power supply to the emergency lighting system is independent of the power supply to the main lighting system.

c. The illumination level must be sufficient for the occupants of the LLCR compartment to locate and transfer to the main passenger cabin floor by means of each evacuation route.

d. The illumination level must be sufficient to locate a deployed oxygen mask with the privacy curtains in the closed position for each occupant of the LLCR compartment.

6. There must be means for two-way voice communications between crewmembers on the flightdeck and crewmembers in the LLCR compartment. Section 25.785(h) requires flight attendant seats near required floor level emergency exits. Each such exit seat on the aircraft must have a public address microphone that allows two-way voice communications between flight attendants and crewmembers in the LLCR compartment. One microphone may serve more than one such exit seat, provided the proximity of the exits allows unassisted verbal communications between seated flight attendants.

7. There must be a means for manual activation of an aural emergency alarm system, audible during normal and emergency conditions, to enable crewmembers on the flightdeck and at each pair of required floor-level emergency exits to alert crewmembers in the LLCR compartment of an emergency. Use of a public address or crew interphone system will be acceptable, provided an adequate means of differentiating between normal and emergency communications is incorporated. The system must be powered in flight for at least ten minutes after the shutdown or failure of all engines and auxiliary power units (APU), or the disconnection or failure of all power sources which are dependent on the continued operation of the engines and APUs.

8. There must be a means—readily detectable by seated or standing occupants of the LLCR compartment—which indicates when seat belts should be fastened. If there are no seats, at least one means, such as sufficient handholds, must be provided to cover anticipated turbulence. Seat-belt-type restraints must be provided for berths and must be compatible for the sleeping attitude during cruise conditions. There must be a placard on each berth requiring that seat belts must be fastened when the berth is occupied. If compliance with any of the other requirements of these special conditions is predicated on specific head location, there must be a placard identifying the head position.

9. To provide a level of safety equivalent to that provided to occupants of a small isolated galley—in lieu of the requirements specified in § 25.1439(a) at amendment 25–38 that pertain to isolated compartments—the following equipment must be provided in the LLCR compartment:

a. At least one approved hand-held fire extinguisher appropriate for the kinds of fires likely to occur;

b. Two portable PBE units approved to Technical Standard Order (TSO)–C116 or equivalent, which are suitable for firefighting or one PBE for each hand-held fire extinguisher, whichever is greater; and

c. One flashlight.

Note: Additional PBEs and fire extinguishers in specific locations, beyond the minimum numbers prescribed in condition 9, may be required as a result of any egress analysis accomplished to satisfy condition 2(a).

10. A smoke-or-fire detection system or systems must be provided that monitors each occupiable area within the LLCR compartment, including those areas partitioned by curtains. Flight tests must be conducted to show compliance with this requirement. Each smoke-or-fire detection system must provide the following:

a. A visual indication to the flightdeck within one minute after the start of a fire;

b. An aural warning in the LLCR compartment; and

c. A warning in the main passenger cabin. This warning must be readily detectable by a flight attendant, taking into consideration the positioning of flight attendants throughout the main passenger compartment during various phases of flight.

11. The LLCR compartment must be designed such that fires within it can be controlled without a crewmember having to enter the compartment, or be designed such that crewmembers equipped for firefighting have unrestricted access to the compartment. The time for a crewmember on the main deck to react to the fire alarm, to don the firefighting equipment, and to gain access must not exceed the time for the compartment to become smoke-filled, making it difficult to locate the source of the fire.

12. There must be a means provided to exclude hazardous quantities of smoke or extinguishing agent originating in the LLCR compartment from entering any other compartment occupied by crewmembers or passengers. This means must include

the time periods during the evacuation of the LLCR compartment and, if applicable, when accessing the LLCR compartment to manually fight a fire. Smoke entering any other compartment occupied by crewmembers or passengers when the LLCR compartment is opened during an emergency evacuation must dissipate within five minutes after the LLCR compartment is closed. Hazardous quantities of smoke may not enter any other compartment occupied by crewmembers or passengers during subsequent access to manually fight a fire in the LLCR compartment. (The amount of smoke entrained by a firefighter exiting the LLCR compartment through the access is not considered hazardous.) During the one-minute smoke detection time, penetration of a small quantity of smoke from the LLCR compartment into an occupied area is acceptable. Flight tests must be conducted to show compliance with this requirement. If a built-in fire suppression system is used in lieu of manual firefighting, the fire suppression system must be designed so that no hazardous quantities of extinguishing agent will enter other compartments occupied by passengers or crewmembers. The system must have adequate capacity to suppress any fire occurring in the LLCR compartment, considering the fire threat, the volume of the compartment, and the ventilation rate.

13. For each seat and berth in the LLCR compartment, there must be a supplemental oxygen system equivalent to that provided for main deck passengers. If a destination area (such as a changing area) is provided, there must be an oxygen mask readily available for each occupant who can reasonably be expected to be in the destination area (with the maximum number of required masks within the destination area being limited to the placarded maximum occupancy of the designation area). The system must provide an aural and visual warning to alert the occupants of the LLCR compartment of the need to don oxygen masks in the event of decompression. The warning must activate before the cabin pressure altitude exceeds 15,000 feet. The aural warning must sound continuously for a minimum of five minutes or until a reset push button in the LLCR compartment is depressed. Procedures for crewmembers in the LLCR compartment to follow in the event of decompression must be established. These procedures must be transmitted to the operator for incorporation into their training programs and appropriate operational manuals.

14. The following requirements apply to LLCR compartments that are divided into several sections by the installation of curtains or doors:

a. To warn crewmembers who may be sleeping, there must be an aural alert that accompanies automatic presentation of supplemental oxygen masks. The alert must be audible in each section of the LLCR compartment. A visual indicator that occupants must don an oxygen mask is required in each section where seats or berths are not installed. A minimum of two supplemental oxygen masks are required for each seat or berth. There must also be a means to manually deploy the oxygen masks from the flightdeck.

b. A placard is required adjacent to each curtain that visually divides or separates the LLCR compartment into small sections for privacy purposes. The placard must indicate that the curtain is to remain open when the private section it creates is unoccupied.

c. For each section of the LLCR compartment created by the installation of a curtain, the following requirements of these special conditions must be met with the curtain open and with the curtain closed:

(1) Emergency illumination (condition 5);

(2) Aural emergency alarm (condition 7);

(3) Fasten-seat-belt signal or return-to-seat signal as applicable (condition 8); and

(4) Smoke or fire detection system (condition 10).

d. Crew rest compartments visually divided to the extent that evacuation could be affected must have exit signs that direct occupants to the primary stairway exit. The exit signs must be provided in each separate section of the LLCR compartment, and must meet the requirements of § 25.812(b)(1)(i). An exit sign with reduced background area as described in condition 4(a) may be used to meet this requirement.

e. For sections within an LLCR compartment that are created by the installation of a partition with a door separating the sections, the following requirements of these special conditions must be met with the door open and with the door closed:

(1) There must be a secondary evacuation route from each section to the main deck, or it must be shown that any door between the sections has been designed to preclude anyone from being trapped inside the compartment. Removal of an incapacitated crewmember from this area must be considered. A secondary evacuation route from a small room designed for only one occupant for a short period of time, such as a changing area or lavatory, is not required. However, removal of an incapacitated occupant from this area must be considered.

(2) Any door between the sections must be shown to be openable when crowded against, even when crowding occurs at each side of the door.

(3) There may be no more than one door between any seat or berth and the primary stairway exit.

(4) There must be exit signs in each section meeting the requirements of § 25.812(b)(1)(i), that direct occupants to the primary stairway exit. An exit sign with reduced background area, as described in condition 4(a), may be used to meet this requirement.

(5) Condition 5 (emergency illumination), 7 (aural emergency alarm), 8 (fasten seat belt signal or return to seat signal as applicable) and 10 (smoke and fire detection) must be met both with the door open and the door closed.

(6) Condition 6 (two-way voice communication) and 9 (PBE and other equipment) must be met independently for each separate section, except in lavatories or other small areas that are not intended to be occupied for extended periods of time.

15. Where a waste disposal receptacle is fitted, it must be equipped with a built-in fire extinguisher designed to discharge automatically upon occurrence of a fire in the receptacle.

16. Materials, including finishes or decorative surfaces applied to the materials, must comply with the flammability standards of § 25.853(a). Mattresses must comply with the flammability standards of § 25.853(c).

17. A lavatory within the LLCR compartment must meet the same requirements as a lavatory installed on the main deck, except with regard condition 10 for smoke detection.

18. When a LLCR compartment is installed or enclosed as a removable module in part of a cargo compartment, or is located directly adjacent to a cargo compartment without an intervening cargo compartment wall, the following conditions apply:

a. Any wall of the LLCR compartment, which forms part of the boundary of the reduced cargo compartment and is subject to direct flame impingement from a fire in the cargo compartment and any interface item between the LLCR compartment and the airplane structure or systems, must meet the applicable requirements of § 25.855.

b. Means must be provided to ensure that the fire protection level of the cargo

compartment meets the applicable requirements of §§ 25.855, 25.857, and 25.858 when the LLCR compartment is not installed.

c. Use of each emergency evacuation route must not require occupants of the LLCR compartment to enter the cargo compartment to return to the passenger compartment.

d. The aural emergency alarm specified in condition 7 must sound in the LLCR compartment in the event of a fire in the cargo compartment.

19. Means must be provided to prevent access into the Class C cargo compartment—whether or not the LLCR is installed—during all airplane flight operations and to ensure that the maintenance door is closed and secured during all airplane flight operations.

20. All enclosed stowage compartments within the LLCR compartment that are not limited to stowage of emergency equipment or airplane supplied equipment (*i.e.,* bedding), must meet the design criteria in the table below. As indicated in the table below, enclosed stowage compartments larger than 200 ft^3 in interior volume are not addressed by this special condition. The in-flight accessibility of very large enclosed stowage compartments, and the subsequent impact on the crewmembers' ability to effectively reach any part of the compartment with the contents of a hand fire extinguisher, will require additional fire protection considerations similar to those required for inaccessible compartments such as Class C cargo compartments.

Fire protection features	Stowage compartment interior volumes		
	Less than 25 ft^3	25 ft^3 to less than 57 ft^3	57 ft^3 to 200 ft^3
Materials of construction [1]	Yes	Yes	Yes.
Detectors [2]	No	Yes	Yes.
Liner [3]	No	No	Yes.
Locating device [4]	No	Yes	Yes.

[1] Material: The material used to construct each enclosed stowage compartment must at least be fire resistant and must meet the flammability standards established for interior components per the requirements of § 25.853. For compartments less than 25 ft^3 in interior volume, the design must ensure the ability to contain a fire likely to occur within the compartment under normal use.

[2] Detectors: Enclosed stowage compartments equal to or exceeding 25 ft^3 in interior volume must be provided with a smoke or fire detection system to ensure that a fire can be detected within a one-minute detection time. Flight tests must be conducted to show compliance with this requirement. Each system (or systems) must provide:

a. A visual indication in the flightdeck within one minute after the start of a fire;

b. An aural warning in the LLCR compartment; and

c. A warning in the main passenger cabin. This warning must be readily detectable by a flight attendant, taking into consideration the positioning of flight attendants throughout the main passenger compartment during various phases of flight.

[3] Liner: If it can be shown that the material used to construct the stowage compartment meets the flammability requirements of a liner for a Class B cargo compartment, no liner would be required for enclosed stowage compartments equal to or greater than 25 ft^3 but less than 57 ft^3 in interior volume. For all enclosed stowage compartments equal to or greater than 57 ft^3 but less than or equal to 200 ft^3 in interior volume, a liner must be provided that meets the requirements of § 25.855 for a Class B cargo compartment.

[4] Location Detector: LLCR compartments which contain enclosed stowage compartments with an interior volume exceeding 25 ft^3 and which are located away from one central location such as the entry to the LLCR compartment or a common area within the LLCR compartment would require additional fire protection features or devices to assist the firefighter in determining the location of a fire.

Issued in Des Moines, Washington, on March 17, 2020.

James E. Wilborn,

Acting Manager, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2020–06025 Filed 3–24–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No.: FAA–2020–0289; Amdt. No. 121–383]

RIN 2120–AL62

Oxygen Mask Requirement: Supplemental Oxygen for Emergency Descent and for First Aid; Turbine Engine Powered Airplanes With Pressurized Cabins

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

ACTION: Final rule.

SUMMARY: This action amends the oxygen mask requirement for circumstances in which a single pilot is at the aircraft controls. This action applies to all certificate holders who conduct domestic, flag, and supplemental operations. This action responds to a statutory mandate that requires the FAA to increase the flight level threshold at which the FAA requires use of an oxygen mask by the remaining pilot at the aircraft controls when the other pilot at the controls leaves the control station.

DATES: This final rule is effective on March 23, 2020.

FOR FURTHER INFORMATION CONTACT: Daniel T. Ronneberg, Part 121 Air Carrier Operations, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone 202–267–1216; email *Dan.Ronneberg@faa.gov*.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

This final rule addresses section 579 of the Federal Aviation Administration Reauthorization Act of 2018, Public Law 115–254 (Oct. 5, 2018) (''FAARA 2018''), which requires the FAA to issue a final regulation revising § 121.333(c)(3) of title 14, Code of Federal Regulations (14 CFR), to apply only to flight altitudes above flight level 410. Such an amendment would increase the flight level [1] threshold from flight level 250 to flight level 410 (*i.e.,* a flight altitude of 41,000 feet), at which the FAA requires a pilot at the controls to put on and use the required oxygen mask while the other pilot leaves his or her control station. As a result, by this action, the FAA amends 14 CFR 121.333(c)(3) to replace the current flight altitude threshold of flight level 250 with flight level 410.

[1] As further explained in Section III of this final rule, the FAA defines ''flight level'' in 14 CFR 1.1 as a level of constant atmospheric pressure related to a reference datum of 29.92 inches of mercury. Flight levels are stated in three digits that represent hundreds of feet. For example, flight level 250 represents a barometric altimeter indication of 25,000 feet.

II. Legal Authority and Good Cause

A. Legal Authority

The FAA is responsible for the safety of flight in the United States and for the safety of U.S. civil operators, U.S.-registered civil aircraft, and U.S.-certificated airmen throughout the world. The FAA Administrator's authority to issue rules on aviation safety is found in title 49, U.S. Code, Subtitle I, sections 106(f) and (g). Section 106(f) vests final authority in the Administrator for carrying out all functions, powers, and duties of the administration relating to the promulgation of regulations and rules.

Subtitle VII of title 49, Aviation Programs, describes in more detail the scope of the agency's authority. Section 44701(a)(5) requires the Administrator to promulgate regulations and minimum standards for other practices, methods, and procedures that the Administrator finds necessary for safety in air commerce and national security. In addition, section 40101(d)(1) provides that the Administrator shall consider in the public interest, among other matters, assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce. Further, section 44701(d)(1)(A) specifically states that the Administrator, when prescribing safety regulations, must consider the duty of an air carrier to provide service with the highest possible degree of safety in the public interest. In addition, section 579 of Public Law 115–254 (Oct. 5, 2018) requires this amendment, stating that the Administrator of the FAA shall issue a final regulation revising § 121.333(c)(3) of title 14 CFR to apply only to flight altitudes above flight level 410.

This rulemaking is promulgated pursuant to the authority described in the preceding paragraphs. These authorities apply to the oversight the FAA exercises to ensure safety of air carrier operations, including flight crewmember supplemental oxygen usage.

B. Good Cause for Immediate Adoption and Basis for Immediate Effective Date

The Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.,* generally requires public notice and an opportunity to comment before promulgating regulations. The APA provides an exception to the notice and comment process in section 553(b)(3)(B). That exception authorizes an agency to dispense with notice and comment rulemaking procedures when the agency for ''good cause'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.''

In this instance, the FAA finds good cause exists to forgo notice and comment because notice and comment would be unnecessary, and contrary to the public interest. The statute unambiguously requires replacing the flight altitude threshold of flight level 250 with flight level 410. This mandated amendment is specific, prescriptive, and inflexible. It is a directive that leaves no room for discretion or interpretation. Because this rule implements a statutory requirement without change, the FAA lacks the discretion to make changes in response to comments. Therefore, notice and comment procedures are unnecessary and contrary to the public interest.

Section 553(d)(1) also provides an exception to the general requirement that the required publication or service of a substantive rule shall be made not less than 30 days before its effective date, where a substantive rule grants or recognizes an exemption or relieves a restriction. This rule is relieving in that it provides for a higher threshold flight level at which a remaining pilot would be required to put on an oxygen mask.

Accordingly, the FAA finds good cause exists to forgo notice and comment procedures, and to make this rule immediately effective.

III. Background

The FAA has long required certificate holders to furnish, and flight crewmembers to put on and use, oxygen masks during each domestic, flag, or supplemental operation in which the certificate holder uses a turbine engine powered airplane with a pressurized cabin. The FAA established these requirements to mitigate the risk of an event of an in-flight cabin pressurization failure. Under 14 CFR 121.385, the minimum pilot crew is two pilots for such operations. During such operations, under the provisions of § 121.543, a pilot is allowed to leave the flight controls under certain specified circumstances. The FAA designed the requirement codified at § 121.333(c)(3) to mitigate the risk of having a pressurization or other oxygen failure incident when only one pilot is at the flight controls. The FAA requires that if the aircraft is above *flight level 250,* the pilot remaining on the flight deck must put on and use the provided oxygen mask. This requirement ensures the remaining pilot is never without oxygen. Such a requirement is particularly important because, in the case of an emergency, the pilot would have to initiate and accomplish multiple tasks immediately.

Pursuant to section 579 of FAARA 2018, this final rule amends 14 CFR 121.333(c)(3) to remove the current flight altitude threshold of flight level 250 and replace it with a flight altitude threshold of flight level 410.

IV. Discussion of the Final Rule

As discussed above, this final rule amends 14 CFR 121.333(c)(3) to remove the current flight altitude threshold of flight level 250 and replace it with a flight altitude threshold of flight level 410. This change results in a requirement that in domestic, flag, and supplemental operations, when only one pilot is at the flight controls, the pilot remaining at his or her control station must wear an oxygen mask if the aircraft is above flight level 410 and the other pilot has left his or her aircraft control station.

The FAA expects certificate holders' implementation of this updated standard will be straightforward because it only increases the flight level threshold at which the pilot who remains at the appropriate control station must put on and use an oxygen mask. Pilots may continue to use their oxygen masks at lower flight levels, but such use would not be required until the aircraft exceeds flight level 410.

The FAA notes that certificate holders generally review and update their manuals on a periodic basis, and that it is likely that they will update any sections of their manuals concerning pilot oxygen requirements to address the new flight level threshold. Certificate holders also review training programs on a periodic basis and might also update their flight crewmember training programs to capture the new flight level standard. Because certificate holders would update their manuals and training programs on a periodic basis irrespective of this rule, the FAA does not expect that implementation of this rule, including any resulting updates to the certificate holders' manuals or training programs, would result in a burden to carriers.

V. Regulatory Notices and Analyses

Changes to Federal regulations must undergo several economic analyses. First, Executive Orders 12866 and 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), as codified in 5 U.S.C. 603 *et seq.,* requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act of 1979 (Pub. L. 96–39),

as codified in 19 U.S.C. Chapter 13, prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Agreements Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), as codified in 2 U.S.C. Chapter 25, requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

In conducting these analyses, the FAA has determined this rule is not a significant regulatory action, as defined in section 3(f) of Executive Order 12866. As notice and comment under 5 U.S.C. 553 are not required for this final rule, the regulatory flexibility analyses described in 5 U.S.C. 603 and 604 regarding impacts on small entities are not required. This rule will not create unnecessary obstacles to the foreign commerce of the United States. This rule will not impose an unfunded mandate on State, local, or tribal governments, or on the private sector, by exceeding the threshold identified previously.

A. Regulatory Evaluation

This action amends § 121.333(c)(3) to address the requirement of section 579 of FAARA 2018, which requires the FAA to issue a final regulation revising that section, to apply only to flight altitudes above flight level 410. Such an amendment means that, when one pilot leaves his or her control station, the remaining pilot is not required to put on and use an oxygen mask until the aircraft reaches flight level 410. Consequently, certificate holders will incur minimal costs associated with updating manuals and flight crewmember training programs to capture the new flight level standard; however, industry has indicated it supports this amendment.[2] Certificate holders already make frequent updates; this change would be a straightforward change in flight level and regulatory references. As previously mentioned, petitioners have asserted that the more limited use of oxygen masks below flight level 410 would not adversely affect safety because of the extremely low risk for depressurization at altitudes above flight level 250. This rule only updates the text of § 121.333(c)(3) to comply with the mandate at section 579 of FAARA 2018. The FAA finds this rule would have minimal costs.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), in 5 U.S.C. 603, requires an agency to prepare an initial regulatory flexibility analysis describing impacts on small entities whenever an agency is required by 5 U.S.C. 553, or any other law, to publish a general notice of proposed rulemaking for any proposed rule. Similarly, 5 U.S.C. 604 requires an agency to prepare a final regulatory flexibility analysis when an agency issues a final rule under 5 U.S.C. 553, after being required by that section or any other law to publish a general notice of proposed rulemaking. The FAA found good cause exists to forgo notice and comment and any delay in the effective date for this rule. As notice and comment under 5 U.S.C. 553 are not required in this situation, the regulatory flexibility analyses described in 5 U.S.C. 603 and 604 are similarly not required.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39) prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to this Act, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

The FAA has assessed the potential effect of this final rule and has determined that it is consistent with international standards. Therefore, this final rule complies with the Trade Agreements Act of 1979.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $155 million in lieu of $100 million.

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined there is no new requirement for information collection associated with this final rule.

F. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA's policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable.

The FAA finds that this action is fully consistent with the obligations under 49 U.S.C. 40105(b)(1)(A) to ensure that the FAA exercises its duties consistently with the obligations of the United States under international agreements.

The FAA has reviewed the relevant standards of the International Civil Aviation Organization and concludes that it would not be contrary to any ICAO standard to amend § 121.333(c)(3) to change the threshold for requiring a remaining pilot to put on and use an oxygen mask to flight level 410 rather than flight level 250. In this regard, ICAO Annex 6 (''Operation of Aircraft'') does not require that oxygen masks must be routinely worn above flight level 250. Annex 6, section 4.4.5 (''Use of Oxygen''), only requires oxygen masks to *be available* above 25,000 feet mean sea level (MSL). The standard states, ''[a]ll flight crew members of pressurized aeroplanes operating above an altitude where the atmospheric pressure is less than 376 hPa [25,000 feet MSL] shall have available at the flight duty station a quick-donning type of oxygen mask which will readily supply oxygen upon demand.'' Therefore, the revision to § 121.333(c)(3) that the FAA now promulgates is not contrary to ICAO standards.

[2] Airlines for America, Request for Temporary Enforcement Suspension of and Exemption from 14 CFR 121.333*(c)(3)* (Mar. 17, 2020), available in the docket for this rulemaking.

G. Environmental Analysis

The FAA has analyzed this action under Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, and DOT Order 5610.1C, Paragraph 16. Executive Order 12114 requires the FAA to be informed of environmental considerations and take those considerations into account when making decisions on major Federal actions that could have environmental impacts anywhere beyond the borders of the United States. The FAA has determined this action is exempt pursuant to Section 2–5(a)(i) of Executive Order 12114, because it does not have the potential for a significant effect on the environment outside the United States.

In accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 8–6(c), FAA has prepared a memorandum for the record stating the reason(s) for this determination; this memorandum has been placed in the docket for this rulemaking.

VIII. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this rule under the principles and criteria of Executive Order 13132, Federalism. The agency has determined this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have Federalism implications.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. The agency has determined that it would not be a ''significant energy action'' under the executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

C. Executive Order 13609, Promoting International Regulatory Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation.

D. Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs

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

IX. Additional Information

A. Availability of Rulemaking Documents

An electronic copy of a rulemaking document may be obtained from the internet by—

- Searching the Federal Document Management System (FDMS) Portal at *http://www.regulations.gov;*
- Visiting the FAA's Regulations and Policies web page at *http://www.faa.gov/regulations_policies;* or
- Accessing the Government Publishing Office's website at *http://www.govinfo.gov.*

Copies may also be obtained by sending a request (identified by amendment or docket number of this rulemaking) to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–9677.

All documents the FAA considered in developing this rule, including economic analyses and technical reports, may be accessed from the internet through the Federal Document Management System Portal referenced previously.

B. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Pub. L. 104–121) (set forth as a note to 5 U.S.C. 601) requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact its local FAA official, or the persons listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the internet, visit *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.*

List of Subjects in 14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements, Safety, Transportation.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of title 14, Code of Federal Regulations, part 121, as follows:

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

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

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40119, 41706, 42301 preceding note added by Pub. L. 112–95, sec. 412, 126 Stat. 89, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44729, 44732; 46105; Pub. L. 111–216, 124 Stat. 2348 (49 U.S.C. 44701 note); Pub. L. 112–95, 126 Stat. 62 (49 U.S.C. 44732 note).

■ 2. Amend § 121.333 by revising paragraph (c)(3) to read as follows:

§ 121.333 Supplemental oxygen for emergency descent and for first aid; turbine engine powered airplanes with pressurized cabins.

* * * * *

(c) * * *

(3) Notwithstanding paragraph (c)(2) of this section, if for any reason at any time it is necessary for one pilot to leave his station at the controls of the airplane when operating at flight altitudes above flight level 410, the remaining pilot at the controls shall put on and use his oxygen mask until the other pilot has returned to his duty station.

* * * * *

Issued in Washington, DC, under the authority of 49 U.S.C. 106(f) and (g), and 44701(a)(5), on March 20, 2020.

Steve Dickson,

Administrator, Federal Aviation Administration.

[FR Doc. 2020–06312 Filed 3–23–20; 11:15 am]

BILLING CODE 4910–13–P

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Parts 812, 813, 852, and 853

RIN 2900–AP58

VA Acquisition Regulation: Acquisition of Commercial Items and Simplified Acquisition Procedures

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending and updating its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the Federal Acquisition

Regulation (FAR), to remove procedural guidance internal to VA into the VA Acquisition Manual (VAAM), and to incorporate any new agency specific regulations or policies. These changes seek to streamline and align the VAAR with the FAR and remove outdated and duplicative requirements and reduce burden on contractors. The VAAM incorporates portions of the removed VAAR as well as other internal agency acquisition policy. VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, VA will publish them in the **Federal Register**. In particular, this rulemaking revises the VAAR concerning Acquisition of Commercial Items and Simplified Acquisition Procedures, and affected parts Solicitation Provisions and Contract Clauses, and Forms.

DATES: This rule is effective on April 24, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Rafael N. Taylor, Senior Procurement Analyst, Procurement Policy and Warrant Management Services, 003A2A, 425 I Street NW, Washington, DC 20001, (202) 382–2787. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On January 11, 2018, VA published a proposed rule in the **Federal Register** (83 FR 1321) which announced VA's intent to amend regulations for VAAR Case RIN 2900–AP58 (parts 812 and 813). VA provided a 60-day comment period for the public to respond to the proposed rule and submit comments. The comment period for the proposed rule ended on March 12, 2018 and VA received comments from a total of five respondents. This rule adopts as a final rule, with changes, the proposed rule published in the **Federal Register** on January 11, 2018.

This final rule adds language to VAAR part 812 to state that VA's Veterans First Contracting Program (VFCP) under VAAR subpart 819.70 applies to VAAR part 812, Acquisition of Commercial Items; to update a list of unique VA solicitation provisions and contract clauses that contracting officers can apply to solicitations and contracts for the acquisition of commercial items; and to add a new clause on Gray Market Items to ensure that new medical equipment and associated services and support for VA Medical Centers are purchased from Original Equipment Manufacturers (OEM) or their authorized distributors and resellers. In VAAR part 813, this final rule adds language to reference the applicability of the VFCP in contracts awarded using Simplified Acquisition Procedures; to require contracting officers to use the Vendor Information Pages (VIP) database to confirm Service-Disabled Veteran-Owned Small Business (SDVOSB) and Veteran-Owned Small Business (VOSB) status; and to add language in VAAR part 813 that emphasizes that contracting officers can use other than competitive procedures under specified circumstances when awarding to SDVOSBs and VOSBs. VA had proposed removing the language at 813.202, Purchase guidelines, and to replace it with proposed text at 813.203, Purchase guidelines, to comport with the numbering and arrangement of the FAR. VA is removing the current text contained in 813.202 as described in the Technical Non-Substantive Changes to the Proposed Rule section.

This final rule includes changes as a result of public comments, minor formatting and/or grammatical edits, as well as **Federal Register** administrative format changes in the amendatory text which result in no substantive changes at the affected sections.

There were five respondents that submitted public comments. There were 15 separate comments submitted by these 6 respondents. Because there was redundancy in terms of the comments submitted, VA has separated the comments and responses into 9 distinct issues and themes for clarity. A discussion of the issues raised in the comments as well as the changes made to the rule as a result of those comments are provided as follows:

1. Positive Feedback on the Proposed Rule

A respondent commends VA for its thoughtful development of this rule and of the agency's overarching goal of revising and streamlining the VAAR. They believe that SDVOSBs and VOSBs, as well as VA contracting officers, will benefit from the clarity this rulemaking provides regarding the applicability of the Veterans First Contracting Program policy and VAAR provisions to VA acquisition of commercial items. They also commend VA for removing some unnecessary or duplicative provisions and for adding a VAAR provision to make clear when ''gray market'' items are not permitted.

VA appreciates the feedback from these commenters on the VA's overarching goal to streamline the VAAR. VA is also pleased the commenters support overall the revisions to VAAR parts 812 and 813.

2. Clarification of the VA Acquisition of Commercial Items Clauses

One commenter raised the issue that the proposed provision, 852.212–70, Provisions Applicable to VA Acquisition of Commercial Items, and the clause, 852.212–71, Contract Terms and Conditions Applicable to VA Acquisition of Commercial Items, may be confusing and proposes that VA consider combining them into one list for clarity and consistency.

VA has reexamined the proposed clause and provision, and agrees that combining the previously proposed separate clause and provision into one clause will eliminate unnecessary duplication when it must be included in both solicitations and in contracts, BPAs and orders. Accordingly, section 812.301 has been amended to reflect the updated prescription, numbering and title for the new combined clause, 852.212–70, Provisions and Clauses Applicable to VA Acquisition of Commercial Items, and the renumbered remaining clause originally prescribed in this section, now 852.212–71, Gray Market Items. VA has also updated the list of unique VA solicitation provisions and contract clauses that contracting officers can apply to solicitations and contracts for the acquisition of commercial items based on current prescribed provisions or clauses and current VA practice.

3. Concerns About Gray Market Items, Pass-Through Entities and High Tech Medical Equipment

A commenter expressed concern with business entities which do not possess the clinical and technical knowledge of high tech medical equipment and supporting ancillary services and acting as a ''pass-through'' entity. The commenter expresses concern that such ''pass-through'' entities will have a negative effect on the delivery of quality patient care and services to VA Medical Centers if such business entities are allowed to participate in VA procurements. The commenter believes that new medical equipment for VA Medical Centers should be purchased from an OEM or its authorized dealer, distributor, or reseller. The commenter also expressed concern that allowing set-asides for firms that are not manufacturers (*i.e.,* nonmanufacturers) may create potential pass-throughs.

VA is always concerned with the fidelity and quality of equipment purchased to support Veterans healthcare. VA believes the inclusion of clause 852.212–71, Gray Market Items, will appropriately address the use of authorized Original Equipment Manufacturer (OEM) distributors or resellers. Policy governing the SBA nonmanufacturer rule and limitations on subcontracting requirements are covered in the FAR and other parts of the VAAR and permit the use of

businesses that comply with those regulations. We are making no changes to this rule based on this comment.

4. Potential Conflicts Between the Proposed Rule, VA's Veterans Small Business Regulations at 38 CFR Part 74 and the SBA's Regulations on Government Contracting Programs at 13 CFR Part 125

One commenter provided comments in response to both the proposed rule under this case, and proposed changes to VA's Veterans Small Business Regulations at 38 CFR part 74, published January 10, 2018 in the **Federal Register** (83 FR 1203). The commenter states that ''a Veteran-Owned Small Business (VOSB)/Service-Disabled Veteran-Owned Small Business (SDVOSB) must be verified by the VA's Center for Verification and Evaluation (CVE) and listed in the Vendor Information Pages (VIP) database in order to be eligible for set-aside contract awards in the VA. This eligibility continues for 3 years unless there are circumstances which require the business to exit the program as outlined in 38 CFR 74.21. One of those circumstances is failure to maintain its eligibility for program participation. Presumably, when a VOSB/SDVOSB finds that it is no longer small for a particular NAICS code for which it is registered, it is also no longer eligible to be listed in VIP for that NAICS code and will be removed. This appears to be in conflict with the Small Business Administration (SBA) policy.''

VA will not revise VAAR part 812 or 813 based on this comment. Title 38 U.S.C. 8127 requires a firm must be listed as verified in the VA database to be eligible to receive an award under the VFCP. This comment is beyond the scope of this rule as it mostly applies to certification and verification requirements under the VA's Veterans Small Business Regulations at 38 CFR part 74, published January 10, 2018 in the **Federal Register** (83 FR 1203) and which became effective October 1, 2018 (83 FR 48221). Note that a new SBA regulation related to SDVOSB certification also became effective on the same date. The changes in both SBA and VA regulations comply with the directive in the National Defense Authorization Act of 2017 (Pub. L. 114–328), section 1832, to standardize definitions for SDVOSBs and VOSBs between VA and SBA. As required by section 1832, the Secretary of Veterans Affairs will use SBA's regulations to determine ownership and control of SDVOSBs and VOSBs. The Secretary would continue to determine whether individuals are Veterans or service-disabled Veterans and would be responsible for verification of applicant firms. Challenges to the status of an SDVOSB or VOSB based upon issues of ownership or control would be decided by the administrative judges at the SBA's Office of Hearings and Appeals (OHA).

The commenter also provided comments indicating that SDVOSB/VOSB verification and representation requirements should not apply to orders. The commenter argued that requiring the verification of SDVOSB/VOSB status at the order level would be in conflict with the SBA regulations which do not require verification at the task order level for certain types of contracts. The commenter believes that the proposed VAAR conflicts with that SBA policy. In effect, the commenter submits, that while the SBA rules may allow an SDVOSB that has ''organically outgrown'' its size to compete for orders under an IDIQ for up to 5 years without recertifying its status or size (unless the [contracting officer] CO requests it), VA's Veterans First Contracting Program requires ''recertification'' within 30 days of a business outgrowing its size by removing it from the VIP database (which must be checked by the CO prior to task order award). Furthermore, the commenter believes that ''it may be argued that the VA rule is tantamount to eliminating the CO's discretion to ask for recertification at the task order level by requiring the CO to, effectively, ask for a recertification for every task order by checking VIP''. Another commenter argued the opposite. The second commenter believes that VA should revise VAAR 813.003–70 to make clear that the Veterans First Contracting Program mandate and the requirement to confirm SDVOSB or VOSB status apply to task orders. However, they recommend VA follow the SBA guidance on small business representation. They also believe that replacing ''prior to award'' with ''at the time of award'' would provide more clarity on the specific point of time at which VA judges SDVOSB and VOSB eligibility.

We are unable to make the overall recommended changes due to VA's statutory mandate. The Veterans First Contracting Program (VFCP) applies to all contracts, BPAs and orders under this part. VA legislation is very clear that only small businesses listed in the VA database of eligible firms (the Vendor Information Pages or VIP) can be awarded a contract under the VFCP. The Supreme Court confirmed this requirement and issued a decision in 2016 that for purposes of the program, an order is a contract. Therefore, verifying VIP eligibility shall occur both at the time of submission of offers and prior to award for contracts and orders is consistent with the current VAAR 819.7003 class deviation issued on July 25, 2016. A future VAAR case for part 819 will further examine the issue of ''prior to award'' or ''at time of award.''

5. Use of the Veterans First Contracting Program (38 U.S.C. 8127–8128) as an Authority for the Proposed Rule

One of the commenters objected to the use of 38 U.S.C. 8127–8128 as an authority citation in parts 812 and 813. The commenter requested an explanation to why this specific statute is included in a document that explicitly excludes internal guidance on processes and procedures. The commenter believes it is inappropriate to include the statute by reference at a time when many questions regarding guidance, applicability, and impact are unanswered.

We are making no change to VAAR part 812 or 813 based on this comment. The inclusion of the authority is appropriate because many of the issues addressed in these parts are based on the unique and special requirements imposed by legislation and statute and make it necessary to include the referenced citation.

6. Applicability of the Veterans First Contracting Program in the Proposed Rule

A commenter indicated that the proposed policy at VAAR 813.003–70 references contracts as defined in FAR 2.101, but does not explicitly reference task orders. To avoid confusion, the commenter recommends that VA revise VAAR 813.003–70(a) to include a reference to orders.

VA notes that orders are part of the definition of contracts as set forth in FAR 2.101, Definitions. However, to ensure clarity to the specific types of actions covered under VAAR part 813, we are revising 813.003–70, Policy, to indicate that the VFCP applies to contracts, orders and BPAs under this part. We also added a reference to FAR part 13 to indicate that the VFCP takes precedence over the small business programs referenced in FAR part 13, and references to 819 which includes additional information regarding compliance with the VFCP.

One commenter requested that VA include the use of a fixed percentage figure to define ''fair and reasonable'' in the context of the VA Rule of Two. They also believe that the nonmanufacturer rule should be waived to allow Veteran small businesses the ability to compete.

We are making no change to VAAR part 812 or 813 based on this comment. How to conduct a price analysis and establishing a fair and reasonable price is already addressed in the FAR. Specifically, FAR subpart 15.4, Contract Pricing, provides guidance to contracting officers to assist in making a fair and reasonable determination. Additional internal agency guidance would be contained in the VA Acquisition Manual. However, VA acknowledges this is an area of interest for the public as well as VA's acquisition workforce. VA is preparing additional internal training for its acquisition workforce to strengthen and refresh contracting officer's skillsets in this area.

Regarding the nonmanufacturer rule and Veteran small businesses, VA will continue to comply with SBA regulations. VA legislation requires VA to use the small business definitions and requirements in the Small Business Act, where not in conflict with VA's unique statutory authority and 38 U.S.C. 8127–8128. This includes the application of the nonmanufacturers rule. The nonmanufacturer rule is a requirement in the Small Business Act as implemented by the SBA under 13 CFR 121.401 through 121.413 and applies to all Federal procurement programs for which status as a small business is required or advantageous.

A commenter applauds VA for addressing the SDVOSB/VOSB sole source option in its regulations. The commenter believes that the sole source requirement in this section is consistent with the legislation, but believes it is not consistent with those in VAAR subpart 819.70, as a result of restrictions added to VAAR 819.7007 and 819.7008 through a class deviation implementing the program as a result of the *Kingdomware* Supreme Court Decision. The commenter believes that the legislation does not impose requirements on when or how to use the sole source authority and that VA should make clear that its contracting officers need not do more than what is set forth in VAAR 813.106–70(c) to make sole source awards to SDVOSBs and VOSBs above the simplified acquisition threshold. The commenter requests that VA go so far as to encourage the award of sole source contracts when certain conditions are met. The commenter suggested revision language to VAAR 813.106–70(c).

VA concurs that the VA legislation provides a unique sole source authority that is less restrictive than a sole source award otherwise permitted under FAR 6.302–1, ''Only one responsible source and no other supplies or services will satisfy agency requirements.'' VA does not concur, however, with the latter part of the commenter's analogy that a sole source is acceptable under any circumstance or that the use of sole source contracts should be encouraged. Consistent with the FAR, VA encourages the use of competitive procedures for all its procurements to the maximum extent practicable.

Therefore, VA declines to make changes to the language as suggested but will add a FAR reference in VAAR 813.106–70(b) and (c) that contracts awarded using the VA legislative authority shall be conducted as authorized by FAR 6.302–5 and in accordance with 819.7007 and 819.7008, and to remove redundant language in the remaining paragraph that is covered in the referenced sections and is also applicable under part 813. This language is consistent with the legislative mandate, FAR and the language in VAAR subpart 819.70, as provided in the July 25, 2016, VAAR Class Deviation—Implementation of the Veterans First Contracting Program as a Result of the U.S. Supreme Court Decision (Class Deviation—Veterans First Contracting Program (VFCP 2016).

One commenter stated that to make the statutory priority clear, VAAR 813.003–70(c) should state that, under 38 U.S.C. 8127, contracts shall be set aside for SDVOSBs when market research provides a reasonable basis for receiving two or more offers from SDVOSBs. The commenter believes the proposed VAAR 813.003–70, paragraph (c) does not make the statutory priority clear, and paragraph (c)(1), as proposed, says only that ''contracts under this part shall be set aside for SDVOSBs or VOSBs, when supported by market research.''

The commenter also recommended VA revise VAAR 813.003–70(c)(2), VAAR 852.212–70, and VAAR 852.212–71 to make clear the priorities for SDVOSBs, and then VOSBs applies to all commercial items acquisitions except for SDVOSB set-asides. The commenter stated in their opinion that VA has appropriately recognized in VAAR 813.003–70(c)(2) that the first priority is for SDVOSBs and second priority for VOSBs and applies to procurements that are not set-aside for SDVOSBs or VOSBs. The commenter believes that VAAR 813.003–70(c)(2) does not go far enough because VAAR 852.215–70 should be inserted into any solicitation, except those that are set-aside for SDVOSBs. The commenter further asserts that requiring insertion of VAAR 852.215–70 into all solicitations except for SDVOSB set-asides is the only way to ensure that contracting officers develop an appropriate means (such as full/partial credit) to implement the statutory mandate to prioritize award of contracts to SDVOSBs first, then VOSBs second, before all other small businesses, and finally large businesses.

The intent of the language at VAAR 813.003–70(c) is to highlight the requirement that set-asides are mandatory and that if a set-aside is not feasible, then evaluation preferences should be used in accordance with 815.304–70. Any prescription changes to clauses 852.215–70 or -71 will be addressed in a separate VAAR case and is not appropriate to make such changes to VAAR part 812 or 813 at this time. While VA concurs that SDVOSBs have priority over VOSBs in every instance, the evaluation preference prescribed in this section provides recognition to the requirement in 38 U.S.C. 8128 that small business concerns owned and controlled by veterans have a priority over other small businesses. The priority of SDVOSBs over VOSBs is well established, including at VAAR 813.003–70(c)(2). Therefore, the language remains unchanged and any further clarification of the language would be addressed in a future VAAR rulemaking case with VAAR part 819.

Additionally, references to the VFCP program are included in the section to set forth that the Veterans First Contracting Program developed pursuant to the authority in 38 U.S.C. 8127–8128 applies to both commercial acquisitions and procurements under the simplified acquisition threshold at the VA.

7. Market Research

A commenter noted the importance of reinforcing, especially for delivery of patient care and services procurements for Veterans Affairs Medical Centers (VAMCs), that robust market research be conducted, and that set-asides and awards be determined in accordance with those findings.

VA agrees that market research including industry engagement are key elements in the decision-making process for any acquisition. It is VA's intention to comply with all legislative and legal requirements, including VFCP, while providing the best care and maximum resources to address the needs of the Veteran community we serve. VA is in the process of releasing other parts dealing with competition, acquisition planning and market research. They will be published in the **Federal Register** for public comment once the appropriate approvals are obtained. Accordingly, no language will be changed in the rule based on these comments.

8. Training of the VA Acquisition Workforce on This Proposed Rule

A commenter would like to know how and when contracting officers, staff, and local Veterans Affairs Medical Centers (VAMCs) will be trained on these revised requirements. The commenter recommends VA release an implementation plan and deadline for each phase of the large-scale VAAR revision. Currently, no implementation date is listed in the **Federal Register** notice.

VA also supports the importance of training as highlighted by our investment in training for the acquisition workforce at the VA Acquisition Academy (VAAA). Training on various VAAR revised policy and procedures, as well as internal agency guidance, is currently being provided on an ongoing basis through the VAAA, as well as local and national conferences and other training events as necessary. We continue to update and revise internal training material to address VA acquisition workforce needs and will continue to ensure appropriate training is scheduled and accomplished on both a one-time or recurring basis as the topics and needs may dictate. VA continues to publish proposed rules for public comment in phased increments and is working closely with the Office of Small and Disadvantaged Business Utilization (OSDBU) to address concerns of the small business community, in particular SDVOSBs and VOSBs. VA submits updates to its planned regulatory agenda two times a year. Any updates and new planned regulatory actions concerning specific VAAR parts will be published there. The case containing the proposed rule for VAAR part 819, including the Veterans First Contracting Program under subpart 819.70, and key affected parts is planned for publication in the **Federal Register** for public comment in 2019.

9. Removal of Internal Procedural Guidance From the VAAR

A commenter inquired if VA anticipates the need to develop and issue specific procurement policy memorandums, directives, handbooks, and standard operating procedures given the removal of internal procedural guidance from the VAAR. The commenter also questioned the timely issuance of information and updates to internal procedural manuals.

VA is currently updating its acquisition policies and regulations. As each part is completed, any internal documents that require updating would be updated to comport with the new regulations. The VA Acquisition Manual will incorporate many of the related internal procedural guidance at the VA-wide level and will be published on the VA OAL/PPS website when any new VAAR parts are published as effective in the **Federal Register**. Any additional internal policy and procedures at various levels and activities in the VA are being examined and will be appropriately updated or created, as needed.

Technical Non-Substantive Changes to the Proposed Rule

1. Under section 813.003–70(a), this final rule adds a reference to FAR part 13 in conjunction with FAR part 19 as a more accurate reference; and in paragraph (d) changes a reference from FAR part 19 to the Small Business Administration (SBA) regulations at 13 CFR part 121 and 13 CFR 125.6 to provide clarity.

2. In the proposed rule, VA intended to remove 813.202, Purchase guidelines, include a new section 813.203, and add revised language at 813.203, Purchase guidelines, to comport with the FAR. VA is removing the guidance from the VAAR and may place the guidance in the VAAM. As a part of this final rule, VA will remove the current section 813.202 and take no action on proposed 813.203.

3. This final rule revises the VAAR part 852 authorities to reflect the authorities recently codified in a previous rule.

4. Under 813.307, VA proposed to remove the section which references the use of forms and move mention of forms as internal VA guidance to the VA Acquisition Manual. The forms referenced in 813.307 which will be removed with this final rule, are both referenced, and in some cases, were prescribed at 853.213 as well. With the removal of 813.307 in this final rule, the forms require removal from the VAAR as well, so with this final rule, section 853.213 will be removed and any of the noted forms if and when still used at VA, are available on VA's public facing website at *https://www.va.gov/vaforms/* or upon request from any VA contracting office.

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 final rule will have no such effect on State, local, and tribal governments or on the private sector.

Paperwork Reduction Act

This rulemaking impacts two existing information collection requirements associated with two Office of Management and Budget (OMB) control numbers. The Paperwork Reduction Act of 1995 (at 44 U.S.C. 3507) requires that VA consider the impact of paperwork and other information collection burdens imposed on the public. Under 44 U.S.C. 3507(a), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid OMB control number.

Although this action contains provisions constituting collections of information at 48 CFR part 813, under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), no new or revised collections of information are associated with this final rule. The information collection requirements for 48 CFR part 813 are currently approved by OMB and have been assigned OMB control number 2900–0393.

Although this final rule removes 813.307, Forms, with this action 853.213, Simplified acquisition procedures (SF's 18, 30, 44, 1165, 1449, and OF's 336, 347, and 348), will also be removed as the forms now shown in the text at 853.213 are also referenced within section 813.307, making their continued inclusion in VAAR part 853 unnecessary. In particular, one of the forms referenced at 813.307(f), VA Form 10–2421, Prosthetic Authorization for Items or Services, and at 853.213(d), has an associated OMB Control Number although it is not currently associated with the VAAR. Under the provisions of Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), no new or revised collections of information are associated with this final rule. The information collection requirements for VA Form 10–2421 are currently approved by OMB and have been assigned OMB control number 2900–0188 under the administrative management of the Veterans Health Administration. This form will no longer be referenced in the VAAR and its OMB control number is not now associated with the VAAR.

Congressional Review Act

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

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). This rulemaking does not change VA's policy regarding small businesses, does not have an economic impact to individual businesses, and there are no increased or decreased costs to small business entities. On this basis, the final rule would not have an economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Executive Orders 12866, 13563 and 13771

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits of reducing costs, of harmonizing rules, and of promoting flexibility. 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 Fiscal Year to Date.'' This final rule is not subject to the requirements of E.O. 13771 because this final rule is expected to result in no more than *de minimis* costs.

List of Subjects

48 CFR Parts 812, 813, and 853

Government procurement.

48 CFR Part 852

Government procurement, Reporting and recordkeeping requirements.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Pamela Powers, Chief of Staff, Department of Veterans Affairs, approved this document on March 2, 2020, for publication.

Consuela Benjamin,

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

For the reasons set out in the preamble, VA amends 48 CFR parts 812, 813, 852, and 853 as follows:

PART 812—ACQUISITION OF COMMERCIAL ITEMS

■ 1. The authority citation for part 812 is revised to read as follows:

Authority: 38 U.S.C. 8127–8128; 40 U.S.C. 121(c); 41 U.S.C. 1702 and 48 CFR 1.301 through 1.304.

Subpart 812.1—Acquisition of Commercial Items—General

■ 2. Section 812.102 is revised to read as follows:

812.102 Applicability.

■ 3. Section 812.102–70 is added to subpart 812.1 to read as follows:

812.102–70 Applicability of Veterans preferences.

Based on the authority under 38 U.S.C. 8127 and 8128, the Veterans First Contracting Program in subpart 819.70 applies to VA contracts under this part. The provisions and clauses prescribed reflect agency unique statutes applicable to the acquisition of commercial items.

Subpart 812.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

■ 4. Section 812.301 is revised to read as follows:

812.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(f)(1) Contracting officers shall insert the clause 852.212–70, Provisions and Clauses Applicable to VA Acquisition of Commercial Items, in all solicitations and contracts for commercial acquisitions and check only those provisions and clauses that apply to the individual acquisition.

(2) Contracting officers shall insert the clause 852.212–71, Gray Market Items, in solicitations and contracts for new medical equipment for VA Medical Centers and that include FAR provisions 52.212–1, Instruction to Offerors—Commercial Items, and 52.212–2, Evaluation—Commercial Items.

812.302 [Removed]

■ 5. Section 812.302 is removed.

PART 813—SIMPLIFIED ACQUISITION PROCEDURES

■ 6. The authority citation for part 813 is revised to read as follows:

Authority: 38 U.S.C. 8127–8128; 40 U.S.C. 121(c); 41 U.S.C. 1702 and 48 CFR 1.301 through 1.304.

■ 7. Section 813.003–70 is added to read as follows:

813.003–70 Policy.

(a) The Veterans First Contracting Program in subpart 819.70 applies to VA contracts, orders and BPAs under this part and has precedence over other small business programs referenced in FAR parts 13 and 19.

(b) Notwithstanding FAR 13.003(b)(2), the contracting officer shall make an award utilizing the priorities for veteran-owned small businesses as implemented within the VA hierarchy of small business program preferences, the Veterans First Contracting Program in subpart 819.70. Specifically, the contracting officer shall consider preferences for verified service-disabled veteran-owned small businesses (SDVOSBs) first, then preferences for verified veteran-owned small businesses (VOSBs). These priorities will be followed by preferences for other small businesses in accordance with FAR 19.203, and 819.7004.

(c) When using competitive procedures, the preference for restricting competition to verified SDVOSBs/VOSBs in accordance with paragraph (b) of this section is mandatory whenever market research provides a reasonable expectation of receiving two or more offers/quotes from eligible, capable and verified firms at fair and reasonable prices that offer best value to the Government.

(1) Pursuant to 38 U.S.C. 8127, contracts under this part shall be set-aside for SDVOSBs/VOSBs, in accordance with 819.7005 or 819.7006 when supported by market research. Contracting officers shall use the applicable set-aside clause prescribed at 819.7009.

(2) Pursuant to 38 U.S.C. 8128 and to the extent that market research does not support an SDVOSB or VOSB set-aside, the contracting officer shall include evaluation factors as prescribed at 815.304 and the evaluation criteria clause prescribed at 815.304–71(a).

(d) The SDVOSB and VOSB eligibility requirements in 819.7003 apply, including verification of the SDVOSB and VOSB status of an offeror, and other small business requirements in 13 CFR part 121 and 13 CFR 125.6 (*e.g.,* small business representation, nonmanufacturer rule, and subcontracting limitations).

Subpart 813.1—Procedures

■ 8. Section 813.102 is added to subpart 813.1 to read as follows:

813.102 Source list.

Pursuant to 819.7003, contracting officers shall use the Vendor Information Pages (VIP) database to verify SDVOSB/VOSB status.

■ 9. Revise section 813.106 to read as follows:

813.106 Soliciting competition, evaluation of quotations or offers, award and documentation.

813.106–3 [Removed]

■ 10. Section 813.106–3 is removed.

■ 11. Section 813.106–70 is revised to read as follows:

813.106–70 Soliciting competition, evaluation of quotations or offers, award and documentation—the Veterans First Contracting Program.

(a) When using competitive procedures under this part, the contracting officer shall use the Veterans First Contracting Program in subpart 819.70 and the guidance set forth in 813.003–70.

(b) Pursuant to 38 U.S.C 8127(b), contracting officers may use other than competitive procedures to enter into a contract with a verified SDVOSB or VOSB for procurements under the simplified acquisition threshold, as authorized by FAR 6.302–5.

(c) For procurements above the simplified acquisition threshold, pursuant to 38 U.S.C. 8127(c), contracting officers may also award a contract under this part to a firm verified under the Veterans First Contracting Program at subpart 819.70, using procedures other than competitive procedures, as authorized by FAR 6.302–5 and in accordance with 819.7007 and 819.7008.

Subpart 813.2—[Removed and Reserved]

■ 12. Subpart 813.2 is removed and reserved.

Subpart 813.3—Simplified Acquisition Methods

813.302 [Removed]

■ 13. Section 813.302 is removed.

813.302–5 [Removed]

■ 14. Section 813.302–5 is removed.

■ 15. Section 813.305–70 is added to subpart 813.3 to read as follows:

813.305–70 VA's imprest funds and third party drafts policy.

VA's Governmentwide commercial purchase card and/or convenience checks shall be used in lieu of imprest funds and third party drafts.

813.307 [Removed]

■ 16. Section 813.307 is removed.

PART 852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 17. The authority citation for part 852 is revised to read as follows:

Authority: 38 U.S.C. 8127–8128, and 8151–8153; 40 U.S.C. 121(c); 41 U.S.C. 1121(c)(3), 41 U.S.C. 1303; 41 U.S.C. 1702; and 48 CFR 1.301 through 1.304.

Subpart 852.2—Texts of Provisions and Clauses

■ 18. Section 852.212–70 is added to read as follows:

852.212–70 Provisions and Clauses Applicable to VA Acquisition of Commercial Items.

As prescribed in 812.301(f)(1), insert the following clause to indicate provisions and clauses applicable to this acquisition:

Provisions and Clauses Applicable to VA Acquisition of Commercial Items (APR 2020)

(a) The Contractor agrees to comply with any provision or clause that is incorporated herein by reference or full text to implement agency policy applicable to acquisition of commercial items or components. The following provisions and clauses that have been checked by the Contracting Officer are incorporated by reference or in full text. Text requiring fill-ins is shown under the clause or provision title:

____852.203–70, Commercial Advertising.
____852.209–70, Organizational Conflicts of Interest.
____852.214–71, Restrictions on Alternate Item(s).
____852.214–72, Alternate Item(s).

Bids on [*Contracting Officer will insert an alternate item that is considered acceptable*] will be given equal consideration along with bids on [*Contracting Officer will insert the required item and item number*]** and any such bids received may be accepted if to the advantage of the Government. Tie bids will be decided in favor of [*Contracting Officer will insert the required item and item number*].

(End of provision)

____852.214–73, Alternate Packaging and Packing.
____852.214–74, Marking of Bid Samples.
____852.215–70, Service-Disabled Veteran-Owned and Veteran-Owned Small Business Evaluation Factors.
____852.215–71, Evaluation Factor Commitments.
____852.216–71, Economic Price Adjustment of Contract Price(s) Based on a Price Index.
____852.216–72, Proportional Economic Price Adjustment of Contract Price(s) Based on a Price Index.
____852.216–73, Economic Price Adjustment—State Nursing Home Care for Veterans.
____852.216–74, Economic Price Adjustment—Medicaid Labor Rates.
____852.216–75, Economic Price Adjustment—Fuel Surcharge.
____852.219–9, VA Small Business Subcontracting Plan Minimum Requirements.
____852.219–10, VA Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside.
____852.219–11, VA Notice of Total Veteran-Owned Small Business Set-Aside.
____852.222–70, Contract Work Hours and Safety Standards Act—Nursing Home Care Contract Supplement.
____852.228–70, Bond Premium Adjustment.
____852.228–71, Indemnification and Insurance.
____852.228–72, Assisting Service-Disabled Veteran-Owned and Veteran-Owned Small Businesses in Obtaining Bonds.
____852.229–70, Sales and Use Taxes.
____852.232–72, Electronic Submission of Payment Requests.
____852.233–70, Protest Content/Alternative Dispute Resolution.
____852.233–71, Alternate Protest Procedure.
____852.237–7, Indemnification and Medical Liability Insurance.
____852.237–70, Contractor Responsibilities.

The Contractor shall obtain all necessary licenses and/or permits required to perform this work. He/she shall take all reasonable precautions necessary to protect persons and property from injury or damage during the performance of this contract. He/she shall be responsible for any injury to himself/herself, his/her employees, as well as for any damage to personal or public property that occurs during the performance of this contract that is caused by his/her employees fault or negligence, and shall maintain personal liability and property damage insurance having coverage for a limit as required by the laws of the State of _____[*Insert name of State*]. Further, it is agreed that any negligence of the Government, its officers, agents, servants and employees, shall not be the responsibility of the Contractor hereunder with the regard to any claims, loss, damage, injury, and liability resulting therefrom.

(End of clause)

____852.246–70, Guarantee.

The Contractor guarantees the equipment against defective material, workmanship and performance for a period of _____[*Normally, insert one year. If industry policy covers a shorter or longer period, i.e., 90 days or for the life of the equipment, insert such period.*], said guarantee to run from date of acceptance of the equipment by the Government. The Contractor agrees to furnish, without cost to the Government, replacement of all parts and material that are found to be defective during the guarantee period. Replacement of material and parts will be furnished to the Government at the point of installation, if installation is within the continental United States, or f.o.b. the continental U.S. port to be designated by the Contracting Officer if installation is outside of the continental United States. Cost of installation of replacement material and parts shall be borne by the contractor. [*The above clause will be modified to conform to standards of the industry involved.*]

(End of clause)

____852.246–71, Inspection or Alternate I.
____852.246–72, Frozen Processed Foods.
____852.246–73, Noncompliance with packaging, packing, and/or marking requirements.
____852.270–1, Representatives of Contracting Officers.
____852.270–2, Bread and Bakery Products—Quantities.
____852.270–3, Purchase of Shellfish.
____852.271–72, Time Spent by Counselee in Counseling Process.
____852.271–73, Use and Publication of Counseling Results.
____852.271–74, Inspection.
____852.271–75, Extension of Contract Period.
____852.273–70, Late Offers.
____852.273–71, Alternative Negotiation Techniques.
____852.273–72, Alternative Evaluation.
____852.273–73, Evaluation—Health-Care Resources.
____852.273–74, Award without Exchanges.

(b) When appropriate and in accordance with the prescriptions for the clause, the contracting officer may use the following clause in requests for quotations, solicitations, and contracts for the acquisition of commercial items if the contracting officer determines that the use is consistent with customary commercial practices:

____852.211–70, Service Data Manuals or Alternate I.

(c) All requests for quotations, solicitations, and contracts for commercial item services to be provided to beneficiaries must include the following clause at

____852.271–70, Nondiscrimination in Services Provided to Beneficiaries.

(End of clause)

■ 19. Section 852.212–71 is added to read as follows:

852.212–71 Gray Market Items.

As prescribed in 812.301(f)(2), insert the following provision in solicitations and contracts for new medical equipment:

Gray Market Items (APR 2020)

(a) No gray market or remanufactured items will be acceptable. Gray market items are Original Equipment Manufacturers' (OEM) goods sold through unauthorized channels in direct competition with authorized distributors. This procurement is for new OEM medical equipment only for VA medical facilities.

(b) Vendor shall be an OEM, authorized dealer, authorized distributor or authorized reseller for the proposed equipment/system, verified by an authorization letter or other documents from the OEM. All software licensing, warranty and service associated with the equipment/system shall be in accordance with the OEM terms and conditions.

(End of clause)

PART 853—FORMS

■ 20. The authority citation for part 853 is revised to read as follows:

Authority: 38 U.S.C. 501; 40 U.S.C. 121(c); and 48 CFR 1.301 through 1.304.

853.213 [Removed]

■ 21. Section 853.213 is removed.

[FR Doc. 2020–05589 Filed 3–24–20; 8:45 am]

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OFFICE OF PERSONNEL MANAGEMENT

48 CFR Parts 1603 and 1652

RIN 3206–AN56

Federal Employees Health Benefits Acquisition Regulations: Self Plus One and Contract Matrix Update

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is making a technical correction to the Federal Employees Health Benefits Acquisition Regulations (FEHBAR) to add the self plus one enrollment type to carrier advertising instructions. OPM is also updating and amending the Federal Employees Health Benefits (FEHB) Program contract clause matrix.

DATES: This rule is effective March 25, 2020.

FOR FURTHER INFORMATION CONTACT: Michael W. Kaszynski, Senior Policy Analyst, at *Michael.Kaszynski@opm.gov.*

SUPPLEMENTARY INFORMATION: On April 2, 2019, OPM issued proposed regulations to the FEHBAR (84 FR 12569) to list a self plus one enrollment type in carrier advertising instructions. The proposed rule clarified that carriers are required to list all current enrollment types when advertising their health plans enrollment codes and premium rates to enrollees. This change is a technical correction and does not alter current FEHB family member eligibility guidelines.

Section 706 of the Bipartisan Budget Act of 2013 amended chapter 89 of title 5 United States Code by adding a self plus one enrollment type for Federal employees and annuitants under the FEHB Program. The self plus one enrollment type became available during the 2015 Open Season for the 2016 plan year and was codified in a final rule at *https://www.federalregister.gov/documents/2015/09/17/2015-23348/federal-employees-health-benefits-program-self-plus-one-enrollment-type.* A self plus one enrollment covers the enrollee and one eligible family member, designated by the enrollee. Eligible family members under a self plus one enrollment include a spouse or eligible child as set forth in § 890.302 of title 5 CFR.

This final rule amends the FEHBAR at 48 CFR part 1603 to list a self plus one enrollment type in the advertising instructions. OPM considers this change a technical correction as it does not change the operational requirements of the FEHB Program and does not alter current FEHB family member eligibility guidelines.

This final rule also updates and amends the contract clause matrix to align with current FAR and FEHBAR requirements. OPM publishes applicable contract clauses and clause headings in the FEHBAR. Annually, OPM determines which Federal Acquisition Regulation (FAR) and FEHBAR contract clauses are applicable to FEHB carrier contracts and includes them in these contracts.

The proposed regulation provided notice to interested stakeholders that OPM is updating the FEHBAR contract clause matrix at 48 CFR 1652.370. This final regulation updates the contract clause matrix to align with current FAR and FEHBAR requirements and include clauses currently incorporated in all Federal Employees Health Benefits (FEHB) Program carrier contracts.

Response to Comments

The 30-day comment period for the proposed rule ended on May 2, 2019. OPM received comments from a citizen and an association of FEHB health organizations. The citizen commenter, who supports the regulatory change, asserted that is important that federal

workers have a clear ability to see self and self plus one codes.

OPM also received comments from an association of health organizations. The association expressed support for OPM's update to the FEHBAR matrix and suggested a few technical corrections. The commenter stated that the title at FAR 52.204–7 should read ''Award Management.'' This change has been incorporated into this final rule.

The commenter also proposed a change at FAR 52.203–19 (Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements) to apply this clause to only community rated carrier contracts. FAR 3.909–3(b)(1) directs us to include the clause at 52.203–19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements, in all solicitations and resultant contracts, other than personal services contracts with individuals. Therefore, no change has been made to the final rule based on this comment.

The commenter stated that FAR Clause 52.204–9, captioned ''Personnel Identity Verification of Contractor Personnel'' applies to experience rated carrier contracts based on their use of OPM's letter of credit system but suggested that the clause does not apply to community rated carriers. OPM agrees with this comment. Accordingly, the ''T'' has been removed from community rated carrier contracts column of the matrix for this clause.

The commenter recommended that we adopt FAR 52.204–23 (Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities) for both community rated and experience rated carrier contracts. We agree that this is an appropriate change, so we have added the clause to the matrix for both experience rated and community rated carrier contracts.

The commenter also proposed that we update the FEHBAR Truth in Negotiations Act (TINA) threshold. The FEHBAR contract clauses that reference the TINA dollar threshold state that the threshold shall be adjusted by the same amount and at the same time as any change to the threshold for application of the Truth in Negotiations Act pursuant to 41 U.S.C. 254b(a)(7). Therefore, the clauses are self-updating and there is no need to further update the FEHBAR.

Regulatory Impact Analysis

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 also emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a significant regulatory action under E.O. 12866.

Reducing Regulation and Controlling Regulatory Costs

This final rule is not an E.O. 13771 regulatory action because is not significant under E.O. 12866.

Regulatory Flexibility Act

The Office of Personnel Management certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of state, local, or tribal governments.

Civil Justice Reform

This regulation meets the applicable standard set forth in Executive Order 12988.

Unfunded Mandates Reform Act of 1995

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

Congressional Review Act

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of no agency parties and, accordingly, is not a ''rule'' as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule involves an OMB approved collection of information subject to the PRA—OMB No. 3206–0160, Health Benefits Election Form. The public reporting burden for this collection is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The total burden hour estimate for this form is 9,000 hours. The systems of record notice for this collection is: OPM/Central 1 Civil Service Retirement and Insurance Records, available at *https://www.opm.gov/information-management/privacy-policy/sorn/opm-sorn-central-1-civil-service-retirement-and-insurance-records.pdf.*

List of Subjects in 48 CFR Parts 1603 and 1652

Government employees, Government procurement, Health insurance, Reporting and recordkeeping requirements.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

Accordingly, OPM amends title 48, Code of Federal Regulations, parts 1603 and 1652, as follows:

PART 1603—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

■ 1. The authority citation for part 1603 continues to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

■ 2. In § 1603.7002, paragraph (e) is revised to read as follows:

1603.7002 Additional guidelines.

* * * * *

(e)(1) Not give instructions on enrollment. Statements on enrollment procedures, requirements, or eligibility shall be limited to those such as: To sign up, fill out a Health Benefits Election Form (Standard Form 2809) from your personnel office indicating the enrollment you want or use your agency's electronic enrollment system.

(2) The enrollment codes for (plan's name) are:

(i) Self Only ____ Enrollment Code ____

(i) Self Plus One ____ Enrollment Code ____

(iii) Self and Family ____ Enrollment Code ____

(3) The form must then be returned to your personnel office before the (date) deadline. Your (plan's name) coverage will begin the first pay period in January, (year). If you are a retired Federal employee and need forms, contact the Office of Personnel Management, 1900 E Street NW, Attn: Retirement Benefits Branch, Washington, DC 20415 or visit *www.opm.gov/forms.*

* * * * *

PART 1652—CONTRACT CLAUSES

■ 3. The authority citation for part 1652 continues to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

■ 4. Section 1652.370 is revised to read as follows

1652.370 Use of the matrix.

(a) The matrix in this section lists the FAR and FEHBAR clauses to be used with contracts based on cost analysis and contracts based on a combination of cost and price analysis. Carriers shall submit initial applications and requests for renewals on the basis that the new contract or contract renewal will include the clauses indicated.

(b) Certain contract clauses are mandatory for FEHBP contracts. Other clauses are to be used only when made applicable by pertinent sections of the FAR or FEHBAR. An ''M'' in the ''Use Status'' column indicates that the clause is mandatory. An ''A'' indicates that the clause is to be used only when the applicable conditions are met.

(c) Clauses are incorporated in the contract either in full text or by reference. If the full text is to be used, the matrix indicates a ''T''. If the clause is incorporated by reference, the matrix indicates an ''R''.

FEHBP CLAUSE MATRIX

Clause	Title	Use status	Use with experience rated contracts	Use with community rated contracts
FAR 52.202–1	Definitions	M	T	T
FAR 52.203–3	Gratuities	M	T	T
FAR 52.203–5	Covenant Against Contingent Fees	M	T	T
FAR 52.203–7	Anti-Kickback Procedures	M	T	T
FAR 52.203–12	Limitation on Payments to Influence Certain Federal Transactions.	M	T	T
FAR 52.203–13	Contractor Code of Business Ethics and Conduct	M	T	T
FAR 52.203–17	Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights.	M	T	T
FAR 52.203–19	Prohibition Requiring Internal Confidentiality Agreements or Statements.	M	T	T
FAR 52.204–7	System For Award Management	M	T	T
FAR 52.204–9	Personnel Identity Verification of Contractor Personnel	M	T	
FAR 52.204–21	Basic Safeguarding of Contractor Information Systems	M	T	T
FAR 52.204–23	Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities.	M	T	T
FAR 52.209–9	Updates of Publicly Available Information Regarding Responsibility Matters.	M	T	
1652.203–70	Misleading, Deceptive, or Unfair Advertising	M	T	T
1652.204–70	Contractor Records Retention	M	T	T
1652.204–71	Coordination of Benefits	M	T	T
1652.204–72	Filing Health Benefit Claims/Court Review of Disputed Claims.	M	T	T
1652.204–73	Taxpayer Identification Number	M	T	T
1652.204–74	Large Provider Agreements	M	T	
FAR 52.209–6	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment.	M	T	T
FAR 52.215–2	Audit & Records—Negotiation	M	T	T
FAR 52.215–10	Price Reduction for Defective Cost or Pricing Data	M	T	
FAR 52.215–12	Subcontractor Certified Cost or Pricing Data	M	T	
FAR 52.215–15	Pension Adjustments and Asset Reversions	M	T	
FAR 52.215–18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions.	M	T	
1652.215–70	Rate Reduction for Defective Pricing or Defective Cost or Pricing Data.	M	T	T
1652.215–71	Investment Income	M	T	
1652.216–70	Accounting and Price Adjustment	M		T
1652.216–71	Accounting and Allowable Cost	M	T	
FAR 52.219–8	Utilization of Small Business Concerns	M	T	T
FAR 52.222–1	Notice to the Government of Labor Disputes	M	T	T
FAR 52.222–3	Convict Labor	M	T	T
FAR 52.222–4	Contract Work Hours and Safety Standards Act—Overtime Compensation.	M	T	T
FAR 52.222–21	Prohibition of Segregated Facilities	M	T	T
FAR 52.222–26	Equal Opportunity	M	T	T
FAR 52.222–29	Notification of Visa Denial	A	T	T
FAR 52.222–35	Equal Opportunity for Veterans	M	T	T
FAR 52.222–36	Equal Opportunity for Workers With Disabilities	M	T	T

FEHBP CLAUSE MATRIX—Continued

Clause	Title	Use status	Use with experience rated contracts	Use with community rated contracts
FAR 52.222–37	Employment Reports on Veterans	M	T	T
FAR 52.222–50	Combating Trafficking in Persons	M	T	T
FAR 52.222.54	Employment Eligibility Verification	M	T	T
1652.222–70	Notice of Significant Events	M	T	T
FAR 52.223–6	Drug-Free Workplace	A	T	T
FAR 52.223–18	Encouraging Contractor Policies to Ban Text Messaging While Driving.	M	T	T
1652.224–70	Confidentiality of Records	M	T	T
FAR 52.227–1	Authorization and Consent	M	T	T
FAR 52.227–2	Notice and Assistance Regarding Patent and Copyright Infringement.	M	T	T
FAR 52.229–4	Federal, State and Local Taxes (State and local Adjustments.	M	T	T
1652.229–70	Taxes—Foreign Negotiated Benefits Contracts	A	T	T
FAR 52.232–8	Discounts for Prompt Payment	M	T	T
FAR 52.232–17	Interest	M	T	T
FAR 52.232–23	Assignment of Claims	A	T	T
FAR 52.232–33	Payment by Electronic Funds Transfer—System for Awards Management.	M	T	T
1652.232–70	Payments—Community-Rated Contracts	A		T
1652.232–71	Payments—Experience-Rated Contracts	A	T	
1652.232–72	Non-Commingling of FEHBP Funds	M	T	
1652.232–73	Approval for Assignment of Claims	M	T	T
FAR 52.233–1	Disputes	M	T	T
FAR 52.233–4	Applicable Law for Breach of Contract Claim	M	T	T
FAR 52.239–1	Privacy or Security Safeguards	M	T	T
FAR 52.242–1	Notice of Intent to Disallow Costs	M	T	
FAR 52.242–3	Penalties for Unallowable Costs	M	T	
FAR 52.242–13	Bankruptcy	M	T	T
1652.243–70	Changes—Negotiated Benefits Contracts	M	T	T
FAR 52.244–5	Competition in Subcontracting	M	T	
FAR 52.244–6	Subcontracts for Commercial Items	M	T	
1652.244–70	Subcontracts	M	T	
1652.245–70	Government Property (Negotiated Benefits Contracts)	M	T	T
FAR 52.246–25	Limitation of Liability—Services	M	T	
1652.246–70	FEHB Inspection	M	T	T
FAR 52.247–63	Preference for U.S.-Flag Air Carriers	M	T	T
1652.249–70	Renewal and Withdrawal of Approval	M	T	T
1652.249–71	FEHBP Termination for Convenience of the Government—Negotiated Benefits Contracts.	M	T	T
1652.249–72	FEHBP Termination for Default—Negotiated Benefits Contracts.	M	T	T
FAR 52.251–1	Government Supply Sources	A	T	
FAR 52.252–4	Alterations in Contract	A	T	T
FAR 52.252–6	Authorized Deviations in Clauses	M	T	T

[FR Doc. 2020–06015 Filed 3–24–20; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 180625576–8999–02]

RIN 0648–BJ68

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2019–2020 Biennial Specifications and Management Measures; Inseason Adjustments

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

ACTION: Final rule; inseason adjustments to biennial groundfish management measures.

SUMMARY: This final rule announces routine inseason adjustments to the harvest limits for incidental halibut retention in the primary sablefish fishery.

DATES: Effective March 25, 2020.

FOR FURTHER INFORMATION CONTACT: Karen Palmigiano, phone: 206–526–4491 or email: *karen.palmigiano@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

This rule is accessible via the internet at the Office of the Federal Register website at *https://www.federalregister.gov.* Background information and documents are available at the Pacific Fishery Management Council's website at *http://www.pcouncil.org/.*

Background

The Pacific Coast Groundfish Fishery Management Plan (PCGFMP) and its implementing regulations at title 50 in the Code of Federal Regulations (CFR), part 660, subparts C through G, regulate fishing for over 90 species of groundfish off the coasts of Washington, Oregon, and California. The Pacific Fishery Management Council (Council) develops groundfish harvest specifications and management measures for two-year periods (*i.e.,* a biennium). NMFS published the final rule to implement harvest specifications and management measures for the 2019–2020 biennium for most species managed under the PCGFMP on December 12, 2018 (83 FR 63970).

In general, the management measures set at the start of the biennial harvest specifications cycle help the various sectors of the fishery reach, but not exceed, the annual catch limit (ACL) for each stock. The Council, in coordination with Pacific Coast Treaty Indian Tribes and the States of Washington, Oregon, and California, recommends adjustments to the management measures during the fishing year to achieve this goal. At its March 3–9, 2020, meeting, the Council recommended decreasing the amount of Pacific halibut that vessels in the sablefish primary fishery north of Point Chehalis, Washington (WA) may take incidentally to ensure that catch of Pacific halibut stays within the allocated amount.

The Council developed a Catch Sharing Plan for the International Pacific Halibut Commission (IPHC) Regulatory Area 2A, as provided for in the Northern Pacific Halibut Act of 1982. The Catch Sharing Plan allocates the Area 2A annual total allowable catch (TAC) for Pacific halibut among fisheries off Washington, Oregon, and California. Pacific halibut is generally a prohibited species for vessels fishing in Pacific coast groundfish fisheries, unless explicitly allowed in groundfish regulations.

Under the Catch Sharing Plan, the primary sablefish fishery north of Point Chehalis, WA (46°53.30′ N lat.) is allocated any excess portion of the Washington recreational allocation above 214,110 lbs [97.1 metric tons (mt)] up to 50,000 pounds [22.7 mt] provided a minimum of 10,000 lbs [4.5 mt] is available. If the Area 2A catch limit is 1.5 million pounds [680.4 mt] or more, the maximum allocation increases to 70,000 lbs [31.8 mt]. If the amount above 214,110 lbs [97.1 mt] is less than 10,000 lbs [4.5 mt] or greater than 50,000 lbs [22.7 mt] (or 70,000 lbs [31.8 mt]), the excess is allocated back to the Washington recreational fisheries.

The sablefish primary fishery season is open from April 1 to October 31, though the fishery may close for individual participants prior to October 31 once they reach the cumulative limit associated with their tier assignment(s). Regulations at § 660.231(b)(3)(iv) allow vessels fishing in the sablefish primary fishery with a permit from the IPHC to retain halibut up to a set landing limit, which may be reviewed and modified throughout the sablefish primary fishery season to allow for attainment but not exceedance of the Pacific halibut allocation.

Recent Incidental Halibut Catch in the Primary Sablefish Fishery

On April 29, 2019, NMFS implemented a 2019 Area 2A Pacific halibut TAC of 1,500,000 lb [680.4 mt] and a 2019 Pacific halibut incidental catch limit of 70,000 lb [31.8 mt] for the limited entry fixed gear sablefish primary fishery north of Point Chehalis, WA (84 FR 17960; April 29, 2019). For the start of the 2019 primary sablefish fishery, the incidental halibut landing limit was 200 lb [91 kg] dressed weight of halibut, for every 1,000 lb [454 kg] dressed weight of sablefish landed, and up to an additional two halibut in excess of this limit (October 9, 2018; 83 FR 50510). At the June 2019 Council meeting, the Council approved an increase in the landing limit to allow for full utilization of the incidental catch limit. NMFS published a rule on August 2, 2019 (84 FR 37780) that raised the landing limit to 250 lb [113 kg] dressed weight of halibut per 1,000 lb [454 kg] dressed weight of sablefish landed, and up to an additional two halibut in excess of this limit. At the time the Council recommended the 250 lb [113 kg] limit, the model predicted that total Pacific halibut catch in the primary sablefish fishery would be 54,214 lb [24.6 mt], or 77.4 percent of the 2019 incidental limit.

At the March 2020 Council meeting, the Groundfish Management Team (GMT) informed the Council that the sablefish primary fishery north of Pt. Chehalis, WA exceeded its 70,000 lb [31.8 mt] allowance for Pacific halibut in 2019 by 13 percent, or 9,360 lb [4,246 kg]. Incidental catch likely exceeded the limit because there were more trips where vessels were catching a higher percentage of the incidental trip limit after it was raised in August 2019 (Table 1). This table demonstrates a significant shift in the number of trips (from 20 to 44) that retained 75 percent or more of the incidental halibut limit.

TABLE 1—NUMBER OF TRIPS IN 2019 BY TRIP LIMIT AND PERCENTAGE OF THE INCIDENTAL HALIBUT LIMIT ATTAINED

Incidental halibut retention amount	Vessel landing by percentage of the incidental halibut limit			
	0–50 percent	50–75 percent	75–90 percent	90–100 percent
200 lb [91 kg]—limit before August 2019	44	3	7	13
250 lb [113 kg]—limit after August 2019	25	5	14	30

The increase in trips with vessels catching more of the incidental halibut limit once the limit was raised in August 2019 could be indicative of vessels targeting Pacific halibut. The number of trips with vessels catching more than 90 percent of the incidental halibut landing limit increased from 13 trips out of 67 trips (19 percent of trips) before the trip limit was increased to 30 trips out of 104 trips (29 percent of trips) after the trip limit was increased to 250 lb [113 kg]. The modeling efforts that supported the change in the landing limit in 2019 did not accurately predict this change in fishery behavior. In general, due to the volatility in Pacific halibut landings from year-to-year in the primary sablefish fishery (see Table 2), it can be difficult to model projected landings accurately.

TABLE 2—INCIDENTAL HALIBUT LIMITS AND LANDINGS IN THE PRIMARY SABLEFISH FISHERY FROM 2014–2019

	Incidental limit in net weight (lb)	Landings in net weight (lb)	Percent attainment of limit
2019	70,000	79,360	113
2018	50,000	43,716	87
2017	70,000	35,866	51
2016	49,686	29,448	59
2015	10,348	9,763	94
2014	14,274	12,067	85

The 2020 incidental halibut limit for the sablefish primary fishery is 70,000 lb [31.8 mt] (March 13, 2020; 85 FR 14586). If the current incidental halibut limit were to remain in place, the GMT's model projects halibut landings in the sablefish primary fishery north of Point Chehalis, WA would likely exceed the incidental halibut allocation again in 2020. Therefore, industry requested the GMT analyze a lower landing limit to ensure attainment stays within the allocation for halibut in the sablefish primary fishery. The GMT analyzed a limit of 200 lb [91 kg] dressed weight of halibut, for every 1,000 lb [454 kg] dressed weight of sablefish landed. Under this limit, the highest projected attainment would be 71,500 lb [32.43 mt]. However, this is likely an overestimate as data suggests the lower incidental trip limit will likely deter vessels from targeting halibut while fishing in the primary sablefish fishery. Additionally, the GMT has the ability to track incidental catch of halibut inseason and can recommend the Council adjust the limit through additional inseason action if necessary to ensure the incidental catch of Pacific halibut attains but does not exceed the 2020 allocation.

Therefore, in order to allow incidental halibut catch in the sablefish primary fishery, the Council recommended and NMFS is revising incidental halibut retention regulations at § 660.231(b)(3)(iv) to decrease the incidental halibut catch limit. The limit will be reduced from 250 lb [113 kg] dressed weight of halibut for every 1,000 lb [454 kg] dressed weight of sablefish landed and up to two additional halibut in excess of the 250 lb [113 kg] per 1,000 lb [454 kg] limit per landing to 200 lb [91 kg] dressed weight of halibut for every 1,000 lb [454 kg] dressed weight of sablefish landed and up to two additional halibut in excess of the 200 lb [91 kg] per 1,000 lb [454 kg] limit per landing. We expect that this decrease will allow total catch of Pacific halibut to approach, but not exceed, the 2020 allocation for the sablefish primary fishery north of Point Chehalis, WA (70,000 lb or 31.8 mt) and provide opportunity for industry to attain a high percentage of the sablefish primary fishery allocation.

Classification

This action is taken under the authority of 50 CFR 660.60(c) and the Northern Pacific Halibut Act of 1982 and is exempt from review under Executive Order 12866. The aggregate data upon which these actions are based are available for public inspection by contacting Karen Palmigiano in NMFS West Coast Region (see **FOR FURTHER INFORMATION CONTACT**, above), or view at the NMFS West Coast Groundfish website: *http://www.westcoast.fisheries.noaa.gov/fisheries/groundfish/index.html.*

Pursuant to 5 U.S.C. 553(b), NMFS finds good cause to waive prior public notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. The sablefish primary fishery opens on April 1. Management and enforcement of the incidental landing limit will be easier for participants if the new limit is in place for the start of the season, rather than a few weeks in as would be the case if implementation of this rule was delayed. No aspect of this action is controversial, and changes of this nature were anticipated in the final rule for the 2019–2020 harvest specifications and management measures which published on December 12, 2018 (83 FR 63970).

At its March 2020 meeting, the Council recommended the decrease to the incidental halibut retention limit for vessels fishing in the sablefish primary fishery north of Point Chehalis be implemented as soon as possible so that the limit is in place for the start of the fishery on April 1, 2020. New catch data through 2019 that was not available and thus not considered during the 2019–2020 biennial harvest specifications process, projects that maintaining the status quo limit of 250 lb (113 kg) for incidental halibut retention would likely result in the sablefish primary fishery north of Point Chehalis, WA exceeding its 2020 allocation. Reducing the limit will likely result in less targeting than may have taken place late

in 2019 and, therefore, help ensure the 2020 allocation is not exceeded.

Delaying implementation to allow for public comment could result in confusion amongst industry if the new limit is implemented shortly after the start of the season on April 1. Additionally, if the new limit is not implemented until closer to the end of the season after a full rulemaking the sablefish primary fishery north of Point Chehalis would likely exceed its 2020 allocation of halibut. Therefore, providing a comment period for this action could limit the benefits to the fishery, and the vessels that participate in it as they rely on the halibut retention allowance throughout the entire season.

Therefore, the NMFS finds reason to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(1) so that this final rule may become effective upon publication in the **Federal Register**. The adjustments to management measures in this document affect commercial fisheries by decreasing the incidental halibut retention limit in the sablefish primary fishery north of Point Chehalis, WA. This adjustment was requested by the Council's advisory bodies, as well as members of industry during the Council's March 2020 meeting, and recommended unanimously by the Council. No aspect of this action is controversial, and changes of this nature were anticipated in the biennial harvest specifications and management measures established through a notice and comment rulemaking for 2019–2020 (82 FR 63970).

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian fisheries.

Dated: March 20, 2020.

Hélène M.N. Scalliet,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

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

■ 2. In § 660.231, revise paragraph (b)(3)(iv) to read as follows:

§ 660.231 Limited entry fixed gear sablefish primary fishery.

* * * * *

(b) * * *

(3) * * *

(iv) Incidental Pacific halibut retention north of Pt. Chehalis, WA (46°53.30′ N. lat.). From April 1 through October 31, vessels authorized to participate in the sablefish primary fishery, licensed by the International Pacific Halibut Commission for commercial fishing in Area 2A (waters off Washington, Oregon, California), and fishing with longline gear north of Pt. Chehalis, WA (46°53.30′ N. lat.) may possess and land up to 200 pounds (91 kg) dressed weight of Pacific halibut for every 1,000 pounds (454 kg) dressed weight of sablefish landed and up to 2 additional Pacific halibut in excess of the 200-pounds-per-1,000-pound limit per landing. ''Dressed'' Pacific halibut in this area means halibut landed eviscerated with their heads on. Pacific halibut taken and retained in the sablefish primary fishery north of Pt. Chehalis may only be landed north of Pt. Chehalis and may not be possessed or landed south of Pt. Chehalis.

* * * * *

[FR Doc. 2020–06268 Filed 3–24–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 200221–0062; RTID 0648–XY091]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the West Yakutat District in the Gulf of Alaska

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

ACTION: Temporary rule; modification of closure

SUMMARY: NMFS is opening directed fishing for pollock in the West Yakutat District of the Gulf of Alaska (GOA). This action is necessary to fully use the 2020 total allowable catch of pollock in the West Yakutat District of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), March 24, 2020, through 2400 hours, A.l.t., December 31, 2020. Comments must be received at the following address no later than 4:30 p.m., A.l.t., April 7, 2020.

ADDRESSES: You may submit comments on this document, identified by FDMS Docket Number NOAA–NMFS–2019–0102 by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0102,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Records Office. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and NMFS will post the comments for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2020 total allowable catch (TAC) of pollock in the West Yakutat District of the GOA is 5,554 metric tons (mt) as established by the final 2020 and 2021 harvest specifications for groundfish in the GOA (85 FR 13802, March 10, 2020).

NMFS closed directed fishing for pollock in the West Yakutat District of the GOA under § 679.20(d)(1)(iii) on March 13, 2020 (85 FR 15392, March 18, 2020).

As of March 17, 2020, NMFS has determined that approximately 780 mt of pollock remains in the West Yakutat District of the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the 2020 TAC of pollock in the West Yakutat District of the GOA, NMFS is terminating the previous closure and is reopening directed fishing for pollock in the West Yakutat District of the GOA, effective 1200 hours, A.l.t., March 24, 2020.

The Administrator, Alaska Region (Regional Administrator) considered the following factors in reaching this

decision: (1) The catch of pollock in the West Yakutat District of the GOA and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of directed fishing for pollock in the West Yakutat District of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 17, 2020.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the fishery for pollock in the West Yakutat District of the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until April 7, 2020.

This action is required by § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: March 20, 2020.

Hélène M.N. Scalliet,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2020–06227 Filed 3–23–20; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 85, No. 58
Wednesday, March 25, 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.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Part 2427

[FLRA Docket No. 0–PS–39]

Notice of Opportunity To Comment on a Request for a General Statement of Policy or Guidance on Official Time for Certain Lobbying Activities

AGENCY: Federal Labor Relations Authority.

ACTION: Proposed issuance of a general statement of policy or guidance.

SUMMARY: The Federal Labor Relations Authority (Authority) solicits written comments on a request from the National Right to Work Legal Defense Foundation (the Foundation) for a general statement of policy or guidance. The Foundation asks the Authority to issue a general statement of policy or guidance concerning whether Section 7131 of the Federal Service Labor-Management Relations Statute (the Statute) permits parties to bargain over, or union representatives to use, official time for lobbying activities that are subject to Federal law. Comments are solicited on whether the Authority should issue a general statement of policy or guidance, and, if so, what the Authority's policy or guidance should be.

DATES: To be considered, comments must be received on or before April 24, 2020.

ADDRESSES: You may send comments, which must include the caption ''National Right to Work Legal Defense Foundation (Petitioner), Case No. 0–PS–39,'' by one of the following methods:

- *Email: FedRegComments@flra.gov.* Include ''National Right to Work Legal Defense Foundation (Petitioner), Case No. 0–PS–39'' in the subject line of the message.
- *Mail or express mail:* Emily Sloop, Chief, Case Intake and Publication, Federal Labor Relations Authority, Docket Room, Suite 200, 1400 K Street NW, Washington, DC 20424–0001.

Instructions: Do not mail or express mail written comments if they have been submitted via email. Interested persons who mail or express mail written comments must submit an original and 4 copies of each written comment, with any enclosures, on 8½ x 11 inch paper. Do not deliver your comments by hand, Federal Express, or courier.

FOR FURTHER INFORMATION CONTACT: Emily Sloop, Chief, Case Intake and Publication, Federal Labor Relations Authority, (202) 218–7740.

SUPPLEMENTARY INFORMATION: In Case No. 0–PS–39, the Foundation requests that the Authority issue a general statement of policy or guidance concerning the use of official time under Section 7131 of the Statute for lobbying activities subject to 18 U.S.C. 1913. Interested persons are invited to express their views in writing as to whether the Authority should issue a general statement and, if it does, what the Authority's policy or guidance should be.

Proposed Guidance

To Heads of Agencies, Presidents of Labor Organizations, and Other Interested Persons:

The Foundation has requested, under Section 2427.2(a) of the Authority's rules and regulations (5 CFR 2427.2(a)), that the Authority issue a general statement of policy or guidance on whether Section 7131 of the Statute permits parties to bargain over, or union representatives to use, official time for lobbying activities that are subject to 18 U.S.C. 1913. Under Section 7131(d) of the Statute, parties may negotiate any amount of official time that they agree ''to be reasonable, necessary, and in the public interest.'' Section 1913 states, as relevant here, that

> [n]o part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation.

18 U.S.C. 1913.

In *U.S. Department of the Army, Corps of Engineers, Memphis District, Memphis, Tennessee,* 52 FLRA 920 (1997), the Authority considered whether 18 U.S.C. 1913 limits Section 7131(d) of the Statute. The Authority found that even if certain union lobbying activities ''are within the definition of the items that Congress prohibited in 18 U.S.C. 1913,'' Section 7102(1) of the Statute grants ''employees, acting in their representational capacity, . . . the right to present the views of their labor organization to Congress.'' 52 FLRA at 931–32. And because Section 7131(d) provides that employees shall be granted official time in connection with any matter covered by the Statute—such as the matters in Section 7102(1)—the Authority concluded that Congress ''expressly authorized the use of appropriated funds for lobbying activities.'' 52 FLRA at 933.

In its request, the Foundation asks the Authority to issue a general statement of policy or guidance holding that Congress did not expressly authorize the use of appropriated funds for union lobbying activities through the Statute, and, therefore, the Statute does not permit parties to bargain over, or union representatives to use, official time for lobbying activities that are subject to 18 U.S.C. 1913.

Regarding the matters raised by the Foundation, the Authority invites written comments on whether issuance of a general statement of policy or guidance is warranted, under the standards set forth in Section 2427.5 of the Authority's rules and regulations (5 CFR 2427.5), and, if so, what the Authority's policy or guidance should be.

Dated: March 17, 2020.

Rebecca J. Osborne,

Federal Register Liaison and Deputy Solicitor.

Member Abbott, Dissenting—PS–39 FR Notice

The Federal Service Labor-Management Relations Statute (Statute) calls upon the Authority to ''provide leadership in establishing policies and guidance [in] matters under [our] Statute.'' [1] Throughout its history, the Authority has issued general statements of policy or guidance when requested

[1] Section 7105(a)(1).

and when appropriate under this Statutory mandate.

Some circumstances warrant taking the time to reach out to the labor-management relations community for comment before issuing such a policy or guidance. But that is not always the case. Here, for example, seeking comment from the labor-management relations community will not change the fact that Authority precedent on the use of official time for lobbying activities rests upon interpretations of the Statute which can only be described as strained and contorted and which run counter to the plain language of an Executive Order [2] and the Statute.[3]

Under these circumstances, seeking and waiting for comment serves no useful purpose.

The Authority and the U.S. Court of Appeals for the District of Columbia, have held that ''official time may only be granted to the extent that it is consistent with all 'applicable laws and regulations.' '' [4] The Authority has also held that regulations issued pursuant to statutory authority are to be accorded the force and effect of law.[5] Because E.O. 13,837 was issued pursuant to the President's statutory authority to regulate the executive branch,[6] it is accorded the force and effect of law and affects the negotiability of proposals covered by the Statute.

As relevant here, E.O. 13,837 states that ''[e]mployees may not engage in lobbying activities during paid time, except in their official capacities as an employee,'' [7] and it directs agencies to deny official time for ''lobbying activities in violation of section 1913 of title 18, United States Code.'' [8] This language closely parallels the plain language of 18 U.S.C. 1913 which prohibits the use of appropriated funds to pay any federal employee for lobbying activities. Specifically, section 1913 states that appropriated funds may not be used ''directly or indirectly to pay for any [activities] . . . intended or designed to influence in any manner a Member of Congress . . . or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation.'' Therefore, in reading E.O. 13,837 and section 1913 together, it is clear that official time may not be granted for any activities ''intended or designed to influence in any manner a Member of Congress . . . to favor, adopt, or oppose, by vote or otherwise, any legislation, law ratification, policy, or appropriation.''

At first glance, it would appear that Executive Order 13,837 rests on an interpretation of 18 U.S.C. 1913 and that section 1913 provides an exception for appropriated money to be used for lobbying if there is an ''express authorization by Congress.'' [9] On this point, the U.S. Department of Justice, Office of Legal Counsel (OLC), has issued two opinions.[10] Those opinions provide valuable perspective on the interplay between 18 U.S.C. 1913 and section 7102 but are flawed insofar as they interpret our Statute. According to OLC, Congress provided express authorization in section 7102 for direct (but not ''grass roots'' [11]) lobbying—''present[ing] the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities.'' [12] However, those conclusions were premised on interpretations of sections 7102 and 7131 (not 18 U.S.C. 1913) and Authority precedent that I would jettison [13] and are thus entitled to little deference in light of E.O. 13,837.

Under these circumstances, I disagree that any valuable purpose is served or insights are to be gained by seeking written comments on this question.

I would issue a general statement of policy that the plain language of E.O. 13,837 and 18 U.S.C. 1913 limits the scope of section 7131(d) of the Statute, such that, a proposal that would grant the use of official time for lobbying activities is nonnegotiable because it is contrary to law. To the extent the cases cited above support the notion that proposals permitting the use of official time for lobbying activities are negotiable, I would conclude that they are not consistent with the E.O. and are therefore no longer good law.

[FR Doc. 2020–05992 Filed 3–24–20; 8:45 am]

BILLING CODE 6727–01–P

[2] Exec. Order No. 13,837, *Ensuring Transparency, Accountability, and Efficiency in Taxpayer-Funded Union Time Use,* 83 FR 25,335, 25,337 (May 28, 2018) (E.O. 13,837).

[3] Section 7131.

[4] *Assoc. of Civilian Technicians, Tony Kempenich Mem'l Chapter 21* v. *FLRA,* 269 F.3d 1119, 1122 (DC Cir.) (2001) (quoting *NFFE Local 2015,* 41 FLRA 1158, 1185 (1991)).

[5] *NFFE, Local 15,* 30 FLRA 1046, 1070 (1988).

[6] E.O. 13,837, 83 FR at 25,335 (citing to 5 U.S.C. 7301). 5 U.S.C. 7301 provides that ''[t]he President may prescribe regulations for the conduct of employees in the executive branch.''

[7] E.O. 13,837, 83 FR at 25,337.

[8] *Id.* at 25,338.

[9] 18 U.S.C. 1913; *see also 2005 Memo,* 29 Op. O.L.C. at 181 (stating that 18 U.S.C. 1913 only applies ''in the absence of express authorization by Congress'').

[10] *See Application of 18 U.S.C. 1913 to ''Grass Roots'' Lobbying,* 29 Op. O.L.C. 179 (2005) (*2005 Memo*); *Constraints Imposed by 18 U.S.C. 1913 on Lobbying Efforts,* 13 Op. O.L.C. 300 (1989).

[11] *2005 Memo,* 29 Op. O.L.C. at 181.

[12] *2005 Memo* at 184–85 (quoting section 7102).

[13] See fn. 8.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0270; Product Identifier 2019–SW–018–AD]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, Inc. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for Bell Helicopter Textron, Inc. (Bell) Model 205B helicopters. This proposed AD was prompted by flight testing and fatigue analysis results. This proposed AD would require reducing the life limit of certain tail rotor (T/R) blades and re-identifying them with a new part number (P/N). 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 May 11, 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 Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, TX 76101; telephone 817–280–3391; fax 817–280–6466; or at *https://www.bellcustomer.com.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

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–2020–0270; 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, 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: Kuethe Harmon, Safety Management Program Manager, DSCO Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5198; email *kuethe.harmon@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0270; Product Identifier 2019–SW–018–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM because of those comments.

The FAA will post all comments 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.

Discussion

The FAA proposes to adopt a new AD for Bell Model 205B helicopters with a T/R blade P/N 212–010–750–009 or 212–010–750–105 installed. Flight testing and fatigue analysis by Bell indicates that these part-numbered T/R blades sustain greater loads when installed on Bell Model 205B helicopters compared to their use on other model helicopters. The proposed actions are intended to prevent a T/R blade remaining in service beyond its fatigue life, resulting in failure of the T/R blade and subsequent loss control of the helicopter.

Related Service Information

The FAA reviewed Bell Helicopter Textron Alert Service Bulletin No. 205B–98–27, dated June 1, 1998, for Model 205B helicopters. This service information specifies reducing the life limit of T/R blade P/N 212–010–750–009 and 212–010–750–105 to 2,500 hours TIS and assigning these blades a new dash number by vibro-etching a new P/N on the T/R blade data and annotating the historical record card.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require, before further flight, reducing the life limit of each affected T/R blade from 5,000 hours TIS to 2,500 hours TIS; re-identifying the T/R blade P/N on its data plate by vibro-etching to change the last three digits of the existing P/N; creating a component history card or equivalent record; and revising the Airworthiness Limitations section of the maintenance manual for your helicopter to annotate the new P/N and revised life limit. Finally, this proposed AD would prohibit installing any affected T/R blade that has not met the AD requirements.

Costs of Compliance

The FAA estimates that this proposed AD would affect 2 helicopters of U.S. registry. The FAA estimates that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at $85 per work-hour.

Determining the total hours TIS of a T/R blade, re-identifying the P/N, and updating the helicopter records would take about 1 work-hour for each T/R blade, for an estimated cost of $170 per helicopter and $340 for the U.S fleet.

Replacing a T/R blade would take about 8 work-hours and parts would cost about $29,110 for an estimated cost of $29,790 per T/R blade.

Authority for this Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bell Helicopter Textron, Inc.: Docket No. FAA–2020–0270; Product Identifier 2019–SW–018–AD.

(a) Comments Due Date

The FAA must receive comments by May 11, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bell Helicopter Textron, Inc. Model 205B helicopters, certificated in any category, with a tail rotor (T/R) blade

part number (P/N) 212–010–750–009 or 212–010–750–105 installed.

(d) Subject

Joint Aircraft System Component (JASC) Code: 6410, Tail Rotor Blades.

(e) Unsafe Condition

This AD was prompted by flight testing and fatigue analysis that indicates that these part-numbered T/R blades sustain greater loads when used on Bell Model 205B helicopters compared to their use on other model helicopters. The FAA is issuing this AD to prevent a T/R blade from remaining in service beyond its fatigue life, resulting in failure of the T/R blade and subsequent loss control of the helicopter.

(f) Compliance

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

(g) Required Actions

(1) Before further flight, determine the total hours time-in-service (TIS) of each T/R blade and remove from service each T/R blade that has accumulated 2,500 or more hours TIS. For each T/R blade that has accumulated less than 2,500 hours TIS, do the following:

(i) Re-identify the P/N on the T/R blade data plate by vibro-etching to change the last three digits of the existing P/N as follows:

(A) For T/R blade P/N 212–010–750–009, re-identify the P/N as 212–010–750–111.

(B) For T/R blade P/N 212–010–750–105, re-identify the P/N as 212–010–750–109.

(ii) Create a component history card or equivalent record to reflect the change in P/N for each T/R blade, and establish a life limit of 2,500 hours TIS.

(iii) Revise the Airworthiness Limitations Section of the maintenance manual or the Instructions for Continued Airworthiness for your helicopter to establish a life limit of 2,500 hours TIS for each T/R blade P/N 212–010–750–111 and 212–010–750–109.

(2) Thereafter, except as provided in paragraph (i) of this AD, no alternative life limits may be approved for T/R blade P/N 212–010–750–009 or 212–010–750–105.

(3) After the effective date of this AD, do not install a T/R blade P/N 212–010–750–009 or 212–010–750–105 on any Model 205B helicopter unless the part number has been changed and the life limit reduced in accordance with this AD.

(h) Special Flight Permit

Special flight permits are prohibited.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, DSCO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j)(1) of this AD. Information may be emailed to: *9-ASW-190-COS@faa.gov.*

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

(j) Related Information

(1) For more information about this AD, contact Kuethe Harmon, Safety Management Program Manager, DSCO Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5198; email *kuethe.harmon@faa.gov.*

(2) For service information identified in this AD, contact Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, TX 76101; telephone 817–280–3391; fax 817–280–6466; or at *https://www.bellcustomer.com.* You may view service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

Issued on March 13, 2020.

Gaetano A. Sciortino,

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

[FR Doc. 2020–05749 Filed 3–24–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2019–0111; Airspace Docket No. 19–ASO–23]

RIN 2120–AA66

Proposed Establishment of Restricted Area R–5306F; Cherry Point, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish restricted area R–5306F at Marine Corps Air Station (MCAS) Cherry Point, NC. R–5306F would extend from flight level (FL) 180 to FL 290. The proposed restricted area would overlie the existing restricted area R–5306A, and the adjacent Core Military Operations Area (MOA). Due to altitude constraints, the existing restricted airspace structure around MCAS Cherry Point cannot fully support the training requirements for current legacy aircraft as well as 4th and 5th generation aircraft such as the F–35. In conjunction with R–5306A, the proposed restricted area would provide realistic training to enable pilots and aircrews to counter evolving threat nation warfare anti-aircraft capabilities.

DATES: Comments must be received on or before May 11, 2020.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2019–0111; Airspace Docket No. 19–ASO–23, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

Comments on environmental and land use aspects to should be directed to: Carmen Lombardo, Natural Resource Manager, MCAS Cherry Point, NC 28533; telephone: (252) 466–5870; email: *carmen.lombardo@usmc.mil.*

FOR FURTHER INFORMATION CONTACT: Sean Hook, 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 establish restricted area airspace at Cherry Point, NC, to enhance aviation safety and accommodate essential U.S. Marine Corps training activities.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2019–0111; Airspace Docket No. 19–ASO–23) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and

phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2019–0111; Airspace Docket No. 19–ASO–23.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. 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 at the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA 30337.

Background

The U.S. Marine Corps submitted a proposal to the FAA to expand the existing restricted airspace at MCAS Cherry Point, NC, because the altitude constraints of the current airspace structure cannot fully support U.S. Marine Corps training and readiness requirements. The training shortfall applies to current legacy aircraft but is more pronounced for 4th and 5th generation aircraft, such as the F–35. Specifically, the existing restricted area R–5306A extends from the surface up to, but not including, FL 180. This altitude constraint limits the ability to conduct realistic training in a variety of tactics at the higher altitudes that would be present in ''real world'' situations. Additional high-altitude restricted airspace up to FL 290 is needed to provide the realistic training environment that pilots and aircrews need to in order to qualify and remain proficient in tactics for the employment of Precision Guided Munitions (PGM). PGMs are weapon systems that are released from higher altitudes and greater distances from the target than conventional unguided weapons.

In conjunction with existing restricted area R–5306A, the proposed R–5306F would also provide the airspace needed to contain actual and simulated deliveries of ordnance for training in tactics such as Close Air Support, Deep Air Support, Suppression of Enemy Air Defenses, etc.

The Proposal

The FAA is proposing to amend 14 CFR part 73 to establish restricted area R–5306F, Cherry Point, NC, to overlie the existing restricted area R–5306A, and the adjacent Core Military Operations Area (MOA). R–5306F would extend from FL 180 to FL 290. The time of designation would be Monday through Friday, 0800 to 0000 hours, local time; other times by NOTAM.

In conjunction with R–5306A, R–5306F would provide the low-altitude to high-altitude restricted airspace needed to train in the variety of tactics as discussed above.

There are no current Air Traffic Service routes (*i.e.,* jet routes or Q-routes) or preferential instrument flight rules (IFR) routes that would be impacted by the proposed restricted area. R–5306F would be joint-use special use airspace; meaning that the restricted area would be returned to the controlling agency (FAA, Washington ARTCC) on a real-time basis when not in use by the using agency. Supersonic flight would not be conducted in R–5306F.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subjected 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 73

Airspace, Prohibited Areas, Restricted Areas.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 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.

§ 73.53 North Carolina [Amended]

■ 2. Amend § 73.53 to read as follows:

* * * * *

R–5306F Cherry Point, NC [New]

Boundaries. Beginning at lat. 35°23′16″ N, long. 76°34′39″ W; to lat. 35°18′16″ N, long. 76°16′39″ W; to lat. 35°04′31″ N, long. 76°04′29″ W; to lat. 35°00′31″ N, long. 76°00′59″ W; to lat. 35°00′22″ N, long. 76°00′51″ W; thence southwest 3 NM from and parallel to the shoreline to lat. 34°40′16″ N, long. 76°24′45″ W; to lat. 34°40′41″ N, long. 76°25′08″ W; to lat. 34°46′01″ N, long. 76°29′59″ W; to lat. 35°08′01″ N, long. 76°51′19″ W; to the point of beginning.

Designated altitudes. FL 180 to FL 290.

Time of designation. Monday through Friday, 0800–0000L; other times by NOTAM.

Controlling agency. FAA, Washington ARTCC.

Using agency. USMC, Commanding Officer, U.S. Marine Corps Air Station Cherry Point, NC.

* * * * *

Issued in Washington, DC, on March 16, 2020.

Scott M. Rosenbloom,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2020–05988 Filed 3–24–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED–2020–OSERS–0009]

Proposed Priorities and Definitions—Independent Living Services for Older Individuals Who Are Blind—Training and Technical Assistance

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Proposed priorities and definitions.

SUMMARY: The Assistant Secretary for the Office of Special Education and Rehabilitative Services proposes priorities and definitions under the Independent Living Services for Older Individuals Who Are Blind (OIB) program, Catalog of Federal Domestic Assistance (CFDA) number 84.177Z. The Assistant Secretary may use one or more of these priorities and definitions for competitions in fiscal year (FY) 2020 and later years. We take this action to focus Federal financial assistance on an identified national need. We intend the priorities and definitions to improve the administration, operation, and performance of the OIB program.

DATES: We must receive your comments on or before April 24, 2020.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''Help.''
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about the proposed priorities and definitions, address them to RoseAnn Ashby, U.S. Department of Education, 400 Maryland Avenue SW, Room 5151, Potomac Center Plaza (PCP), Washington, DC 20202–2500.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: RoseAnn Ashby. Telephone: (202) 245–7258. Email: *RoseAnn.Ashby@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding the proposed priorities and definitions. To ensure that your comments have maximum effect in developing the notice of final priorities and definitions, we urge you to identify clearly the specific priorities and definitions that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866, 13563, and 13771 and their overall requirement of reducing regulatory burden that might result from these proposed priorities and definitions. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about the proposed priorities and definitions by accessing *Regulations.gov.* You may also inspect the comments in person in Room 5151, PCP, 400 Maryland Avenue SW, Washington, DC, between the hours of 9:30 a.m. and 4:00 p.m., Eastern Time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this document. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program:

The purpose of this program is to provide training and technical assistance to designated State agencies (DSAs)—the State agencies that provide vocational rehabilitation services to individuals who are blind—that receive grant funding under the OIB program and to other service providers that receive OIB program funding from DSAs to provide services to consumers. The training and technical assistance are designed to improve the operation and performance of programs and services for older individuals who are blind resulting in their enhanced independence and self-sufficiency.

Program Authority: 29 U.S.C. 796j–1.

Applicable Program Regulations: 34 CFR part 367.

PROPOSED PRIORITIES: This document contains two proposed priorities.

Background:

Vision loss, due to such conditions as diabetic retinopathy, cataracts, glaucoma, and macular degeneration, can greatly affect the ability of older individuals to function independently in the home and to participate fully in the community. As people lose vision, they often isolate themselves and do not believe that they can still maintain an active, independent lifestyle.

According to the Centers for Disease Control and Prevention's 2016 National Health Interview Survey (NHIS),[1] 7.3 million American adults 65 years and older report having vision loss. That number will increase significantly in the coming decades, as nearly 75 million Americans who make up the baby-boomer generation get older. According to the American Foundation for the Blind,[2] experts predict that by 2030, rates of vision loss will double within the country's aging population.

Currently, Medicaid, Medicare, and private insurance do not provide coverage for any rehabilitative services or tools for individuals who are blind, such as white canes; assistive technology, including computer software with text enlargement or text-to-speech capabilities; or everyday items such as talking clocks, tactile medication dispensers, and kitchen safety items. Furthermore, insurance does not provide coverage for instruction in adaptive skills that will allow a person experiencing significant vision loss to perform the activities of daily living (ADLs) that are necessary to an individual's ability to remain in the home and community.

If an older individual with significant vision loss does not have the services, tools, or skills to perform ADLs, a nursing facility or in-home care may be the only options. According to the Department of Health and Human Services, Administration for

[1] See: *https://afb.org/research-and-intiatives/past-initiatives/21st-century-agenda-aging-and-vision-loss.*

[2] See: *https://afb.org/research-and-initiatives/aging/special-report-aging-vision-loss.*

Community Living (HHS–ACL),[3] the national average cost of care in a private room within a nursing facility is $253 per day, $7,698 per month, or $92,376 per year. Alternatively, the national average cost of in-home care is $20.50 per hour. Therefore, services and strategies that delay or eliminate the need for older individuals who are blind, or who have low vision, to enter a nursing home would be cost effective, as would reducing the number of hours of in-home care these individuals require to maintain their independence.

OIB services are provided to help persons served under this program adjust to their blindness by increasing their ability to care for their individual needs. Therefore, it is essential that DSAs responsible for providing these services and other service providers that receive OIB program funding from DSAs to provide these services are able to effectively address this vital need.

We are proposing priority 1 to establish an OIB Training and Technical Assistance Center (Center) to provide universal, targeted, and intensive training and technical assistance to DSAs funded under the OIB program and to any service providers that DSAs fund to provide services directly to consumers.

The Center will provide training and technical assistance in the following areas identified by surveying the training and technical assistance needs of DSAs: (a) Community outreach; (b) promising practices; (c) program performance; and (d) financial and management practices.

Federal funding to OIB grantees is not enough, nor was it intended to be enough, to address all the service needs of OIB consumers. Therefore, it is imperative that OIB grantees develop effective strategies for collaborating with other systems and professions that work with the OIB population. OIB grantees must be knowledgeable about available State and local resources and must implement strategies to effectively leverage the use of those resources to meet the service needs of OIB consumers.

The second proposed priority focuses on providing technical assistance to DSAs, and other service providers that receive OIB program funding from DSAs to provide services to consumers, on partnering with other systems that work with individuals who are aging and individuals with disabilities to facilitate the sharing of information and leveraging of resources. This will require communication and coordination, on an ongoing basis, with other federally funded training and technical assistance projects, particularly Department-funded projects, to ensure that training and technical assistance activities are complementary and non-duplicative.

Proposed Priority 1—Independent Living Services for Older Individuals Who Are Blind (OIB) Training and Technical Assistance.

This proposed priority supports a cooperative agreement to establish an OIB Training and Technical Assistance Center (Center) to provide universal, targeted, and intensive training and technical assistance to DSAs funded under the OIB program and to any service providers that DSAs fund to provide services directly to consumers. The Center will develop and provide training and technical assistance in the following general topic areas:

(a) Community outreach methods and strategies to identify potential recipients of services.

(b) Promising practices, including the development and dissemination of relevant materials to facilitate the delivery of effective services.

(c) Program performance, including data reporting and analysis.

(d) Financial and management practices, including practices to ensure compliance with grant administration requirements.

To meet the requirements of this proposed priority, the Center must, at a minimum, conduct the following activities:

(a) Annually provide intensive training and technical assistance to a minimum of three DSAs or other service providers on the four general topic areas in this proposed priority. The technical assistance must be—

(1) Consistent with the project activities and tailored to the specific needs and challenges of the DSA or other service provider receiving intensive training and technical assistance;

(2) Provided under an agreement with each DSA or other service provider that, at a minimum, details the purpose, intended outcomes, and requirements for subsequent evaluation of the training and technical assistance; and

(3) Assessed 90 days after completion to ensure that the DSAs and other service providers receiving intensive training and technical assistance are applying it effectively, and to address any issues or challenges in its implementation.

(b) Provide a range of targeted training and technical assistance and universal training and technical assistance products and services on the four general topic areas in this proposed priority. The training and technical assistance must include, at a minimum, the following activities:

(1) In each year of the project, provide a minimum of 10 webinars, podcasts, video conferences, teleconferences, or other virtual methods on the four general topic areas in this proposed priority to describe and disseminate information about emerging promising practices.

(2) Develop new information technology (IT) platforms or systems, or modify existing platforms and systems, as follows:

(i) Develop or modify, and maintain, a state-of-the-art IT platform sufficient to support webinars, podcasts, video conferences, teleconferences, and other virtual methods of dissemination of information and training and technical assistance; and

(ii) Develop or modify, and maintain, a state-of-the-art archiving and dissemination system that is open and available to the public, at no cost, and that provides a central location for later use of training and technical assistance products, including course curricula, audiovisual materials, webinars, examples of emerging and promising practices related to the four general topic areas in this proposed priority, and any other training and technical assistance products developed by the grantee and others.

Note: All products produced by the Center must meet government and industry-recognized standards for accessibility.

(c) Conduct outreach to DSAs so that they are aware of, and can participate in, training and technical assistance activities.

(d) Establish a community of practice[4] that will act as a vehicle for communication, an exchange of information among DSAs and other service providers, and a forum for sharing the results of training and technical assistance activities that are in progress or that have been completed.

(e) Facilitate a minimum of one in-person conference annually for the purpose of dissemination of information related to emerging promising practices and ongoing technical assistance needs and activities.

(f) Communicate and coordinate, on an ongoing basis, with other federally funded training and technical assistance projects, particularly Department-funded projects, to ensure that training and technical assistance activities are complementary and non-duplicative.

[3] See: *https://longtermcare.acl.gov/costs-how-to-pay/costs-of-care.html.*

[4] See: *http://www.sedl.org/pubs/catalog/items/dis104.html.*

(g) Conduct an evaluation to determine the impact of the Center's training and technical assistance on the DSAs and other service providers that received the Center's services.

Proposed Priority 2—Identify and Demonstrate how Specific Technical Assistance Strategies Provided to OIB Grantees will Facilitate Collaboration and Leveraging of Resources at the State and Local Level.

To meet the requirements of this proposed priority, the Center must, at a minimum, develop technical assistance focused on partnerships to facilitate the sharing of information and leveraging of resources from other systems that work with aging individuals and individuals with disabilities.

These technical assistance strategies must be designed to improve the capacity of OIB grantee staff, and staff from other service providers that receive OIB program funding from DSAs to provide services to the OIB population, to acquire and develop the skills and tools they need to help the OIB population sustain and increase their ability to live independently in their homes and communities.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

PROPOSED DEFINITIONS:

Background:

We propose the following definitions for use with these proposed priorities. We propose these definitions to ensure that applicants have a clear understanding of how we are using these terms.

Proposed Definitions:

The Assistant Secretary proposes the following definitions for this program. We may apply one or more of these definitions in any year in which this program is in effect.

Intensive training and technical assistance means training and technical assistance provided to a DSA, or other service provider that receives OIB program funding from a DSA to provide services, primarily on-site over an extended period. Intensive training and technical assistance is based on an ongoing relationship between the training and technical assistance center staff and a DSA, or other service provider that receives OIB program funding from a DSA to provide services, under the terms of a signed intensive training and technical assistance agreement.

Targeted training and technical assistance means training and technical assistance based on needs common to one or more DSAs, or other service providers that receive OIB program funding from DSAs to provide services, on a time-limited basis and with a limited commitment of training and technical assistance center resources. Targeted training and technical assistance are delivered through virtual or in-person methods tailored to the identified needs of the participating DSAs, or other service providers that receive OIB program funding from DSAs to provide services.

Universal training and technical assistance means training and technical assistance broadly available to DSAs, or other service providers that receive OIB program funding from DSAs to provide services, and other interested parties resulting in minimal interaction with training and technical assistance center staff. Universal training and technical assistance includes generalized presentations, products, and related activities available through a website or through brief contact with the training and technical assistance center staff.

Final Priorities and Definitions:

We will announce the final priorities and definitions in the **Federal Register**. We will determine the final priorities and definitions after considering responses to the proposed priorities and definitions and other information available to the Department. This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria subject to meeting applicable rulemaking requirements.

Note: This document does *not* solicit applications. In any year in which we choose to use one or more of these priorities and definitions, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866, 13563, and 13771

Regulatory Impact Analysis

Under Executive Order 12866, the Office of Management and Budget (OMB) determines whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

OMB has determined that this proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

Under Executive Order 13771, for each new rule that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866 and that imposes total costs greater than zero, it must identify two deregulatory actions. For FY 2020, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions. Because the proposed regulatory action is not significant, the requirements of Executive Order 13771 do not apply.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that

their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing the proposed priorities and definitions only on a reasoned determination that their benefits would justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. The Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We have also determined that this regulatory action would not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

In addition, we have considered the potential benefits of this regulatory action and have noted these benefits in the background section of this document.

Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum ''Plain Language in Government Writing'' require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed priorities and definitions easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections?
- Could the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?

To send any comments that concern how the Department could make these proposed regulations easier to understand, see the instructions in the **ADDRESSES** section.

Regulatory Flexibility Act Certification: The Secretary certifies that this proposed regulatory action would not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define ''small entities'' as for-profit or nonprofit institutions with total annual revenue below $7,000,000 or, if they are institutions controlled by small governmental jurisdictions (that are comprised of cities, counties, towns, townships, villages, school districts, or special districts), with a population of less than 50,000.

The small entities that this proposed regulatory action would affect are State and public or non-profit agencies and organizations and institutions of higher education (IHEs) that have the capacity to provide training and technical assistance in the provision of independent living services for older individuals who are blind and have demonstrated through their application a capacity to provide the level of training and technical assistance necessary to meet the proposed priorities. We believe that the costs imposed on an applicant by the proposed priorities and definitions would be limited to paperwork burden related to preparing an application and that the benefits of these proposed priorities and definitions would outweigh any costs incurred by the applicant. There are very few entities that could provide the type of technical assistance the Center aims to provide. For these reasons these proposed priorities and definitions would not impose a burden on a significant number of small entities.

Paperwork Reduction Act of 1995: The proposed priorities and definitions contain information collection requirements that are approved by OMB under OMB control number 1820–0018.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Assessment of Educational Impact

In accordance with section 411 of the General Education Provisions Act, 20 U.S.C. 1221e–4, the Secretary particularly requests comments on whether these proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* Braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Mark Schultz,

Commissioner, Rehabilitation Services Administration, Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2020–06060 Filed 3–24–20; 8:45 am]

BILLING CODE 4000–01–P

Notices

Federal Register
Vol. 85, No. 58
Wednesday, March 25, 2020

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Solicitation of Applications (NOSA) for the Rural Energy for America Program for Fiscal Year (FY) 2020; Amendment

AGENCY: Rural Business-Cooperative Service, USDA (Rural Development).

ACTION: Notice of solicitation of applications; amendment.

SUMMARY: The Rural-Business Cooperative Service (the Agency) published a notice of solicitation of applications in the **Federal Register** on August 30, 2019, entitled ''Notice of Solicitation of Applications for the Rural Energy for America Program for Fiscal Year 2020,'' to allow potential applicants time to submit applications for financial assistance under the Rural Energy for America Program (REAP) for fiscal year (FY) 2020 and allow the Agency time to process applications within the current FY. This notice extends the application window closing date from March 31, 2020 to April 15, 2020.

FOR FURTHER INFORMATION CONTACT: Please contact the applicable USDA Rural Development Energy Coordinator in your respective state, as identified via the following link: *https://www.rd.usda.gov/files/RBS_StateEnergyCoordinators.pdf.*

For information about this Notice, please contact Deb Yocum, Program Management Division, Rural Business-Cooperative Service, United States Department of Agriculture, 1400 Independence Avenue SW, MS 3226, Room 4204-South, Washington, DC 20250–3226, or call 402–499–1198.

SUPPLEMENTARY INFORMATION: In the **Federal Register** on August 30, 2019 (84 FR 45713), make the following amendments:

In the third column on page 45716, under Section IV Application and Submission Information, subsection C. Submission Dates and Times, paragraph (1)(a)(ii) amend the language to: 4:30 p.m. local time on April 15, 2020.

In the third column on page 45716, under Section IV Application and Submission Information, subsection C. Submission Dates and Times, paragraph (1)(b) amend the language to: For applicants requesting a grant only of over $20,000 (unrestricted) or a combination grant and guaranteed loan where the grant request is greater than $20,000, complete applications must be received no later than 4:30 p.m. local time on April 15, 2020.

In the third column of the table on page 45716, amend the Application window closing dates for the Renewable Energy Systems and Energy Efficiency Improvements Grants ($20,000 or less grant and guaranteed loan where the grant request is $20,000 or less competing for the remaining set aside funds) to April 15, 2020*.

In the third column of the table on page 45716, amend the Application window closing dates for the Renewable Energy Systems and Energy Efficiency Improvements Grants Unrestricted grants, including combination grant and guaranteed loan where the grant request is greater than $20,000) to April 15, 2020*.

In the first column on page 45718, under section V. Application Review Information, subsection B Review and Selection Process, paragraph (1)(a) amend the second sentence to read: Eligible applications must be submitted by April 15, 2020, in order to be considered for these set-aside funds.

In the first column on page 45718, under section V. Application Review Information, subsection B. Review and Selection Process, paragraph (1)(a) amend the third sentence to read: Approximately 50 percent of these funds will be made available for those complete applications the Agency receives by October 31, 2019, and approximately 50 percent of the funds for those complete applications the Agency receives by April 15, 2020.

In the first column on page 45718, under section V. Application Review Information, subsection B. Review and Selection Process, paragraph (1)(b) amend the first sentence to read: Eligible applications received by April 15, 2020, for renewable energy system and energy efficiency improvements grants of $20,000 or less, that are not funded by State allocations can be submitted to the National Office to compete against grant applications of $20,000 or less from other States at a national competition.

In the first column on page 45718, under section V. Application Review Information, subsection B. Review and Selection Process, paragraph (1)(c) amend the first sentence to read: Eligible applications for renewable energy system and energy efficiency improvements, regardless of the amount of the funding request, received by April 15, 2020, can compete for unrestricted grant funds.

In the second column on page 45718, under section V. Application Review Information, subsection B. Review and Selection Process, paragraph (1) amend paragraph (d) to read: National unrestricted grant funds for all eligible renewable energy system and energy efficiency improvements grant applications received by April 15, 2020, which include grants of $20,000 or less, that are not funded by State allocations can be submitted to the National Office to compete against grant applications from other States at a final national competition.

In the third column on page 45718, under section V. Application Review Information, subsection B. Review and Selection Process, paragraph (3) amend the last sentence to read: All unfunded eligible applications for combined grant and guaranteed loan applications that are received by April 15, 2020, and that are not funded by State allocations can be submitted to the National Office to compete against other grant and combined grand and guaranteed loan applications from other States at a final national competition.

Mark Brodziski,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 2020–06226 Filed 3–24–20; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural

Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before April 14, 2020. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. at the U.S. Department of Commerce in Room 3720.

Docket Number: 20–002. *Applicant:* Regents of the University of Minnesota, Center for Magnetic Resonance Research, 2021 6th Street SE, Minneapolis, MN 55455. *Instrument:* Three-photon far infra-red laser. *Manufacturer:* Class 5 Photonics, Germany. *Intended Use:* The instrument will be used to study the fine structure which means on the scale of sub-microns (less than 1/1000th of 1 mm resolution) and function of cells and blood vessels in the living brains of mice. Examination of the fine structure is critical to understanding cellular communication and blood flow regulation in the brain. Laboratory mice are anesthetized, the skull is exposed, and 1,300 nm laser light is passed into the brain so that cells and blood vessels can be visualized with a microscope via three-photon fluorescence microscopy. Mice are now the most common research subjects used in biological and neuroscience research. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* January 13, 2020.

Dated: March 19, 2020.

Gregory W. Campbell,

Director, Subsidies Enforcement, Enforcement and Compliance.

[FR Doc. 2020–06216 Filed 3–24–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–053]

Certain Aluminum Foil From the People's Republic of China: Notice of Court Decision Not in Harmony With Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On March 9, 2020, the United States Court of International Trade (the Court) issued final judgment in *Jiangsu Zhongji Lamination Materials Co., (HK) Ltd., Jiangsu Zhongji Lamination Materials Stock Co., Ltd., Jiangsu Zhongji Lamination Materials Stock Co., Ltd, and Jiangsu Huafeng Aluminum Industry Co., Ltd.* v. *United States,* Court No. 18–00091, sustaining the Department of Commerce's (Commerce) final results of the redetermination pursuant to remand. Consistent with the decision of the United States Court of Appeals for the Federal Circuit (Federal Circuit) in *Timken Co.,* v. *United States,* (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition* v. *United States,* (Fed. Cir. 2010) (*Diamond Sawblades*), Commerce is notifying the public that the final judgment in this case is not in harmony with Commerce's decision in *Certain Aluminum Foil from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* (April 19, 2018) (*Amended Final Determination*).

Commerce is amending the amended final results with respect to the weighted-average dumping margin assigned to Jiangsu Zhongji Lamination Materials Co., (HK) Ltd., Jiangsu Zhongji Lamination Materials Stock Co., Ltd., Jiangsu Zhongji Lamination Materials Stock Co., Ltd, and Jiangsu Huafeng Aluminum Industry Co., Ltd. (collectively Zhongji).

DATES: Applicable March 19, 2020.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Chelsey Simonovich, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4475 or (202) 482–1979, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 15, 2019, the Court sustained Commerce on the following issues: (1) The selection of South Africa, rather than Bulgaria, as the source of surrogate values; [1] (2) the selection of international freight values used by Commerce in the *Final Determination*; [2] (3) Commerce's valuation of Zhongji's scrap; [3] and (4) Commerce's decision to defer issuance of its *Preliminary Determination*.[4] Furthermore, the Court found that Zhongji's arguments about the broader legitimacy of the irrevocable value-added tax (VAT) adjustment were not properly raised during the administrative proceeding.[5] In the *Final Determination* and *Amended Final Determination,*[6] Commerce based its calculation of Zhongji's VAT adjustment on the U.S. price of Zhongji's merchandise on resale by Jiangsu Zhongji Lamination Materials Co. (HK) (Zhongji HK), instead of the price at which Jiangsu Zhongji Lamination Materials, Co., Ltd., Jiangsu Zhongji Lamination Materials Stock Co., Ltd., and Jiangsu Huafeng Aluminum Industry Co., Ltd. (collectively, Jiangsu Zhongji) sold the merchandise to Zhongji HK.[7]

In *Fine Furniture I,* litigation arising from the first antidumping duty administrative review of multilayered hardwood flooring, the Court found that Commerce failed to reconcile the deduction for irrecoverable VAT that

[1] *See Jiangsu Zhongji Lamination Materials Co. (HK), Ltd., Jiangsu Zhongji Lamination Materials, Co., Ltd., Jiangsu Zhongji Lamination Materials Stock Co., Ltd., and Jiangsu Huafeng Aluminum Industry Co., Ltd.* v. *United States,* Court No. 18–00091, Slip Op. 19–111 (CIT August 15, 2019) (*Remand Order*) at 14–22.

[2] *Id.* at 24–26.

[3] *See Remand Order* at 22–23.

[4] *Id.* at 28–30. Commerce published the *Preliminary Determination* on November 2, 2017. *See Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination* 82 FR 50858 (November 2, 2017 (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum (PDM). Commerce issued a deferral notice on October 12, 2017. *See also Certain Aluminum Foil from the People's Republic of China: Deferral of Preliminary Determination of the Less Than Fair Value Investigation,* 82 FR 47481 (October 12, 2017); *see also Certain Aluminum Foil from the People's Republic of China: Deferral of Preliminary Determination of the Less Than Fair Value Investigation—Correction Notice,* 82 FR 48485 (October 18, 2017).

[5] *See Remand Order* at n.7.

[6] *See Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 83 FR 9282 (March 5, 2018) (*Final Determination*), and accompanying Issues and Decision Memorandum (IDM); *see also Amended Final Determination.*

[7] *See Final Determination* and IDM at Comment 4.

Commerce calculated with the amounts of irrecoverable VAT that were actually incurred upon exportation, and that Commerce's calculation was not supported by substantial evidence on the record, remanding the case for reconsideration.[8] On remand, Commerce modified its VAT calculations and found that the transfer price to respondent's affiliate was the actual base value from which irrecoverable VAT was calculated, because it was more appropriate to focus on achieving tax neutrality generally, rather than determining what taxes the GOC should have imposed.[9] Commerce's new VAT adjustment methodology was subsequently affirmed by this Court in *Fine Furniture II.*[10] The fact pattern in *Fine Furniture I* was similar to that in this case, as the respondent had a similar selling structure and certified that China used its transfer price to its affiliated, offshore reseller as the basis to collect VAT.[11] In accordance with Commerce's revised VAT adjustment calculation methodology, on February 25, 2019, the United States requested a voluntary remand concerning its calculation of the VAT adjustment.[12]

On November 12, 2019, we filed our *Redetermination.*[13] In our *Redetermination,* we based our calculation of the VAT adjustment on the sale of Jiangsu Zhongji to their affiliated reseller, Zhongji HK.

On March 9, 2020, the Court sustained Commerce's *Redetermination,* and entered its final judgment.[14]

Timken Notice

In its decision in *Timken,* 893 F.2d at 341, as clarified by *Diamond Sawblades,* the Federal Circuit held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision not ''in harmony'' with a Commerce determination, and must suspend liquidation of entries pending a ''conclusive'' court decision. The Court's March 9, 2020 judgment sustaining the *Redetermination* constitutes a final decision of the Court that is not in harmony with Commerce's *Amended Final Determination* and Order. This notice is published in fulfillment of the publication requirement of *Timken.* Accordingly, Commerce will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision.

Amended Final Determination

Because there is now a final court decision, Commerce amends the *Amended Final Determination* with respect to Zhongji. The revised cash deposit rates for the LTFV investigation, is as follows:

Producer	Exporter	Weighted average dumping margin (percent)
Jiangsu Zhongji Lamination Materials Stock Co., Ltd./Jiangsu Zhongji Lamination Materials Co., Ltd./Jiangsu Huafeng Aluminum Industry Co., Ltd.	Jiangsu Zhongji Lamination Materials Co., (HK) Ltd	48.30

Cash Deposit Requirements

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct CBP to collect a cash deposit of 48.30 percent for entries of subject merchandise exported by Zhongji, effective March 19, 2020, in accordance with the *Timken Notice.*

This notice is issued and published in accordance with sections 516(A)(e), 751(a)(1), and 777(i)(1) of the Act.

Dated: March 19, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement & Compliance.

[FR Doc. 2020–06214 Filed 3–24–20; 8:45 am]

BILLING CODE 3510–DS–P

[8] *See Fine Furniture (Shanghai) Limited, et al.* v. *United States,* 182 F. Supp. 3d 1350, 1358–59 (CIT 2016) (*Fine Furniture I*).

[9] *See Fine Furniture (Shanghai) Limited, et al.* v. *United States,* 321 F. Supp. 3d 1282, 1288 (CIT 2018) (*Fine Furniture II*) (citing to Final Remand Redetermination pursuant to *Fine Furniture I*).

[10] *Id.*

[11] *See Remand Order* at 27.

[12] *See Remand Order* at 27 (citing Commerce's February 25, 2019 56.2 Opposition Brief at 39–40).

[13] *See* Final Remand Redetermination pursuant to *Jiangsu Zhongji Lamination Materials Co. (HK), Ltd., Jiangsu Zhongji Lamination Materials, Co., Ltd., Jiangsu Zhongji Lamination Materials Stock Co., Ltd., and Jiangsu Huafeng Aluminum Industry Co., Ltd.* v. *United States,* Court No. 18–00091, Slip Op. 19–111 (CIT August 15, 2019) (*Redetermination*).

[14] *See Jiangsu Zhongji Lamination Materials Co. (HK), Ltd., Jiangsu Zhongji Lamination Materials, Co., Ltd., Jiangsu Zhongji Lamination Materials Stock Co., Ltd., and Jiangsu Huafeng Aluminum Industry Co., Ltd.* v. *United States,* Court No. 18–00091, Slip Op. 20–30 (CIT March 9, 2020).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Indirect Cost Rates for the Office of National Marine Sanctuaries for Fiscal Year 2010

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of indirect cost rates for the Office of National Marine Sanctuaries for fiscal year 2010.

SUMMARY: The National Oceanic and Atmospheric Administration's (NOAA's) Office of National Marine Sanctuaries (ONMS) announces the establishment of new indirect cost rates for the recovery of indirect costs for its component organizations involved in natural resource damage and restoration activities for fiscal year (FY) 2010. NOAA provides the indirect cost rates for this fiscal year and the dates of implementation in this notice. The public can obtain more information on this rate from the address provided below in the **ADDRESSES** section.

DATES: These indirect cost rates are effective on March 25, 2020.

ADDRESSES: Vicki Wedell, phone 240–533–0650; email *Vicki.Wedell@noaa.gov;* or 1305 East-West Highway, N/NMS, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Vicki Wedell, phone 240–533–0650; email *Vicki.Wedell@noaa.gov;* or 1305 East-West Highway, N/NMS, Silver Spring, MD 20910.

SUPPLEMENTARY INFORMATION: The Natural Resource Damage Assessment (NRDA) mission of ONMS is to restore injuries to sanctuary resources caused by the release of hazardous substances or oil under the Comprehensive Environmental Response, Compensation

and Liability Act (CERCLA; 42 U.S.C., 9601 *et seq.*) or the Oil Pollution Action of 1990 (OPA; 33 U.S.C., 2701 *et seq.*), or physical injuries under the National Marine Sanctuaries Act (NMSA) (16 U.S.C. 1431 *et seq.*). ONMS consists of the following component organizations: fourteen national marine sanctuaries and two marine national monuments, and the Office of General Counsel for Natural Resources (GCNR). NOAA published the GCNR rate for FY10 in the **Federal Register** on October 20, 2011 (76 FR 65182). ONMS conducts NRDAs as a basis for recovering damages from responsible parties and uses the funds recovered to restore injured sanctuary resources.

When addressing NRDA incidents, the costs of the damage assessment are recoverable from responsible parties who are potentially liable for an incident. Costs include direct and indirect costs. Direct costs are costs for activities that are clearly and readily attributable to a specific output. In the context of ONMS, outputs may be associated with damage assessment cases, or may be represented by other program products. In contrast, indirect costs reflect the costs for activities that collectively support ONMS's mission and operations. For example, indirect costs include general administrative support and traditional overheads. Although indirect costs may not be readily traced back to a specific direct activity, indirect costs may be allocated to direct activities using an indirect cost distribution rate.

Consistent with standard Federal accounting requirements, ONMS is required to account for and report the full costs of its programs and activities. Further, ONMS is authorized by law to recover reasonable costs of damage assessment and restoration activities under CERCLA, OPA and the NMSA. Within the constraints of these laws, ONMS has the discretion to develop indirect cost rates subject to its requirements.

ONMS's Indirect Cost Effort

In October 2002, NOAA contracted the public accounting firm Cotton and Company LLP to: (1) Evaluate the cost accounting system and allocation practices; (2) recommend the appropriate indirect cost allocation methodology; and (3) determine the indirect cost rates for the organizations that comprise ONMS. A subcontractor to Cotton and Company LLP, Empirical Concepts Incorporated (Empirical), calculated the ONMS indirect costs for fiscal year 2010.

Empirical concluded that the cost accounting system and allocation practices of ONMS component organizations are consistent with Federal accounting requirements. Empirical also determined that the most appropriate indirect allocation method was the Direct Labor Cost Base for all ONMS component organizations. The Direct Labor Cost Base is computed by allocation total indirect costs over the sum of direct labor dollars plus the application of NOAA's leave surcharge and benefits rates to direct labor. Empirical further assessed that the indirect cost rates for the ONMS component organizations were fair and equitable. A report on Empirical's assessment and their determination can be obtained from the person identified in **FOR FURTHER INFORMATION CONTACT**.

ONMS Indirect Cost Rate and Policies

ONMS will apply the indirect cost rate for FY2010 as recommended by Empirical for each of the ONMS component organizations as provided in the following table:

ONMS component organization	Fiscal year 2010 indirect rate (percent)
Office of National Marine Sanctuaries (except for Florida Keys National Marine Sanctuary)	67.95
Florida Keys National Marine Sanctuary	82.35

ONMS will apply the FY2010 rates identified in this notice to all damage assessment and restoration case costs incurred from October 1, 2010 until present, using the Direct Labor Cost base allocation methodology. For cases that have settled and for cost claims paid prior to the effective date of the fiscal year in question, ONMS will not re-open any resolved matters for the purpose of applying the rates in this notice. For cases not settled and cost claims not paid prior to the effective date of the fiscal year in question, ONMS will calculate costs using the rates in this notice. ONMS will use the FY2010 rates for future fiscal years until year-specific rates are developed.

John Armor,

Director, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2020–06196 Filed 3–24–20; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request; Marine Mammal Health and Stranding Response Program

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), on or after the date of publication of this notice. The public is invited to submit comments on this request.

ADDRESSES: Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0178.

FOR FURTHER INFORMATION CONTACT: Copies of this submission may be obtained from Adrienne Thomas, PRA Officer, NOAA, 151 Patton Avenue, Room 159, Asheville, NC 28801, (828) 257–3148 or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to

minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Marine Mammal Health and Stranding Response Program, Level A Stranding Report, Rehabilitation Disposition Data Sheet, and Human Interaction Form.

OMB Control Number: 0648–0178.

Form Number(s): None.

Type of Request: Regular submission (extension of an existing collection).

Number of Respondents: 400.

Average Hours per Response: 30 minutes for Stranding Reports and Rehabilitation Disposition Forms; 45 minutes for the Human Interaction Data Sheet.

Burden Hours: 14,600.

Needs and Uses: This request is for revision of this previously approved data collection. All three of the currently approved forms in this collection (the Stranding Report form, Human Interaction Form, and Rehabilitation Disposition Form) have been slightly modified.

The marine mammal stranding report provides information on strandings so that the National Marine Fisheries Service (NMFS) can compile and analyze, by region, the species, numbers, conditions, and causes of illnesses and deaths in stranded marine mammals. NMFS requires this information to fulfill its management responsibilities under the Marine Mammal Protection Act (16 U.S.C. 1421a). Section 402(b) of the MMPA (16 U.S.C. 1421a) requires the Secretary to collect and update information on strandings. It further provides that the Secretary shall compile and analyze, by region, the species, numbers, conditions, and causes of illnesses and deaths in stranded marine mammals. Section 404 (a) of the MMPA (16 U.S.C. 1421c) mandates that the Secretary respond to unusual marine mammal mortality events. Without a historical baseline provided by marine mammal information collected from strandings, detection of such events could be difficult, and the investigation could be impeded. Section 401(b) of the MMPA (16 U.S.C. 1421) requires NMFS to facilitate the collection and dissemination of reference data on the health of marine mammal populations in the wild and to correlate health with physical, chemical, and biological environmental parameters. In order to perform this function, NMFS must standardize data collection protocols for health and correlations. Data and samples collected from stranded animals are a critical part of the implementation of this mandate of the MMPA. Minor edits to the current version of the form are proposed, including beginning to collect live, entangled large whale data in this data collection, streamlining the confidence codes, collecting data on marine debris and entanglement interactions, and minor textual edits to field names to better match the other two forms.

NMFS is also responsible for the welfare of marine mammals while in rehabilitation status. Under MMPA section 104(c)(10) [16 U.S.C. 1374(c)(10)], NMFS is required to maintain an inventory of live marine mammals held under permits for rehabilitation or captive display. The data in the Marine Mammal Rehabilitation Disposition report are required to monitor and track animals during rehabilitation and during transfer to permanent-permitted status. This information is submitted primarily by members of the marine mammal stranding networks which are authorized by NMFS. Minor changes are proposed for this form, including the collection of all pinniped pups born in rehab (previously was only for pups that survived the first 48 hours). Additionally, minor edits to field names were made to better match the other two forms.

The Human Interaction Data Sheet provides NMFS with consistent and detailed information on signs of human interaction in stranded marine mammals. This information will assist the Agency in tracking resource conflicts and will provide a solid scientific foundation for conservation and management of marine mammals. With a better understanding of interactions, appropriate measures can be taken to resolve conflicts and, stranding data are the best source of information regarding the occurrence of different types of human interaction. Minor changes to field names are proposed for this form, to better match the other two forms.

Affected Public: State governments; not-for-profit institutions; business or other for-profits organizations.

Frequency: Annual and periodic. On occasion.

Respondent's Obligation: Mandatory.

Legal Authority: Marine Mammal Protection Act (16 U.S.C. 1421a).

Dated: March 19, 2020.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2020–06193 Filed 3–24–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Foreign Fishing Vessel Permits, Vessel, and Gear Identification, and Reporting Requirements

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before May 26, 2020.

ADDRESSES: Direct all written comments to Adrienne Thomas, PRA Officer, NOAA, 151 Patton Avenue, Room 159, Asheville, NC 28801 (or via the internet at *PRAcomments@doc.gov*). All comments received are part of the public record. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Kent Laborde, Office of International Affairs and Seafood Inspection (F/IS5), 1315 East-West Highway, Silver Spring, Maryland 20910, 301–427–8364 or *kent.laborde@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Marine Fisheries Service (NMFS) issues permits, under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.;* MSA), to foreign

fishing vessels fishing or operating in U.S. waters. MSA and associated regulations at 50 CFR part 600 require that vessels apply for fishing permits, that vessels and certain gear be marked for identification purposes, that observers be embarked on selected vessels, and that permit holders report their fishing effort and catch or, when processing fish under joint ventures, the amount and locations of fish received from U.S. vessels. These requirements apply to all foreign vessels fishing, transshipping, or processing fish in U.S. waters. Information is collected from persons who operate a foreign fishing vessel in U.S. waters to participate in a directed fishery or joint venture operation, transship fish harvested by a U.S. vessel to a location outside the U.S., or process fish in internal waters. Each person operating a foreign fishing vessel under MSA authority may be required to submit information for a permit, mark their vessels and gear, or submit information about their fishing activities. To facilitate observer coverage, foreign fishing vessel operators must provide a quarterly schedule of fishing effort and upon request must also provide observers with copies of any required records. For foreign fishing vessels that process fish in internal waters, the information collected varies somewhat from other foreign fishing vessels that participate in a directed fishery or a joint venture operation. In particular, these vessels may not be required to provide a permit application or mark their vessels. The information submitted in applications is used to determine whether permits should be used to authorize directed foreign fishing, participation in joint ventures with U.S. vessels, or transshipments of fish or fish products within U.S. waters. The display of identifying numbers on vessels and gear aid in fishery law enforcement and allows other fishermen to report suspicious activity. Reporting of fishing activities allows monitoring of fish received by foreign vessels.

II. Method of Collection

Foreign fishing activity reports are made by radio when fishing begins or ceases, to report on transfers of fish, and to file weekly reports on the catch or receipt of fish. Weekly reports may be submitted by fax or email. Recordkeeping requirements for foreign vessels include a communications log, a transfer log, a daily fishing log, a consolidated fishing or joint venture log, and a daily joint venture log. These records must be maintained for three years. Paper forms are used for foreign fishing vessel permit applications. No information is submitted to NMFS for the vessel and gear marking requirements.

III. Data

OMB Control Number: 0648–0075.

Form Number: None.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 8.

Estimated Time per Response: For permit applications: One and one half hours for an application for a directed fishery; two hours for a joint venture application, and 45 minutes for a transshipment permit. For fishing activity reporting: 6 minutes for a joint venture report; 30 minutes per day for joint venture record-keeping; and 7.5 minutes per day for record-keeping by transport vessels. For weekly reports, 30 minutes per response. For foreign vessel and gear identification marking: 15 minutes per marking.

Estimated Total Annual Burden Hours: 82.

Estimated Total Annual Cost to Public: $3,337 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 19, 2020.

Sheleen Dumas,

Departmental Lead PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2020–06180 Filed 3–24–20; 8:45 am]

BILLING CODE 3510–22–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application Package for NCCC Team Leader Application

AGENCY: Corporation for National and Community Service (CNCS).

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, CNCS is soliciting comments for its proposed renewal of the AmeriCorps National Civilian Community Corps' (NCCC) Team Leader Application.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by May 26, 2020.

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

(1) By mail sent to: Corporation for National and Community Service, Attention: Gary Crosson, Lead Selection & Placement Specialist, 250 E Street SW, Suite 300, Washington, DC 20525.

(2) By hand delivery or by courier to the CNCS mailroom at the mail address given in paragraph (1) above, between 9:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday, except federal holidays.

(3) Electronically through *www.regulations.gov.*

Comments submitted in response to this notice may be made available to the public through *regulations.gov.* For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comment that may be made available to the public, notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: Gary Crosson, 202–606–6688, or by email at *gcrosson@cns.gov.*

SUPPLEMENTARY INFORMATION:

Title of Collection: NCCC Team Leader Application.

OMB Control Number: 3045–0005.
Type of Review: Renewal.
Respondents/Affected Public: Individuals and Households.
Total Estimated Number of Annual Responses: 800.
Total Estimated Number of Annual Burden Hours: 1,600 hours.
Abstract: The NCCC Team Leader application, which is available electronically for all applicants, provides information CNCS uses to select Team Leaders for AmeriCorps NCCC. NCCC engages approximately 2800 corps members each year in community service, and selects Team Leaders and Support Team Leaders to serve as project leaders and project developers and to provide on-site team supervision and reporting. There is at least one Team Leader for each team of approximately ten Corps Members. CNCS also seeks to continue using the currently-approved information collection until the revised information collection is approved by OMB. The currently-approved information collection is due to expire on 11/30/2020.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. 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. 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. All written comments will be available for public inspection on *regulations.gov.*

Dated: March 20, 2020.

Gary Crosson,

Lead Selection & Placement Specialist.

[FR Doc. 2020–06251 Filed 3–24–20; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the United States Naval Academy Board of Visitors; Cancellation

AGENCY: Department of the Navy, DoD.

ACTION: Notice of open meeting; cancellation.

SUMMARY: On Monday, February 3, 2020, the Department of the Navy published a notice announcing a meeting of the United States Naval Academy Board of Visitors that was to take place on Monday, March 23, 2020. Due to ongoing COVID–19 concerns, the Department of the Navy is cancelling this meeting.

DATES: The open session of the meeting to be held on March 23, 2020, from 9 a.m. to 11 a.m., and the executive session to be held from 11 a.m. to noon (12 p.m.) have been cancelled.

FOR FURTHER INFORMATION CONTACT: Commander Lawrence Heyworth IV, USN, Alternate Designated Federal Officer, 410–293–1503, *heyworth@usna.edu* (Email). Mailing address is U.S. Naval Academy, 121 Blake Road, Annapolis, MD 21402.

SUPPLEMENTARY INFORMATION: The meeting notice published in the **Federal Register** on Monday, February 3, 2020 (85 FR 5946).

Due to circumstances beyond the control of the Department of Defense, the Designated Federal Officer for U.S. Naval Academy Board of Visitors was unable to provide public notification required by 41 CFR 102–3.150(a) concerning the cancellation of the previously noticed meeting for March 23, 2020. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Dated: March 18, 2020.

K.K. Ramsey,

Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2020–06318 Filed 3–23–20; 11:15 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Statistical and Research Methodology in Education and Using Longitudinal Data To Support State Education Policymaking Grant Programs

AGENCY: Institute of Education Sciences, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2021 for the Statistical and Research Methodology in Education and the Using Longitudinal Data to Support State Education Policymaking Grant Programs, Catalog of Federal Domestic Assistance (CFDA) numbers 84.305D and 84.305S. This notice relates to the approved information collection under OMB control number 4040–0001.

DATES:

Applications Available: May 7, 2020.
Deadline for Transmittal of Applications: July 30, 2020.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: For the Statistical and Research Methodology in Education competition (84.305D): Phill Gagne, U.S. Department of Education, 550 12th Street SW, Room 4122, Potomac Center Plaza, Washington, DC 20202. Telephone: (202) 245–7139. Email: *Phill.Gagne@ed.gov.* For the Using Longitudinal Data to Support State Education Policymaking competition (84.305S): Allen Ruby, U.S. Department of Education, 500 12th Street SW, Room 4148, Potomac Center Plaza, Washington, DC 20202. Telephone: (202) 245–8145. Email: *Allen.Ruby@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: Through the National Center for Education Research (NCER), the Institute of Education Sciences (Institute) provides support for

programs of research in areas of demonstrated national need. The Institute's research grant programs are designed to provide interested individuals and the general public with reliable and valid information about education practices that support learning and improve academic achievement and access to education opportunities for all learners. Through the Statistical and Research Methodology in Education grant program, NCER intends to support the development of a wide range of methodological and statistical tools to better enable applied education scientists to conduct rigorous education research. Through the Using Longitudinal Data to Support State Education Policymaking grant program, NCER intends to expand the research use of State Longitudinal Data Systems to examine long-term learner outcomes and pathways in order to provide evidence for State education policymaking.

Competitions in This Notice: The Institute's NCER is announcing two competitions—one competition in statistical and research methodology in education and one competition in using longitudinal data to support State education policymaking.

The Statistical and Research Methodology in Education Competition. Under this ccompetition, NCER will consider only applications that address one of the following topics:

- Statistical and Research Methodology Grants.
- Early Career Statistical and Research Methodology Grants.

Using Longitudinal Data to Support State Education Policymaking. Under this competition, NCER will consider only applications that expand the research use of State Longitudinal Data Systems (SLDS) to provide evidence for State education policymaking. Through this new grant program, IES will increase its support for the research use of SLDS beyond its ongoing research grants program and Grants for Statewide Longitudinal Data Systems.

Exemption from Proposed Rulemaking: Under section 191 of the Education Sciences Reform Act, 20 U.S.C. 9581, the Institute is not subject to section 437(d) of the General Education Provisions Act, 20 U.S.C. 1232(d), and is therefore not required to offer interested parties the opportunity to comment on priorities, selection criteria, definitions, and requirements.

Program Authority: 20 U.S.C. 9501 *et seq.*

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 77, 81, 82, 84, 86, 97, 98, and 99. In addition, the regulations in 34 CFR part 75 are applicable, except for the provisions in 34 CFR 75.100, 75.101(b), 75.102, 75.103, 75.105, 75.109(a), 75.200, 75.201, 75.209, 75.210, 75.211, 75.217(a)–(c), 75.219, 75.220, 75.221, 75.222, 75.230, and 75.708. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Note: The open licensing requirement in 2 CFR 3474.20 does not apply for these competitions.

II. Award Information

Types of Awards: Discretionary grants and cooperative agreements.

Fiscal Information: Although Congress has not yet enacted an appropriation for FY 2021, the Institute is inviting applications for these competitions now so that applicants can have adequate time to prepare their applications. The actual level of funding, if any, depends on final congressional action. The Department will announce additional competitions later in FY 2020.

Estimated Range of Awards: For the Statistical and Research Methodology in Education competition (84.305D): $40,000 to $300,000. For the Using Longitudinal Data to Support State Education Policymaking competition (84.305S): $40,000 to $333,000. The size of the awards will depend on the scope of the projects proposed.

Estimated Number of Awards: The number of awards made under each competition will depend on the quality of the applications received and the availability of funds.

Contingent on the availability of funds and the quality of applications, we may make additional awards in FY 2022 from the list of highly-rated unfunded applications from the FY 2021 competitions.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* For the Statistical and Research Methodology in Education grant program, applicants that have the ability and capacity to conduct scientifically valid research are eligible to apply. These include, but are not limited to, nonprofit and for-profit organizations and public and private agencies and institutions of higher education, such as colleges and universities. For the Using Longitudinal Data to Support State Education Policymaking grant program, eligible applicants must be a State educational agency (SEA), defined as a State or Territory's K–12 authority, alone, or in conjunction with research organizations such as universities and research firms, and/or with other appropriate organizations (such as other State agencies or local educational agencies). The SEA must be the grantee and must provide the Principal Investigator.

2. *Cost Sharing or Matching:* These programs do not require cost sharing or matching.

3. *Subgrantees:* Under 34 CFR 75.708(b) and (c) a grantee under this competition may award subgrants—to directly carry out project activities described in its application—to the following types of entities: Nonprofit and for-profit organizations and public and private agencies and institutions of higher education. The grantee may award subgrants to entities it has identified in an approved application.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Other Information:* Information regarding program and application requirements for the competitions will be contained in the NCER Requests for Applications (RFAs), which will be available on or before April 1, 2020 on the Institute's website at: *https://ies.ed.gov/funding/.* Application packages for these competitions will be available on May 7, 2020.

3. *Content and Form of Application Submission:* Requirements concerning the content of an application are contained in the RFA for the specific competition. The forms that must be submitted are in the application package for the specific competition.

4. *Submission Deadline:* July 30, 2020 11:59:59 p.m. Eastern Time.

We do not consider an application that does not comply with the deadline requirements.

5. *Intergovernmental Review:* These competitions are not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

6. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

V. Application Review Information

1. *Selection Criteria:* For all of its grant competitions, the Institute uses selection criteria based on a peer-review process that has been approved by the National Board for Education Sciences. The Peer Review Procedures for Grant Applications can be found on the Institute's website at *https://ies.ed.gov/director/sro/peer_review/application_review.asp.*

For the 84.305D competition, peer reviewers will be asked to evaluate the significance of the application, the quality of the research plan, the qualifications and experience of the personnel, the resources of the applicant to support the proposed activities, and the quality of the dissemination history and dissemination plan. These criteria are described in greater detail in the RFA.

For the 84.305S competition, peer reviewers will be asked to evaluate the significance of the application, the quality of the research plan, the applicability and availability of the data to be analyzed, and the quality of the plans to disseminate and use the findings in State decision-making. These criteria are described in greater detail in the RFA.

For all of the Institute's competitions, applications should include budgets no higher than the relevant maximum award as set out in the relevant RFA. For the Statistical and Research Methodology in Education competition, the maximum award for the Regular Grants is $900,000 and the maximum award for the Early Career Grants is $225,000. For the Using Longitudinal Data to Support State Education Policymaking competition, the maximum award is $1,000,000. The Institute will not make an award exceeding the maximum award amount.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Institute may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Institute may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Institute also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under these competitions, the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Institute may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we will notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Grant Administration:* Applicants should budget for an annual two-day meeting for project directors to be held in Washington, DC.

4. *Reporting:* (a) If you apply for a grant under one of the competitions announced in this notice, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Institute. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Institute under 34 CFR 75.118. The Institute may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* To evaluate the overall success of its education research grant programs, the Institute annually assesses the percentage of projects that result in peer-reviewed publications and the number of Institute-supported interventions with evidence of efficacy in improving learner education outcomes.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Institute considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds

in a manner that is consistent with its approved application and budget; and, if the Institute has established performance measurement requirements, whether the grantee has met the performance targets in the grantee's approved application.

In making a continuation award, the Institute also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the RFA in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the appropriate program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Mark Schneider,

Director, Institute of Education Sciences.

[FR Doc. 2020–06255 Filed 3–24–20; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Public Hearing: Introduction and Foundation of VVSG 2.0 Requirements

AGENCY: U.S. Election Assistance Commission.

ACTION: Sunshine Act Notice; Notice of Public Hearing Agenda.

DATES: Friday, March 27, 2020 10:00 a.m.–12:00 p.m. Eastern.

ADDRESSES:

Virtual via Zoom:
https://zoom.us/j/516385751
Meeting ID: 516 385 751
One tap mobile
+19292056099,,516385751# US (New York)
+13126266799,,516385751# US (Chicago)
Dial by your location
+1 929 205 6099 US (New York)
+1 312 626 6799 US (Chicago)
+1 301 715 8592 US
+1 346 248 7799 US (Houston)
+1 669 900 6833 US (San Jose)
+1 253 215 8782 US
888 788 0099 US Toll-free
877 853 5247 US Toll-free
Meeting ID: 516 385 751
Find your local number: *https://zoom.us/u/aev3sFIp8Q*

FOR FURTHER INFORMATION CONTACT: Jerome Lovato, Telephone: (301) 960–1216, Email: *jlovato@eac.gov.*

SUPPLEMENTARY INFORMATION:

Agenda

Commissioners will hold a hearing to discuss the proposed Voluntary Voting System Guidelines (VVSG) 2.0 Requirements as submitted by the Technical Guidelines Development Committee (TGDC). The VVSG 2.0 Requirements are currently published for a 90-day public comment period. Commissioners will hear from a panel of experts who will provide an introduction to the VVSG process as well a high-level overview of the proposed VVSG 2.0 requirements. Commissioners will also hear from members of the public who wish to offer verbal testimony on the VVSG 2.0 requirements. Public testimony during the hearing will be limited to 3–5 minutes maximum per person. If you would like to participate in public testimony, please contact Jerome Lovato (*jlovato@eac.gov*) with your full name and phone number no later than 9:50 a.m. Eastern Time on March 27, 2020. For dial-in users, you will be identified by your area code and the last three digits of your phone number, so please provide the phone number that you will use during the hearing.

The TGDC unanimously approved to recommend VVSG 2.0 Requirements on February 7, 2020, and sent the Requirements to the EAC Acting Executive Director via the Director of the National Institute of Standards and Technology (NIST), in the capacity of the Chair of the TGDC on February 28, 2020. Upon adoption, the VVSG 2.0 would become the fifth iteration of national level voting system standards. The Federal Election Commission published the first two sets of federal standards in 1990 and 2002. The EAC then adopted Version 1.0 of the VVSG on December 13, 2005. In an effort to update and improve version 1.0 of the VVSG, on March 31, 2015, the EAC commissioners unanimously approved VVSG 1.1.

Status: This hearing will be open to the public.

Amanda Joiner,

Associate Counsel, U.S. Election Assistance Commission.

[FR Doc. 2020–06252 Filed 3–24–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

DOE/Biological and Environmental Research Advisory Committee; Meeting

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Biological and Environmental Research Advisory Committee (BERAC). The Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, April 16, 2020; 9:00 a.m.–5:00 p.m.

ADDRESSES: This meeting will be held digitally via webcast using Zoom. Instructions for Zoom, as well as any updates to meeting times or meeting agenda, can be found on the BERAC meeting website at: *https://science.osti.gov/ber/berac/Meetings.*

FOR FURTHER INFORMATION CONTACT: Dr. Tristram West, Designated Federal Officer, BERAC, U.S. Department of Energy, Office of Science, Office of Biological and Environmental Research, SC–23/Germantown Building, 1000 Independence Avenue SW, Washington, DC 20585–1290. Phone 301–903–5155; fax (301) 903–5051 or email: *tristram.west@science.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: To provide advice on a continuing basis to the Director, Office of Science of the Department of Energy, on the many complex scientific and technical issues that arise in the development and implementation of the Biological and Environmental Research Program.

Tentative Agenda Topics

- News from the Office of Biological and Environmental Research (BER)
- News from the Biological Systems Science and Climate and Environmental Sciences Divisions

- Report brief(s)
- BERAC business and discussion
- Public comment

Public Participation: The daylong meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Tristram West at: *tristram.west@science.doe.gov* (email) or 301–903–5051 (fax). You must make your request for an oral statement at least five business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will be limited to five minutes each.

Minutes: The minutes of this meeting will be available for public review and copying within 45 days at the BERAC website: *https://science.osti.gov/ber/berac/Meetings/BERAC-Minutes.*

Signed in Washington, DC, on March 19, 2020.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2020–06194 Filed 3–24–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–1338–000]

King Plains Wind Project, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of King Plains Wind Project, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 8, 2020.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 19, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–06231 Filed 3–24–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–502–000]

Commonwealth LNG, LLC; Notice Suspending Environmental Review Schedule

The Federal Energy Regulatory Commission (FERC or Commission) is suspending the environmental review schedule for Commonwealth LNG, LLC's (Commonwealth) proposed liquefied natural gas (LNG) export terminal in Cameron Parish, Louisiana. The notice of schedule, issued on October 15, 2019, identified a May 2020 draft Environmental Impact Statement (EIS) issuance date and an October 2, 2020 final EIS issuance date. This schedule was based upon Commonwealth providing complete and timely responses to any data requests. In its February 4, 2020 partial response to staff's January 2, 2020 data request, Commonwealth stated it would provide the remainder of the outstanding responses in stages through July 2020, including an official interpretation from the United States Department of Transportation—Pipeline and Hazardous Material Safety Administration (PHMSA) in June 2020 pertaining to Commonwealth's proposed LNG storage tank design.

Because the outstanding data responses to staff's data request and the issuance of the PHMSA interpretation are expected after the previously announced draft EIS date, the Commission will suspend the environmental review schedule for the project. Once staff has reviewed both the responses and the PHMSA interpretation, the Commission will issue a revised schedule for the draft and final EIS. This is not a suspension of the Commission staff's review of Commonwealth's project. Staff will continue to process Commonwealth's proposal to the extent possible based upon the information Commonwealth has filed to date while awaiting the responses and the PHMSA interpretation.

Additional Information

In order to receive notification of the issuance of the EIS and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP19–502), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: March 16, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–06232 Filed 3–24–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG20–103–000.
Applicants: Mechanicsville Solar, LLC.
Description: Self-Certification of EG of Mechanicsville Solar, LLC.
Filed Date: 3/18/20.
Accession Number: 20200318–5164.
Comments Due: 5 p.m. ET 4/8/20.

Docket Numbers: EG20–104–000.
Applicants: Albemarle Beach Solar, LLC.
Description: Self-Certification of EG of Albemarle Beach Solar, LLC.
Filed Date: 3/18/20.
Accession Number: 20200318–5169.
Comments Due: 5 p.m. ET 4/8/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–1314–003.
Applicants: PJM Interconnection, L.L.C.
Description: Compliance filing: Compliance in EL16–49 and EL18–178, Request for Waiver, Extended Comment Period to be effective 12/31/9998.
Filed Date: 3/18/20.
Accession Number: 20200318–5149.
Comments Due: 5 p.m. ET 4/22/20.

Docket Numbers: ER20–1073–000.
Applicants: SR Terrell, LLC.
Description: Report Filing: Supplement to Market-Based Rate Application to be effective N/A.
Filed Date: 3/13/20.
Accession Number: 20200313–5079.
Comments Due: 5 p.m. ET 4/3/20.

Docket Numbers: ER20–1343–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2020–03–19_SA 3446 GridLiance-EEI GIA (Unit 4) to be effective 2/28/2020.
Filed Date: 3/19/20.
Accession Number: 20200319–5049.
Comments Due: 5 p.m. ET 4/9/20.

Docket Numbers: ER20–1344–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2020–03–19_SA 3450 GridLiance-MEP GIA to be effective 2/28/2020.
Filed Date: 3/19/20.
Accession Number: 20200319–5014.
Comments Due: 5 p.m. ET 4/9/20.

Docket Numbers: ER20–1345–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2020–03–19_SA 3449 GridLiance-IPGC GIA to be effective 2/28/2020.
Filed Date: 3/19/20.
Accession Number: 20200319–5032.
Comments Due: 5 p.m. ET 4/9/20.

Docket Numbers: ER20–1346–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2020–03–19_SA 3447 GridLiance-EEI GIA (Unit 5) to be effective 2/28/2020.
Filed Date: 3/19/20.
Accession Number: 20200319–5050.
Comments Due: 5 p.m. ET 4/9/20.

Docket Numbers: ER20–1347–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2020–03–19_SA 3448 GridLiance-EEI GIA (Unit 6) to be effective 2/28/2020.
Filed Date: 3/19/20.
Accession Number: 20200319–5021.
Comments Due: 5 p.m. ET 4/9/20.

Docket Numbers: ER20–1348–000.
Applicants: AEP Texas Inc.
Description: § 205(d) Rate Filing: AEPTX-King Creek Wind Farm Interconnection Agreement to be effective 3/10/2020.
Filed Date: 3/19/20.
Accession Number: 20200319–5072.
Comments Due: 5 p.m. ET 4/9/20.

Docket Numbers: ER20–1349–000.
Applicants: CNR Energy LLC.
Description: Notice of Cancellation of Market-Based Rate Tariff of CNR Energy LLC.
Filed Date: 3/19/20.
Accession Number: 20200319–5103.
Comments Due: 5 p.m. ET 4/9/20.

Docket Numbers: ER20–1350–000.
Applicants: Orange and Rockland Utilities, Inc.
Description: § 205(d) Rate Filing: Attachment J—Municipal Underground Surcharge Revision to be effective 4/1/2020.
Filed Date: 3/19/20.
Accession Number: 20200319–5107.
Comments Due: 5 p.m. ET 4/9/20.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RD20–5–000.
Applicants: North American Electric Reliability Corp.
Description: Supplement to March 11, 2020 Joint Petition of the North American Electric Reliability Corporation and Texas Reliability Entity, Inc. for Approval of Proposed Regional Reliability Standard BAL–001–TRE–2 ? Primary.
Filed Date: 3/17/20.
Accession Number: 20200317–5209.
Comments Due: 5 p.m. ET 4/16/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 19, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–06229 Filed 3–24–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Part 284 Natural Gas Pipeline Rate filings:

Docket Number: PR20–45–000.
Applicants: NorthWestern Corporation.
Description: Tariff filing per 284.123(b),(e)/: Revised Transportation & Storage Rates (Tax & Gas Trackers) to be effective 1/1/2020.
Filed Date: 3/18/2020.
Accession Number: 20200318–5115.
Comments/Protests Due: 5 p.m. ET 4/8/2020.

Docket Number: RP15–1022–015.
Applicants: Alliance Pipeline L.P.
Description: Alliance Pipeline L.P. submits tariff filing per 154.203: ALP Request to amend the Settlement.
Filed Date: 3/18/2020.
Accession Number: 20200318–5140.
Comments/Protests Due: 5 p.m. ET 3/23/2020.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 19, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–06230 Filed 3–24–20; 8:45 am]

BILLING CODE 6717–01–P

EXPORT-IMPORT BANK

Sunshine Act Meeting; Notice of an Open Meeting of the Board of Directors of the Export-Import Bank of the United States

TIME AND DATE: Wednesday, March 25, 2020 at 2 p.m.

PLACE: The meeting will be held via Teleconference.

STATUS: The meeting will be open to public observation by teleconference.

MATTER TO BE CONSIDERED: Item No. 1—EXIM COVID–19 (coronavirus) Temporary Relief Measures Update.

CONTACT PERSON FOR MORE INFORMATION: Members of the public who wish to attend the meeting should email Joyce Stone, Office of the General Counsel, 811 Vermont Avenue NW, Washington, DC 20571 (*joyce.stone@exim.gov*) by close of business Tuesday, March 24, 2020. Individuals will be given call-in information upon notice of attendance to EXIM.

NOTE: Pursuant to 5 U.S.C. 552b(e)(1) and 12 CFR 407.4, the agency has determined that agency business requires that a meeting be called with less that the required week notice in order to address the economic consequences caused by the exigencies of the COVID–19 virus. Accordingly, this notice is being published at the earliest practicable time.

Joyce Stone,

Assistant Corporate Secretary.

[FR Doc. 2020–06279 Filed 3–23–20; 11:15 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1231, FRS 16591]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before May 26, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1231.

Title: Section 90.20 (xiv), Public Safety Pool.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, and State, Local, or Tribal government.

Number of Respondents and Reponses: 4 respondents; 4 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: One-time; on occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections are contained in Sections 1, 2, 4(i), 4(j), 301, 303, 316, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 301, 303, 316, and 337.

Total Annual Burden: 4 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: On August, 23, 2016, the Federal Communications Commission released a Report and Order, FCC 16–113, PS Docket No. 15–199 that modified Part 90 of the Rules Private Land Mobile Radio Services. The amended rule revises the Part 90 eligibility rules to permit railroad police officers to access the interoperability. Specifically, the Commission modified Section 90.20(xiv) to provide that:

(xiv)(A) Railroad police officers are a class of users eligible to operate on the nationwide interoperability and mutual aid channels listed in 90.20(i) provided their employer holds a Private Land Mobile Radio (PLMR) license of any radio category, including Industrial/Business (I/B). Eligible users include full and part time railroad police officers, Amtrak employees who qualify as railroad police officers under this subsection, Alaska Railroad employees who qualify as railroad police officers under this subsection, freight railroad employees who qualify as railroad police officers under this subsection, and passenger transit lines police officers who qualify as railroad police officers under this subsection. Railroads and railroad police departments may obtain licenses for the nationwide interoperability and mutual aid channels on behalf of railroad police officers in their employ. Employers of railroad police officers must obtain concurrence from the relevant state interoperability coordinator or regional planning committee before applying for a license to the Federal

Communications Commission or operating on the interoperability and mutual aid channels.

(*1*) Railroad police officer means a peace officer who is commissioned in his or her state of legal residence or state of primary employment and employed, full or part time, by a railroad to enforce state laws for the protection of railroad property, personnel, passengers, and/or cargo.

(*2*) Commissioned means that a state official has certified or otherwise designated a railroad employee as qualified under the licensing requirements of that state to act as a railroad police officer in that state.

(*3*) Property means rights-of-way, easements, appurtenant property, equipment, cargo, facilities, and buildings and other structures owned, leased, operated, maintained, or transported by a railroad.

(*4*) Railroad means each class of freight railroad (*i.e.,* Class I, II, III); Amtrak, Alaska Railroad, commuter railroads and passenger transit lines.

(*5*) The word state, as used herein, encompasses states, territories and the District of Columbia.

(B) Eligibility for licensing on the 700 MHz narrowband interoperability channels is restricted to entities that have as their sole or principal purpose the provision of public safety services.

To effectively implement the provisions of the new Rule, no other modifications to existing FCC rules are required. The changes are intended to simplify the licensing process for railroad police officers and ensure interoperable communications. The modified rules provide a benefit to public safety licensees by ensuring that only railroad police officers with appropriate governmental authorization can operate on the interoperability and mutual aid channels during emergencies. This will provide the additional benefit of promoting interoperability with railroad police officers by eliminating eligibility as a gating factor when licensing spectrum. The *Report and Order* reduces the burden on railroad police by allowing them to meet eligibility standard by requiring employers of railroad police officers to obtain concurrence from the relevant state interoperability coordinator or regional planning committee before applying for a license to the Federal Communications Commission or operating on the interoperability and mutual aid channels. Compliance with this requirement is already a requisite for public safety eligibility to use the interoperability and mutual aid channels, consequently any new burden imposed by this requirement would be minimal.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2020–06233 Filed 3–24–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0844; FRS 16590]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before May 26, 2020. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0844.

Title: Carriage of the Transmissions of Television Broadcast Stations: Section 76.56(a), Carriage of qualified noncommercial educational stations; Section 76.57, Channel positioning; Section 76.61(a)(1)–(2), Disputes concerning carriage; Section 76.64, Retransmission consent.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 4,902 respondents and 7,082 responses.

Estimated Time per Response: 0.5 to 5 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this action is contained in Sections 1, 4(i) and (j), 325, 338, 614, 615, 631, 632, and 653 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) and (j), 325, 338, 534, 535, 551, 552, and 573.

Total Annual Burden: 4,486 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: Under Section 614 of the Communications Act and the implementing rules adopted by the Commission, commercial TV broadcast stations are entitled to assert mandatory carriage rights on cable systems located within the station's television market. Under Section 325(b) of the Communications Act, commercial TV broadcast stations are entitled to negotiate with local cable systems for carriage of their signal pursuant to retransmission consent agreements in lieu of asserting must carry rights. This system is therefore referred to as ''Must-Carry and Retransmission Consent.'' Under Section 615 of the Communications Act, noncommercial educational (NCE) stations are also entitled to assert mandatory carriage rights on cable systems located within the station's market; however, noncommercial TV broadcast stations

are not entitled to retransmission consent.

In 2019, the Commission adopted new rules governing the delivery and form of carriage election notices. Electronic Delivery of MVPD Communications, Modernization of Media Regulation Initiative, MB Docket Nos. 17–105, 17–317, Report and Order and Further Notice of Proposed Rulemaking, FCC 19–69, 34 FCC Rcd 5922(2019) (*2019 Report and Order*). That decision modernized the carriage election notice rules by moving the process online for most broadcasters and multichannel video programming distributors (MVPDs), but the Commission sought comment on how to apply these updated rules to certain small broadcast stations and MVPDs.

In 2020, the Commission adopted a Report and Order that resolved the remaining issues regarding carriage election notice rules for small broadcast stations and MVPDs. Electronic Delivery of MVPD Communications, Modernization of Media Regulation Initiative, MB Docket Nos. 17–105, 17–317, Report and Order, FCC 20–14, 2020 WL 948697 (rel. Feb. 25, 2020) (2020 Report and Order). Pursuant to that decision, the obligations of certain small broadcasters and MVPDs were slightly modified.

This information collection is being revised to reflect the changes to 47 CFR 76.64(h) as well as other new obligations adopted in the 2020 Report and Order, which require review and approval from the Office of Management and Budget (OMB).

47 CFR 76.64(h)(5) is amended to require low power television stations and non-commercial educational translator stations that are qualified under 47 CFR 76.55 and retransmitted by an MVPD to, beginning no later than July 31, 2020, respond as soon as is reasonably possible to messages or calls from MVPDs that are received via the email address or phone number the station provides in the Commission's Licensing and Management System (LMS) database.

A qualified Low Power Television (LPTV) station that changes its carriage election must send an election change notice to each affected MVPD's carriage election-specific email address by the carriage election deadline. Such change notices must include, with respect to each station covered by the notice: The station's call sign, the station's community of license, the DMA where the station is located, the specific change being made in election status, and an email address and phone number for carriage-related questions. LPTV notices to cable operators need to identify specific cable systems for which a carriage election applies only if the broadcaster changes its election for some systems of the cable operator but not all. In addition, the broadcaster must carbon copy *ElectionNotices@FCC.gov,* the Commission's election notice verification email inbox, when sending its carriage elections to MVPDs.

All qualified LPTV stations, whether being carried pursuant to must carry or retransmission consent, must send an email notice to all MVPDs that are or will be carrying the station no later than the next carriage election deadline of October 1, 2020. Qualified LPTVs must do so even if they are not changing their carriage status from the current election cycle. These notifications must be sent to an MVPD's carriage election-specific email address, must be copied to *ElectionNotices@FCC.gov,* and must include the same information required for a change notification except that the notification may simply confirm the existing carriage status rather than a change in status.

All qualified NCE translator stations must provide email notice to all MVPDs that are or will be carrying the translator no later than the next carriage election deadline of October 1, 2020. Similar to qualified LPTVs, these notifications must be sent to an MVPD's carriage election-specific email address, must be copied to *ElectionNotices@FCC.gov,* and must include the station's call sign, the station's community of license, and the DMA where the station is located and within which it has elected to be carried.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2020–06235 Filed 3–24–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than April 8, 2020.

A. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *The Combs Family Trust dated March 12, 2015, Kendall L. Combs and Patricia A. Combs, as co-trustees, both of Hollister, Missouri; Randall G. Combs or Beckie D. Combs, Alton, Missouri; the Michael D. Combs and Sandra L. Combs Family Revocable Trust dated January 7, 2016, Michael D. Combs and Sandra L. Combs, as co-trustees, both of Walnut Shade, Missouri;* to acquire and to retain voting shares of Alton Bancshares, Inc., and thereby indirectly acquire and retain voting shares of Alton Bank, both of Alton, Missouri, and First Community Bank of The Ozarks, Branson, Missouri.

Board of Governors of the Federal Reserve System, March 19, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020–06195 Filed 3–24–20; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 191 0082]

Danaher Corporation; Analysis of Agreement Containing Consent Orders To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis of Agreement Containing Consent Order to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

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

ADDRESSES: Interested parties may file comments online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Please write: ''Danaher Corporation; File No. 191 0082'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, please mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Lisa DeMarchi Sleigh (202–326–2535), Bureau of Competition, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis of Agreement Containing Consent Order to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC website (for March 19, 2020), at this web address: *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before April 24, 2020. Write ''Danaher Corporation; File No. 191 0082'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''Danaher Corporation; File No. 191 0082'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before April 24, 2020. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Agreement Containing Consent Order To Aid Public Comment

Introduction

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Orders (''Consent Agreement'') from Danaher Corporation (''Danaher'') designed to remedy the anticompetitive effects resulting from Danaher's proposed acquisition of the GE Biopharma business of General Electric Company's (''GE'') GE Healthcare Life Sciences division. Under the terms of the proposed Consent Agreement, Danaher is required to divest all of the rights and assets related to the following products to Sartorius AG (''Sartorius''): (1) Microcarrier beads; (2) conventional low-pressure liquid chromatography (''LPLC'') columns; (3) conventional LPLC skids; (4) single-use LPLC skids; (5) three affected chromatography resins; (6) LPLC continuous chromatography systems; (7) single-use TFF systems; and (8) label-free molecular characterization instruments.

The proposed Consent Agreement has been placed on the public record for thirty days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty days, the Commission will review the comments received and decide whether it should withdraw, modify, or make the Consent Agreement final.

Under the terms of the Equity and Asset Purchase Agreement dated February 25, 2019, Danaher will acquire the GE Biopharma business in exchange for $21.4 billion (the ''Acquisition''). The Commission's Complaint alleges that the proposed Acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by substantially lessening

competition in the markets for: (1) Microcarrier beads; (2) conventional low-pressure liquid chromatography (''LPLC'') columns; (3) conventional LPLC skids; (4) single-use LPLC skids; (5) three affected chromatography resins; (6) LPLC continuous chromatography systems; (7) single-use TFF systems; and (8) label-free molecular characterization instruments. The proposed Consent Agreement will remedy the alleged violations by preserving the competition that otherwise would be lost in these markets as a result of the proposed Acquisition.

The Parties

Headquartered in Washington, DC, Danaher is a leading global manufacturer of professional, medical, industrial, and commercial products and services through more than twenty operating companies. Danaher sells bioprocessing products primarily through its wholly owned subsidiary Pall Corporation (''Pall''), including instruments and consumables that support research, discovery, process development, and manufacturing workflows of biopharmaceutical drugs. Danaher sells other life science instruments, including molecular characterization used primarily in biopharmaceutical research applications, through its Molecular Devices, LLC operating company.

GE is a global conglomerate headquartered in Boston, Massachusetts. GE Biopharma is a division of GE Healthcare Life Sciences that manufactures and sells instruments, consumables, and software that support the research, discovery, process development, and manufacturing workflows of biopharmaceutical drugs.

Products and Market Structures

I. Microcarrier Beads

Microcarrier beads are used in cell culture bioprocessing. They provide a surface for the anchorage of dependent cells to attach and grow in cell culture vessels and bioreactors. Danaher and GE are the two leading global suppliers of microcarrier beads and are each other's closest competitors. The only other significant supplier of microcarrier beads is Corning, Inc., which is substantially smaller than GE, the dominant supplier. The market for microcarrier beads is highly concentrated. The parties have a combined market share of greater than 70 percent. The Acquisition would increase concentration in the microcarrier bead market substantially and reduce the number of major suppliers from three to two.

II. Conventional Low-Pressure Liquid Chromatography Columns

LPLC columns separate wanted from unwanted molecules by using a liquid or gaseous phase to carry the cell mass through an adsorbent serving as a stationary phase. Conventional LPLC columns are containers that hold chromatography resins used as the adsorbent during the stationary phase. These columns are made of glass, stainless steel, acrylic glass, or plastic. This market is highly concentrated, with only four main suppliers, including Danaher and GE. The parties have a combined market share of greater than 45 percent. Further, Danaher and GE are two of very few suppliers that offer larger, process-scale conventional LPLC columns, which is a segment of the market that is even more concentrated. Other remaining chromatography suppliers consist of fringe of firms, each of which account for a small share of the market.

III. Conventional Low-Pressure Liquid Chromatography Skids

Conventional LPLC skids control the flow of liquid in the chromatography process. Conventional LPLC skids contain a system of pumps, valves, sensors, tubing, electronic components, software, and flow paths composed of multi-use components. GE is the leading supplier of conventional LPLC skids with a market share of over 30 percent. Danaher and GE currently compete directly for sales in the market for conventional LPLC skids, and there are few other significant suppliers. The Acquisition would substantially increase concentration in the market for conventional LPLC skids.

IV. Single-Use Low Pressure Liquid Chromatography Skids

Single-use LPLC skids control the flow of liquid in the chromatography process and have the same function as conventional LPLC skids except that the flow path is composed of single-use components. As is the case for conventional ones, GE is the dominant supplier of single-use LPLC skids. According to market participants, in addition to GE and Danaher are two of only three significant suppliers. The only other suppliers are fringe firms with few sales. Danaher and GE have a combined market share of greater than 80 percent for single-use LPLC skids.

V. Chromatography Resins

Chromatography resins are chemically treated consumables that constitute the stationary phase of the LPLC process. The parties both supply resins, although GE has a broad portfolio of resins while Danaher has more limited offerings. Each resin type differs in its chemical characteristics and features, and specific purification and production steps require different resins for the processing of particular molecules. Because of their distinct attributes and uses, each type of resin appears to constitute a distinct antitrust market. The parties have competitively significant overlaps in three resin markets: Affinity resins, ion exchange resins, and mixed mode resins. Affinity resins use binding interactions between a ligand and its binding partner to capture the target molecule. Ion exchange resins separate molecules based on their total electric charge. Mixed mode resins use matrices functionalized with ligands capable of multiple interactions that make this type of resin useful to purify target proteins when other methods fail.

Danaher and GE are two of a limited number of competitors in the markets for affinity, ion exchange, and mixed mode resins. Similar to the markets for chromatography hardware, GE is dominant in chromatography resins, holding market shares of between 65 and 73 percent, 57 and 65 percent, and 56 and 64 percent in affinity, ion exchange, and mixed mode resins, respectively, while Danaher's market share is significant but no greater than ten percent in each resin market.

VI. Low-Pressure Liquid Chromatography Continuous Chromatography Systems

A LPLC continuous chromatography system consists of a skid and columns that functions by regulating the flow of resins through the affixed columns in a continuous process that, for some uses, provides greater efficiency and cost savings. The parties, however, appear to be the leading suppliers in the market. Currently, Danaher has approximately 28 percent market share and GE has approximately 14 percent share. Only three other suppliers compete in this market, and the combined firm would have a market share of over 40 percent.

VII. Single-Use Tangential Flow Filtration Systems

Single-use TFF systems control the filtration process, which removes unwanted molecules during the cell growth phase of the bioprocessing workflow by running liquids through porous membranes. Single-use TTF systems include sensors, valves, safety and security items, software, and network communication hardware, as

well as flow kits, manifolds, and pumps composed of single-use components. Customers typically use TFF for cell clarification and for diafiltration, concentration, and microfiltration. TFF systems are configurable as conventional or single-use platforms. With single-use TFF systems, suppliers sell disposable flow kits (single-use tubing) that are used as a consumable. In contrast, conventional TFF systems are made with stainless steel and must be cleaned and validated after each use. Customers typically do not switch between single-use and conventional TFF systems, and they do not view other types of filtration systems as an economic or practical substitute for single-use TFF systems. Danaher and GE are two important competitors in the market for single-use TFF systems. GE's system has gained share since recently entering the market and currently competes closely with Danaher's system. The parties have a combined share of the single-use TFF filtration systems market of more than 35 percent.

VIII. Label-Free Molecular Characterization Instruments

Label-free molecular characterization instruments characterize protein binding interaction and protein concentration based on measurement of the optical, calorimetric, electrical, acoustic, and other physical reactions to various stimuli. Researchers use these instruments for a number of applications, including drug discovery and other biological research. Label-free molecular characterization instruments are a distinct relevant product market within the broader universe of molecular characterization instruments By their own estimates Danaher has approximately 23 percent share and GE has about 39 percent leaving the combined firm with share greater than 60 percent. The remainder of the market is highly fragmented and consists of less established instrument manufacturers and firms offering niche products.

Competitive Effects of the Acquisition

The proposed Acquisition would likely result in substantial competitive harm to consumers in the markets for microcarrier beads; conventional LPLC columns; conventional LPLC skids; single-use LPLC skids; three chromatography resins; LPLC continuous chromatography systems; single-use TFF systems; and label-free molecular characterization. The parties are two of few significant suppliers of these products worldwide. Eliminating the head-to-head competition between Danaher and GE in these concentrated markets would allow the combined firm to exercise market power unilaterally, likely resulting in higher prices, reduced innovation, and less choice for consumers.

Entry Conditions

De novo entry in the relevant markets would not be timely, likely, or sufficient in magnitude, character, and scope to deter or counteract the anticompetitive effects of the proposed Acquisition. Entry into each of the relevant product markets requires a significant amount of time and resources. In each relevant market, a new entrant would need to develop products with high levels of performance and reliability to establish the brand recognition necessary to compete effectively due to the premium customers place on suppliers' track records and reputations for reliable, high-quality products. Attaining requisite technological expertise and intellectual property often prevents suppliers from developing new products in the relevant markets. These barriers can delay the launch of new products and prevent existing suppliers of other equipment from developing new projects. Moreover, a potential entrant must establish a sufficient sales force that offers high-quality technical support and is capable of establishing relationships with customers. Such development efforts are difficult, time-consuming, and expensive, and often fail to result in a competitive product reaching the market.

The Consent Agreement

The Consent Agreement eliminates the competitive concerns raised by the proposed Acquisition by requiring Danaher to divest its microcarrier beads; chromatography hardware including conventional LPLC chromatography columns, conventional LPLC chromatography skids, and single-use LPLC chromatography skids; three chromatography resins; LPLC continuous chromatography systems; single-use TFF filtration systems; and label-free molecular characterization instruments to Sartorius. Danaher must divest all assets and rights to research, develop, manufacture, market, and sell these products, including all related intellectual property and other confidential business information, manufacturing technology, existing inventory, and all related agreements to manufacture and distribute the products. Additionally, to ensure that the divestiture is successful and to maintain continuity of supply, the proposed Order requires Danaher to supply Sartorius with these products for a limited time while Sartorius establishes its own manufacturing capability. Further, the proposed Order requires Sartorius to seek the Commission's approval in the event that it seeks to sell certain divested assets or acquire certain assets that compete with the divested assets for a period of three years. The provisions of the Consent Agreement ensure that Sartorius becomes an independent, viable, and effective competitor to maintain the competition that currently exists.

Based in Göttingen, Germany, Sartorius is a leading provider of instruments, manufacturing systems, and associated consumables for the life sciences industry including bioprocessing equipment used for drug discovery, development, and commercialization. Sartorius's existing biopharma business includes products that are highly complementary to the divestiture assets. Sartorius has the expertise, worldwide sales infrastructure, and resources to restore the competition that otherwise would have been lost due to the proposed Acquisition.

Danaher must accomplish the divestitures no later than 45 days after consummating the proposed Acquisition or ten days after receiving all regulatory approvals necessary to consummate the divestiture. Until Danaher completes the divestiture, the proposed Order requires Danaher to hold separate the entire Pall operating company and the molecular characterization business, as well as to maintain the divested assets. Danaher is also required to submit compliance reports to staff and to the proposed monitor demonstrating compliance with these asset maintenance provisions.

If the Commission determines that Sartorius is not an acceptable acquirer, or that the manner of the divestitures is not acceptable, the proposed Order requires Danaher to unwind the sale of rights and assets to Sartorius and then divest the affected products to a Commission-approved acquirer within six months of the date the Order becomes final. To ensure compliance with the Order, the Commission has agreed to appoint a Monitor to ensure that Danaher complies with all of its obligations pursuant to the Consent Agreement and to keep the Commission informed about the status of the transfer of the product rights and assets to Sartorius. The proposed Order further allows the Commission to appoint a trustee in the event that Danaher fails to divest the products as required.

The purpose of this analysis is to facilitate public comment on the Consent Agreement, and it is not intended to constitute an official

interpretation of the proposed Order or to modify its terms in any way.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2020–06212 Filed 3–24–20; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project ''*Patient-Centered Outcomes Research Clinical Decision Support: Current State and Future Directions.*''

DATES: Comments on this notice must be received by 60 days after date of publication of this notice in the **Federal Register**.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@AHRQ.hhs.gov.*

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by emails at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

''*Patient-Centered Outcomes Research Clinical Decision Support: Current State and Future Directions*''

Research has shown that health care quality in the U.S. varies significantly and only half of adults receive evidence-based, recommended care. Individuals with multiple chronic conditions (42% of adults) and older adults are at particular risk for negative health outcomes. Current evidence shows that clinical decision support (CDS) systems improve adherence to evidence-based practices by analyzing patient data and making appropriate information available to the physician at the time they need it. CDS systems are usually electronic health record (EHR)-based, encompassing tools like alerts, clinical guidelines, patient reports and dashboards, diagnostic support, and workflow tools. These tools help reduce clinical errors and allow for customization to patient needs, improving quality of care and patient outcomes.

The AHRQ Patient-Centered (PC) CDS Learning Network (PC CDS LN) defines PC CDS as: ''CDS that supports *individual* patients and their approved care givers and/or care teams in health-related decisions and actions by leveraging information from PCOR findings and/or patient-specific information (*e.g.,* patient-generated health data).'' Through PC CDS, AHRQ seeks to accelerate the movement of patient-centered outcomes research (PCOR) evidence into practice and to make CDS more shareable, standards-based, and publicly available.

Traditionally, CDS initiatives have focused on provider-directed guidelines and increasing the shareability of CDS artifacts; however, PC CDS targets both patients (and/or caregivers) and providers.

AHRQ's effort to support PC CDS has included efforts such as the PC CDS LN, CDS Connect, and other related grants and contracts. In this project, AHRQ seeks to conduct a comprehensive evaluation to assess the impact of AHRQ's PCOR CDS Initiative (the Initiative) on understanding of the current state of PC CDS and to identify gaps to guide AHRQ's future research.

This research has the following goal:

To assess the accomplishments and opportunities for the Initiative as a whole, and each of its four individual components: The PC CDS Learning Network, CDS Connect, Quantifying Efficiencies, and the U18 CDS Resource Grants.

This study is being conducted by AHRQ through its contractor, NORC at the University of Chicago, pursuant to AHRQ's statutory authority to disseminate government-funded research relevant to comparative clinical effectiveness research. 42 U.S.C. 299b–37(a)–(c).

Method of Collection

To achieve these goals, the evaluation team will use key informant interviews and a web-based survey to gather information about the programs from stakeholders, contributors, and users of the CDS Initiative programs.

Key Informant Interviews: The evaluation team will conduct semi-structured interviews with people involved in the Initiative's components, including representatives from academia, industry, health systems, and government. Key informants will include the following groups:

Leaders: Includes AHRQ project officers, contractor's senior staff, and senior consultants to Initiative components. Leaders are expected to have set the direction of the components or activities and to be familiar with the activities, the processes of implementation, and their outputs in their entirety.

Contributors: Includes lead authors or content developers for a product or output of a component, and may overlap with leaders. Examples of contributors from the PC CDS LN include lead authors of the Trust Framework, Opioid Action Plan, or Patient Blogs; examples from the CDS Connect include individuals who contributed CDS artifacts to the repository.

Participants: Includes individuals who participated in workgroups of either the PC CDS LN or CDS Connect, or participated in the development of one of the products.

Consumers: Includes individuals who have used a product developed by the Initiative, including artifacts found on the CDS Connect repository and the CDS Connect Authoring Tool in particular. Individuals will be identified from interviews with leaders, contributors, and participants, and through literature review for authors making references to Initiative products (*i.e.,* reports or artifacts).

AHRQ and the evaluation contractor will create a list of eligible key informants that reflect the appropriate mix of roles and depth of experience to ensure comprehensive evaluation. Key informants will receive invitational emails that explain the scope and allow candidates to ask questions before declining or accepting the invitation. We will include clinical staff in our sample of participants in the Quantifying Efficiencies grant program, the U18 grants and the two opioid-related CDS projects. Involving staff at clinical sites will also be critical to understanding the value of PC CDS in the context of provider workflows and burdens.

Web Survey: The purpose of the web survey is to understand more about who the users of CDS Connect resources are, their reasons for using the resources, how they use these resources, and their perceptions about their value. The CDS Connect resources of interest include the CDS Authoring Tool, artifacts in the CDS Connect Repository and open-source CDS Connect resources available

on Github, a platform for developing and sharing software. Respondents will be identified through a chain-referral methodology. The first set of survey invitations will be sent to a list of email addresses of known contributors or users of CDS Connect as well as a group of potential users of CDS Connect. At the end of the survey, each respondent will be asked to provide names and email addresses for up to four other users of CDS Connect resources. After the list of names from all referrals is deduplicated, a survey invitation will be sent to these referrals.

The survey instrument includes multiple choice questions that capture important data points about use of CDS Connect resources, specifically the CDS Authoring tool, GitHub resources, and artifacts from the CDS Repository. Respondents will only be presented with more detailed questions about CDS Connect resource usage based on their responses to initial screening questions. The survey will take ten minutes on average to complete based on in-house testing.

This mixed methods evaluation seeks to answer the following research questions about the Initiative as a whole:

1. To what extent has the Initiative promoted the dissemination and implementation of PCOR findings through sharable, standards-based, and publicly available CDS and how?

2. What activities carried out through each component (*e.g.,* webinars, workgroups, in-person meetings, repositories, CDS artifacts and development tools, final reports or plans) were found to be most successful in furthering the various goals of the Initiative?

3. What do stakeholders perceive to be the impacts of the Initiative to date, including reflection on their own involvement in it, and current or potential achievements, such as the development of a common definition of PC CDS and growth of interest in and capacity for developing these types of CDS among stakeholders?

4. How does the Initiative address federal policies for the dissemination and implementation of evidence-based research funded by the PCOR Trust Fund, and how do they interact with other federal policy initiatives designed to promote widespread use, interoperability and patient access to information from EHRs with advanced CDS.

5. What can AHRQ learn from the Initiative that is relevant to other initiatives aimed at disseminating and implementing clinical evidence and evidence-based practices? How can the lessons learned here inform future research, implementation, and dissemination initiatives?

Information collected by the study will inform strategies to promote the adoption of PCOR evidence into practice through CDS developed by AHRQ and other Department of Health and Human Services agencies, including the Centers for Medicare & Medicaid Services (CMS) and the Office of the National Coordinator for Health IT, as well as state and local governments and private health care organizations. Findings from the evaluation can help identify and shape strategies to promote more effective implementation of PCOR CDS in order to accelerate the movement of evidence into clinical practice and support patient-centered decision making by clinicians with their patients.

Estimated Annual Respondent Burden

Key Informant Interviews. Key informant interviews will be conducted with up to 147 key informants across a variety of organizations involved in each component of the Initiative. NORC will use one of 14 interview protocols based on the component the key informant is involved in and their role in that component. As shown in Exhibit 1, the interview form names include the type of role of the key informant in the project. All interviews are expected to last one hour. Some key informants may serve multiple roles or work on multiple projects. In these cases, the relevant protocols will be combined and streamlined so that the informant only completes one interview. Some of the key informant interviews for the sites or Opioid-related grants may be conducted during the course of site visits at the implementation sites, either with individuals or small groups of respondents.

Web Survey. For the web survey, it is estimated that 453 CDS Connect users will respond to the 10-minute survey. The total annual burden hours for the key informant interviews and surveys is estimated to be 224 hours as shown in Exhibit 1.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Hours per response	Total burden hours
PC CDS Learning Network—Leader	7	1	7
PC CDS Learning Network—Governance/Non-Executive Steering Committee	3	1	3
PC CDS Learning Network—Contributor	8	1	8
CDS Connect—Leader	5	1	5
CDS Connect—Contributor	20	1	20
CDS Connect—Consumer/Patient	25	1	25
CDS Connect—Participant	10	1	10
Quantifying Efficiencies—Leader	5	1	5
Quantifying Efficiencies—Informaticist	4	1	4
Quantifying Efficiencies—Clinician	8	1	8
PC CDS Projects –Site Leader	18	1	18
PC CDS Projects—Informaticist	10	1	10
PC CDS Projects—Clinician	20	1	20
PC CDS Projects—Patient	4	1	4
Web Survey of CDS Connect Users	453	.17	77
Total	600	.....	224

Exhibit 2 shows the estimated annual cost burden associated with the respondents' time to participate in this information collection, which comes to $14,371.85.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of interviews *	Total burden hours	Average hourly wage rate **	Total cost burden
PC CDS Learning Network—Leader	7	7	[1] $59.54	$416.78
PC CDS Learning Network—Governance/Non-Executive Steering Committee	3	3	[1] 59.54	178.62
PC CDS Learning Network—Contributor	8	8	[1] 59.54	476.33
CDS Connect—Leader	5	5	[1] 59.54	297.71
CDS Connect—Contributor	20	20	[1] 59.54	1,190.82
CDS Connect—Consumer	25	25	[1] 59.54	1,488.53
CDS Connect—Participant	10	10	[1] 59.54	595.41
Quantifying Efficiencies—Leader	5	5	[1] 59.54	297.71
Quantifying Efficiencies—Informaticist	4	4	[1] 59.54	238.16
Quantifying Efficiencies—Clinician	8	8	[1] 101.43	811.46
PC CDS Projects –Site Leader	18	18	[1] 59.54	1,071.74
PC CDS Projects—Informaticist	10	10	[1] 59.54	595.40
PC CDS Projects—Clinician	20	20	[2] 101.43	2,028.60
PC CDS Projects—Patient	4	4	[1] 24.98	99.93
Web Survey of CDS Connect Users	453	77	[2] 59.54	4,584.66
Total	600	224	.....	14,371.85

** Wage rates were calculated using the mean hourly wage from the U.S. Department of Labor, Bureau of Labor Statistics, May 2018 National Occupational Employment and Wage Estimates for the United States, *https://www.bls.gov/oes/current/oes_nat.htm.*

[1] Average rate for Computer Information and Research Scientists.

[2] Average rate for Physicians and Surgeons.

[3] Average rate for All Occupations.

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ's health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) 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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: March 19, 2020.

Virginia L. Mackay-Smith,

Associate Director.

[FR Doc. 2020–06208 Filed 3–24–20; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Clinical Laboratory Improvement Advisory Committee (CLIAC); Cancellation of Meeting

Notice is hereby given of a change in the meeting of the Clinical Laboratory Improvement Advisory Committee (CLIAC); April 16, 2020, 8:30 a.m. to 5:00 p.m., EDT and April 17, 2020, 8:30 a.m. to 11:30 a.m., EDT, in the original FRN. Food and Drug Administration (FDA), White Oak Campus, 10903 New Hampshire Avenue, Building 31, Great Room, Silver Spring, Maryland 20993 and via webcast at *www.cdc.gov/cliac* which was published in the **Federal Register** on February 28, 2020, Volume 85, Number 40, page 11993.

This meeting is being canceled in its entirety.

FOR FURTHER INFORMATION CONTACT: Nancy Anderson, MMSc, MT(ASCP), Senior Advisor for Clinical Laboratories, Division of Laboratory Systems, Center for Surveillance, Epidemiology and Laboratory Services, Office of Public Health Scientific Services, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop V24–3, Atlanta, Georgia 30329–4027, telephone (404) 498–2741; *NAnderson@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2020–06249 Filed 3–24–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Injury Prevention and Control, (BSC, NCIPC); Correction

Notice is hereby given of a change in the meeting of the Board of Scientific Counselors, National Center for Injury Prevention and Control, (BSC, NCIPC); April 30, 2020, 12:30 p.m. to 3:50 p.m., EDT which was published in the **Federal Register** on February 24, 2020, Volume 85, Number 36, pages 10441–10442.

The **SUMMARY** should read as follows:

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting for the Board of Scientific Counselors, National Center for Injury Prevention and Control, (BSC, NCIPC). This

meeting is open to the public limited only by the ports available. There will be 2,000 telephone ports available. The public comment period will be at the end of the meeting from 3:00 p.m.–3:45 p.m., EDT.

The public is encouraged to register to participate by telephone and/or provide public comment using the registration form available at the link provided: *https://www.surveymonkey.com/r/P6ZN7QX.* Written comments may also be submitted for the meeting record in advance using the registration form.

Individuals registered to provide public comment will be called upon to speak based on the order of registration. After persons who have registered have spoken, any remaining time in the public comment period will be used for members of the public who have not registered, but wish to offer comment. Each individual making public comment during the meeting will have a 2-minute speaking limit to allow for as many comments as possible. Registered individuals may also request that their written comments be read during the meeting, but such comments will be subject to the same duration limit.

FOR FURTHER INFORMATION CONTACT: Gwendolyn H. Cattledge, Ph.D., M.S.E.H., Deputy Associate Director for Science, NCIPC, CDC, 4770 Buford Highway NE, Mailstop F–63, Atlanta, Georgia 30341; telephone (770) 488–3953; email address: *NCIPCBSC@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2020–06250 Filed 3–24–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

CDC/ATSDR Tribal Advisory Committee (TAC); Cancellation of Meeting

Notice is hereby given of a change in the meeting of the CDC/ATSDR Tribal Advisory Committee (TAC); March 12, 2020, 9:30 a.m. to 5:30 p.m., EDT; and March 13, 2020, 9:30 a.m. to 5:30 p.m., EDT; CDC, Chamblee Campus, Building 106, Rooms 1A/1B, 4770, Buford Highway, Atlanta, GA 30341–3717, which was published in the **Federal Register** on January 6, 2020, Volume 85, Number 3, pages 505–506.

This meeting is being canceled in its entirety.

FOR FURTHER INFORMATION CONTACT: CAPT Carmen Clelland, PharmD, MPA, MPH, Director, Office of Tribal Affairs and Strategic Alliances, Center for State, Tribal, Local, and Territorial Support, CDC, 4770 Buford Highway, Mailstop V18–4, Atlanta, GA 30341–3717; Telephone: (404) 498–2205; Email: *cclelland@cdc.gov.* The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2020–06247 Filed 3–24–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH); Correction

Notice is hereby given of a change in the Solicitation of Nominations for Appointment to the Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH); which was published in the **Federal Register** on March 9, 2020, Volume 85, No. 46, page 13653.

The received date for nominations of membership located in the **DATES** section should read as follows:

DATES: Nominations for membership on the BSC must be received no later than April 20, 2020. Packages received after this time will not be considered for the current membership cycle.

FOR FURTHER INFORMATION CONTACT: Alberto Garcia, M.S., Executive Secretary, CDC/NIOSH, 1090 Tusculum Avenue, MS R–5, Cincinnati, OH 45226, telephone (513) 841–4596; *agarcia1@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2020–06246 Filed 3–24–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket Number: NIOSH 278]

Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following virtual meeting of the Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH). This meeting is open to the public via webcast and by teleconference. If you wish to attend, please see the NIOSH website to register (*http://www.cdc.gov/niosh/bsc/*) or call (404–498–2539) at least five business days in advance of the meeting. Teleconference is available toll-free; please dial (855) 644–0229, and the participant passcode 9777483. Adobe Connect webcast will be available at *https://odniosh.adobeconnect.com/nioshbsc/* for up to 100 participants. The public is welcome to participate during the public comment period, from 12:45 p.m., EDT to 1:00 p.m., EDT on April 28, 2020. Please note that the public comment period ends at the time indicated above. Each commenter will be provided up to five minutes for comment. A limited number of time slots are available and will be assigned on a first come-first served basis. Written comments will also be accepted

from those unable to attend the public session via an on-line form at the following website: *http://www.cdc.gov/niosh/bsc/contact.html.*

DATES: The meeting will be held on April 28, 2020, from 8:30 a.m.–2:45 p.m., EDT.

ADDRESSES: Teleconference: Dial in number: (855) 644–0229, Participant code: 9777483. Webcast: *https://odniosh.adobeconnect.com/nioshbsc/.*

FOR FURTHER INFORMATION CONTACT: Alberto Garcia, M.S., Executive Secretary, BSC, NIOSH, CDC, 1090 Tusculum Avenue, MS–R5, Cincinnati, OH 45226, telephone (513) 841–4596, fax (513) 841–4506, or email at *agarcia1@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: The Secretary, the Assistant Secretary for Health, and by delegation the Director, Centers for Disease Control and Prevention, are authorized under Sections 301 and 308 of the Public Health Service Act to conduct directly or by grants or contracts, research, experiments, and demonstrations relating to occupational safety and health and to mine health. The Board of Scientific Counselors provides guidance to the Director, National Institute for Occupational Safety and Health on research and prevention programs. Specifically, the Board provides guidance on the Institute's research activities related to developing and evaluating hypotheses, systematically documenting findings and disseminating results. The Board evaluates the degree to which the activities of the National Institute for Occupational Safety and Health: (1) Conform to appropriate scientific standards, (2) address current, relevant needs, and (3) produce intended results.

Matters to be Considered: The agenda for the meeting addresses occupational safety and health issues related to: Peracetic Acid: Overview of Analytical, Toxicology and Field Studies; NIOSH Center for Motor Vehicle Safety Strategic Plan; New tools for real-time coding of industry and occupation in field surveys; National Firefighter Registry Update; and Evaluation Capacity Building Plan Update.

Agenda items are subject to change as priorities dictate. An agenda is also posted on the NIOSH website (*http://www.cdc.gov/niosh/bsc/*). Members of the public who wish to address the NIOSH BSC are requested to contact the Executive Secretary for scheduling purposes (see contact information below). Alternatively, written comments to the BSC may be submitted via an on-line form at the following website: *http://www.cdc.gov/niosh/bsc/contact.html.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2020–06248 Filed 3–24–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Immediate Disaster Case Management Intake Assessment (OMB #0970–0461)

AGENCY: Office of Human Services, Emergency Preparedness and Response, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Office of Human Services, Emergency Preparedness and Response (OHSEPR) is the emergency management office of the U.S. Department of Health and Human Services' (HHS) Administration for Children and Families (ACF). OHSEPR is requesting a 3-year extension of the Immediate Disaster Case Management Intake Assessment tool (OMB #0970–0461). The content of the form has not changed. There is one modification to the proposed use of resulting aggregate data, to include a use to advance research with a goal of developing a Quality Assurance/Performance Improvement process.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *infocollection@acf.hhs.gov.* Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation (OPRE), 330 C Street SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: OHSEPR leads HHS's and ACF's disaster human services missions conducted under the National Response Framework's Emergency Support Function 6 (ESF 6), Mass Care, Emergency Assistance, Temporary Housing, and Human Services. OHSEPR's ESF 6 disaster operations include implementation of disaster human services case management missions to connect disaster survivors to resources and services that support their individual and family recovery from disaster.

The primary purpose of the information collection pertains to the implementation of OHSEPR's delivery of case management services to individuals and households impacted by a disaster. OHSEPR's disaster case managers collect information during intake assessments that is utilized to identify a disaster survivor's unmet needs and connect them with resources. OHSEPR also utilizes this information to target resources and improve its disaster human services operations.

The information collection will be used to support OHSEPR's goal to quickly identify critical gaps, resources, needs, and services to support state, local, and non-profit capacity for disaster case management and to augment and build human service capacity where none exists. All information gathered will be used to (1) provide case management services to survivors and (2) inform the delivery of disaster case management services and programmatic strategies and improvements.

Respondents: Individuals impacted by a disaster.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
Immediate Disaster Case Management Intake Assessment	1,564	1	1	1,564	521

Estimated Total Annual Burden Hours: 521.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: Section 426 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2020–06182 Filed 3–24–20; 8:45 am]

BILLING CODE 4184–PC–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity: Title V State Sexual Risk Avoidance Education (SRAE) Program (New Collection)

AGENCY: The Administration on Children, Youth and Families (ACYF); Administration for Children and Families (ACF).

ACTION: Request for public comment.

SUMMARY: The Administration on Children, Youth and Families (ACYF), Family and Youth Services Bureau (FYSB) is accepting mandatory formula grant applications and State Plans from states and territories for the development of and implementation for Title V State Sexual Risk Avoidance Education (SRAE) Program. The Title V State SRAE Funding Opportunity Announcement sets forth the application requirements for the receipt of the following documents from applicants and awardees: Application, State Plan, and Performance Progress Report.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *infocollection@acf.hhs.gov.* Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation (OPRE), 330 C Street SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: This Notice is to solicit comments from the public on ACYF's proposed information collection documents (application, State Plan, and Performance Progress Report).

Purpose and Use of the Information Collections: The application and State Plan will offer information about the proposed state project and it will be used as the primary basis to determine whether or not the project meets the minimum requirements for the award.

The Performance Progress Report will inform the monitoring of the grantees program design, program evaluation, management improvement, service quality, and compliance with agreed upon goals. ACYF/FYSB will use the information to assure effective service delivery. Finally, the data from this collection will be used to report outcomes and efficiencies and will provide valuable information to policy makers and key stakeholders in the development of program and research efforts.

Respondents: Fifty states and nine territories, to include the District of Columbia, Puerto Rico, Virgin Islands, Guam, American Samoa, Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, and Palau.

ANNUAL BURDEN ESTIMATES

Information collection title	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
Application	59	1	24	1,416	472
State Plan	59	3	40	7,080	2,360
Performance Progress Report	59	6	16	5,664	1,888

Estimated Annual Burden Total: 4,702.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility,

and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

(Authority: Section 510 (42 U.S.C. 710), as amended by Section 50502 (Pub. L. 115–123))

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2020–06210 Filed 3–24–20; 8:45 am]

BILLING CODE 4184–83–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2020–D–1136, FDA–2020–D–1137, FDA–2020–D–1138, FDA–2020–D–1139, FDA–2020–D–1140, FDA–2020–D–1141, FDA–2020–D–1142, and FDA–2020–D–1143]

Process for Making Available Guidance Documents Related to Coronavirus Disease 2019

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the process for making available FDA guidance documents related to the Coronavirus Disease 2019 (COVID–19) public health emergency. FDA believes that this process will allow the Agency to rapidly disseminate essential Agency recommendations and policies related to COVID–19 to industry, FDA staff, and other stakeholders.

FOR FURTHER INFORMATION CONTACT: Kimberly Thomas, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6220, Silver Spring, MD 20993–0002, 301–796–2357; Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7268, Silver Spring, MD 20993–0002, 240–402–7911; Erica Takai, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5456, Silver Spring, MD 20993–0002, 301–796–6353; Phil Chao, Center for Food Safety and Applied Nutrition, Food and Drug Administration, CPK1 Rm. 1C001, College Park, MD 20740, 240–402–2112; Diane Heinz, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., MPN2 RME435, HFV–6, Rockville, MD 20855, 240–402–5692; May Nelson, Center for Tobacco Products, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 4420, Silver Spring, MD 20993–0002, 301–796–9241; John Weiner, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5130; Silver Spring, MD 20993–0002, 301–796–8941; or Erik Mettler, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., ELEM Rm. 3008, Rockville, MD 20857, 301–796–9254.

SUPPLEMENTARY INFORMATION:

I. Background

On January 31, 2020, as a result of confirmed cases of COVID–19, and after consultation with public health officials as necessary, Alex M. Azar II, Secretary of Health and Human Services, pursuant to the authority under section 319 of the Public Health Service Act (42 U.S.C. 247), determined that a public health emergency exists and has existed since January 27, 2020, nationwide.[1] On March 13, 2020, President Donald J. Trump declared that the COVID–19 outbreak in the United States constitutes a national emergency, beginning March 1, 2020.[2] FDA is committed to providing timely recommendations, regulatory advice, guidance, and technical assistance on an Agency-wide basis on issues related to COVID–19, including to clarify our expectations regarding regulatory requirements to support response efforts to this emergency. To this end, FDA is announcing procedures for making available FDA guidance documents related to the COVID–19 public health emergency. FDA believes that these procedures, which operate within FDA's established good guidance practices regulations, will allow the Agency to rapidly disseminate Agency recommendations and policies related to COVID–19 to industry, FDA staff, and other stakeholders.

II. Procedures for Making COVID–19-Related Guidance Documents Available

To facilitate issuance of guidance on topics related to the COVID–19 public health emergency, the Agency intends to use the following procedures:

- In light of the need to act quickly and efficiently to respond to the COVID–19 public health emergency, FDA anticipates that prior public participation will not be feasible or appropriate before FDA implements COVID–19-related guidance documents. FDA anticipates it will issue COVID–19-related guidance documents for immediate implementation without prior public comment (see section 701(h)(1)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(h)(1)(C)) and 21 CFR 10.115(g)(2) (§ 10.115(g)(2)).
- Although FDA expects that COVID–19-related guidances will be implemented without prior comment, FDA will solicit comment, review all comments received, and revise the guidance documents as appropriate (see § 10.115(g)(2)). Each guidance will specify the docket number(s) to which comments can be submitted.
- Guidance documents related to COVID–19 will be accessible on the internet from the FDA web page entitled ''Coronavirus Disease 2019 (COVID–19),'' available at *https://www.fda.gov/emergency-preparedness-and-response/mcm-issues/coronavirus-disease-2019-covid-19.*
- Guidance documents related to COVID–19 may also be accessed from the FDA web page entitled ''Search for FDA Guidance Documents'' available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents.*
- Rather than publishing a separate Notice of Availability (NOA) for each COVID–19-related guidance document, FDA intends to publish periodically a consolidated NOA. This periodic NOA will announce the availability of all the COVID–19-related guidance documents that issued during the relevant period. The consolidated NOA will provide instructions to the public on submitting comments on COVID–19-related guidance documents, including the docket number(s) associated with each guidance document, information on how to view the dockets, and instructions for persons interested in obtaining a copy of a COVID–19-related guidance document. In addition, the guidance document will provide information to the public on submitting comments on the guidance document, including the docket number(s) associated with the guidance document and instructions for persons interested in obtaining a copy of a COVID–19-related guidance document.
- FDA intends to establish one docket for each Center or Office that may issue

[1] Determination that a Public Health Emergency Exists (January 31, 2020), available at *https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx.*

[2] Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak (March 13, 2020), available at *https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/.*

COVID–19-related guidance documents. All COVID–19-related guidance documents issued by that Center or Office will be available in the docket associated with the Center or Office that issues the guidance document. The docket numbers associated with each Center or Office that may issue COVID–19-related guidance documents are as follows:

Title of Docket (for each Center or Office)	Docket No.
Center for Drug Evaluation and Research (CDER) COVID–19	FDA–2020–D–1136
Center for Biologics Evaluation and Research (CBER) COVID–19	FDA–2020–D–1137
Center for Devices and Radiological Health (CDRH) COVID–19	FDA–2020–D–1138
Center for Food Safety and Applied Nutrition (CFSAN) COVID–19	FDA–2020–D–1139
Center for Veterinary Medicine (CVM) COVID–19	FDA–2020–D–1140
Center for Tobacco Products (CTP) COVID–19	FDA–2020–D–1141
Office of the Commissioner (OC) COVID–19	FDA–2020–D–1142
Office of Regulatory Affairs (ORA) COVID–19	FDA–2020–D–1143

Dated: March 20, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–06222 Filed 3–20–20; 11:15 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of General Medical Sciences Special Emphasis Panel, April 3, 2020, 8:00 a.m. to April 3, 2020, 6:00 p.m., The Hyatt House, Potomac Conference Room, The Wharf, 725 Wharf Street SW, Washington, DC 20024 which was published in the **Federal Register** on December 19, 2019, 84 FR 69756.

The meeting notice is amended to change the Meeting Format from Regular Meeting on April 3, 2020 to a Teleconference Meeting on April 3, 2020. The meeting is closed to the public.

Dated: March 19, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–06203 Filed 3–24–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Subcommittee A—Cancer Centers, May 13, 2020, 5:00 p.m. to May 14, 2020, 6:00 p.m., Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015 which was published in the **Federal Register** on December 20, 2019, 84 FR 70202.

This meeting notice is amended to change the meeting location, times, and format. The meeting will now be held on May 13, 2020, 9:00 a.m. to May 14, 2020, 11:30 a.m. as a Video-Assisted Meeting at National Cancer Institute (NCI) Shady Grove, 9609 Medical Center Drive, Rockville, MD 20850. The meeting is closed to the public.

Dated: March 19, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–06201 Filed 3–24–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, April 14, 2020, 08:00 a.m. to April 14, 2020, 05:00 p.m., Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), Conference Room Auburn, 8120 Wisconsin Avenue, Bethesda, MD 20814 which was published in the **Federal Register** on March 09, 2020, 85 FR 13667.

The meeting notice is amended to change the Meeting Format from Regular Meeting on April 14, 2020 to a Teleconference Meeting on April 14, 2020. The meeting is closed to the public.

Dated: March 19, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–06204 Filed 3–24–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Advisory Council, March 30, 2020, 8:30 a.m. to 3:00 p.m. at National Institutes of Health, 6700B Rockledge Drive, Conference Room A&B, Bethesda, MD 20817 which was published in the **Federal Register** on January 30, 2020, 85 FR 5459, and change in format published in the **Federal Register** on March 17, 2020, 85 FR 15206.

The meeting will be held at National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, March 30, 2020, 1:00 p.m. to 3:00 p.m. This meeting will be held by videoconference only.

URL for virtual access: https://videocast.nih.gov.

For additional information, please visit: *https://public.csr.nih.gov/AboutCSR/Organization/CSRAdvisoryCouncil.*

The meeting is open to the public.

Dated: March 19, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–06209 Filed 3–24–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, April 16, 2020, 8:00 a.m. to April 16, 2020, 5:00 p.m., Doubletree Hotel Bethesda (formerly Holiday Inn Select), Conference Room Auburn, 8120 Wisconsin Avenue, Bethesda, MD 20814 which was published in the **Federal Register** on March 13, 2020, 85 FR 14688.

The meeting notice is amended to change the Meeting Format from Regular Meeting on April 16, 2020 to a Teleconference Meeting on April 16, 2020. The meeting is closed to the public.

Dated: March 19, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–06200 Filed 3–24–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of General Medical Sciences Special Emphasis Panel, April 3, 2020, 8:30 a.m. to April 3, 2020, 5:00 p.m., Washington Marriott at Metro Center, Conference Room Capitol Hill, 775 12th Street NW, Washington, DC 20005 which was published in the **Federal Register** on March 9, 2020, 85 FR 13667.

The meeting notice is amended to change the Meeting Format from Regular Meeting on April 3, 2020 to a Teleconference Meeting on April 3, 2020. The meeting is closed to the public.

Dated: March 19, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–06202 Filed 3–24–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2019–N172; FXES11130900000C2–201–FF09E32000]

Endangered and Threatened Wildlife and Plants; Initiation of 5-Year Status Reviews for 25 Southeastern Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of initiation of reviews; request for information.

SUMMARY: We, the U.S. Fish and Wildlife Service, are initiating 5-year status reviews of 25 species under the Endangered Species Act, as amended. A 5-year review is an assessment of the best scientific and commercial data available at the time of the review. We are requesting submission of information that has become available since the last reviews of these species.

DATES: To allow us adequate time to conduct these reviews, we must receive your comments or information on or before May 26, 2020. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: For instructions on how to submit information and review information that we receive on these species, see Request for New Information under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: For species-specific information, see Request for New Information under **SUPPLEMENTARY INFORMATION**. Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION:

Why do we conduct 5-year reviews?

Under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), we maintain lists of endangered and threatened wildlife and plant species in title 50 of the Code of Federal Regulations (CFR) at 50 CFR 17.11 (for wildlife) and 17.12 (for plants) (List). Section 4(c)(2)(A) of the ESA requires us to review each listed species' status at least once every 5 years. Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species under active review. For additional information about 5-year reviews, go to *http://www.fws.gov/endangered/what-we-do/recovery-overview.html.*

Which species are under review?

This notice announces our active 5-year reviews of the species in the following table.

Common name/ scientific name	Contact person, email, phone	Status (endangered or threatened)	States where the species is known to occur	Final listing rule (**Federal Register** citation and publication date)	Contact's mailing address
ANIMALS					
Reptiles					
Sea turtle, hawksbill (*Eretmochelys imbricata*).	Ann Marie Lauritsen, *northflorida@fws.gov,* 904–731–3032.	Endangered	Alabama, American Samoa, Connecticut, Delaware, Florida, Georgia, Guam, Hawaii, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Northern Mariana Islands, Palau, Puerto Rico, Rhode Island, Texas, Virginia, Virgin Islands.	35 FR 8491; 6/2/1970.	USFWS, 7915 Baymeadows Way, Suite 200, Jacksonville, FL 32256.
Snake, black pine (*Pituophis melanoleucus lodingi*).	Matthew Hinderliter, *mississippi_field_office@fws.gov,* 601–321–1132.	Threatened	Alabama, Mississippi	80 FR 60468; 10/6/2015.	USFWS, 6578 Dogwood View Pkwy., Jackson, MS 39213.
Turtle, Alabama red-bellied (*Pseudemys alabamensis*).	Linda LaClaire, *mississippi_field_office@fws.gov,* 601–321–1126.	Endangered	Alabama, Mississippi	52 FR 22939; 6/16/1987.	USFWS, 6578 Dogwood View Pkwy., Jackson, MS 39213.

Common name/ scientific name	Contact person, email, phone	Status (endangered or threatened)	States where the species is known to occur	Final listing rule (**Federal Register** citation and publication date)	Contact's mailing address
			Amphibians		
Frog, dusky gopher (*Rana sevosa*).	Linda LaClaire, *mississippi_field_office@fws.gov,* 601–321–1126.	Endangered	Alabama, Louisiana, Mississippi.	66 FR 62993; 12/4/2001.	USFWS, 6578 Dogwood View Pkwy., Jackson, MS 39213.
Coqui, golden (*Eleutherodactylus jasperi*).	Felix Lopez, *caribbean_es@fws.gov,* 787–851–7297.	Threatened	Puerto Rico	42 FR 58756; 11/11/1977.	USFWS, Road 301, Km 5.1, P.O. Box 491, Boquerón, PR 00622.
			Fishes		
Darter, amber (*Percina antesella*).	Robin Goodloe, *georgiaes@fws.gov,* 706–613–9493.	Endangered	Georgia/Tennessee	50 FR 31597; 8/5/1985.	USFWS, 355 East Hancock Ave., Room 320, Athens, GA 30601.
Darter, Cherokee (*Etheostoma scotti*).	Robin Goodloe, *georgiaes@fws.gov,* 706–613–9493.	Threatened	Georgia	59 FR 65505; 12/20/1994.	USFWS, 355 East Hancock Ave., Room 320, Athens, GA 30601.
Darter, Etowah (*Etheostoma etowahae*).	Robin Goodloe, *georgiaes@fws.gov,* 706–613–9493.	Endangered	Georgia/Tennessee	59 FR 65505; 12/20/1994.	USFWS, 355 East Hancock Ave., Room 320, Athens, GA 30601.
Darter, goldline (*Percina aurolineata*).	Robin Goodloe, *georgiaes@fws.gov,* 706–613–9493.	Threatened	Alabama, Georgia, Tennessee	57 FR 14786; 4/22/1992.	USFWS, 355 East Hancock Ave., Room 320, Athens, GA 30601.
Shiner, blue (*Cyprinella caerulea*).	Robin Goodloe, *georgiaes@fws.gov,* 706–613–9493.	Threatened	Alabama, Georgia, Tennessee	57 FR 14786; 4/22/1992.	USFWS, 355 East Hancock Ave., Room 320, Athens, GA 30601.
			Clams		
Clubshell, black (*Pleurobema curtum*).	Paul Hartfield, *mississippi_field_office@fws.gov,* 601–321–1125.	Endangered	Alabama, Mississippi	52 FR 11162; 4/7/1987.	USFWS, 6578 Dogwood View Pkwy., Jackson, MS 39213.
Combshell, southern (*Epioblasma penita*).	Paul Hartfield, *mississippi_field_office@fws.gov,* 601–321–1125.	Endangered	Alabama, Mississippi	52 FR 11162; 4/7/1987.	USFWS, 6578 Dogwood View Pkwy., Jackson, MS 39213.
Kidneyshell, fluted (*Ptychobranchus subtentum*).	Anthony Ford, *cookeville@fws.gov,* 931–528–6481.	Endangered	Kentucky, Tennessee, Virginia	78 FR 59269; 9/26/2013.	USFWS, 446 Neal Street, Cookeville, TN 38501.
Pearlymussel, slabside (*Pleuronaia dolabelloides*).	Anthony Ford, *cookeville@fws.gov,* 931–528–6481.	Endangered	Alabama, Kentucky, Misissippi, North Carolina, Tennessee, Virginia.	78 FR 59269; 9/26/2013.	USFWS, 446 Neal Street, Cookeville, TN 38501.
			Insects		
Butterfly, Miami blue (*Cyclargus (=Hemiargus) thomasi bethunebakeri*).	Roxanna Hinzman, *Miamiblue_5-yearreview@fws.gov,* 772–469–4322.	Endangered	Florida	77 FR 20948; 4/6/2012.	USFWS, 1339 20th St., Vero Beach, FL 32960.
			PLANTS		
			Flowering Plants		
Callicarpa ampla (capa rosa).	Jose Cruz Burgos, *caribbean_es@fws.gov,* 787–851–7297.	Endangered	Puerto Rico	57 FR 14782; 4/22/1992.	USFWS, Road 301, Km 5.1, P.O. Box 491, Boquerón, PR 00622.
Euphorbia telephioides (telephus spurge).	Vivian Negron-Ortiz, *panamacity@fws.gov,* 850–769–0552.	Threatened	Florida	51 FR 34415; 9/26/1986.	USFWS, 1601 Balboa Ave., Panama City, FL 32405.
Ilex sintenisii (no common name).	Jose Cruz Burgos, *caribbean_es@fws.gov,* 787–851–7297.	Endangered	Puerto Rico	57 FR 14782; 4/22/1992.	USFWS, Road 301, Km 5.1, P.O. Box 491, Boquerón, PR 00622.
Lysimachia asperulaefolia (rough leaved loosestrife).	Dale Suiter, *Raleigh_ES@fws.gov,* 919–856–4520.	Endangered	North Carolina, South Carolina	52 FR 22585; 6/12/1987.	USFWS, 551 Pylon Drive, #F, Raleigh, NC 27606.
Silene polypetala (fringed campion).	Michele Elmore, *georgiaes@fws.gov,* 706–613–9493.	Endangered	Florida, Georgia	56 FR 1932; 1/18/1991.	USFWS, 355 East Hancock Ave., Room 320, Athens, GA 30601.
Scutellaria montana (large-flowered skullcap).	Geoff Call, *cookeville@fws.gov,* 931–528–6481.	Threatened	Georgia, Tennessee	67 FR 1662; 1/14/2002.	USFWS, 446 Neal Street, Cookeville, TN 38501.
Styrax portoricensis (palo de jazmin).	Jose Cruz Burgos, *caribbean_es@fws.gov,* 787–851–7297.	Endangered	Puerto Rico	57 FR 14782; 4/22/1992.	USFWS, Road 301, Km 5.1, P.O. Box 491, Boquerón, PR 00622.
Ternstroemia luquillensis (palo colorado).	Jose Cruz Burgos, *caribbean_es@fws.gov,* 787–851–7297.	Endangered	Puerto Rico	57 FR 14782; 4/22/1992.	USFWS, Road 301, Km 5.1, P.O. Box 491, Boquerón, PR 00622.
Ternstroemia subsesselis (no common name).	Jose Cruz Burgos, *caribbean_es@fws.gov,* 787–851–7297.	Endangered	Puerto Rico	57 FR 14782; 4/22/1992.	USFWS, Road 301, Km 5.1, P.O. Box 491, Boquerón, PR 00622.

Common name/ scientific name	Contact person, email, phone	Status (endangered or threatened)	States where the species is known to occur	Final listing rule (**Federal Register** citation and publication date)	Contact's mailing address
Trillium reliquum (relict trillium).	Peter Maholland, *georgiaes@fws.gov,* 706–613–9493.	Endangered	Alabama, Georgia, South Carolina.	53 FR 10789; 4/4/1988.	USFWS, 355 East Hancock Ave., Room 320, Athens, GA 30601.

What information do we consider in our review?

A 5-year review considers the best scientific and commercial data that have become available since the current listing determination or most recent status review of each species, such as:

A. Species biology, including, but not limited to, population trends, distribution, abundance, demographics, and genetics;

B. Habitat conditions, including, but not limited to, amount, distribution, and suitability;

C. Conservation measures that have been implemented to benefit the species;

D. Threat status and trends (see the five factors under **How do we determine whether a species is endangered or threatened?**); and

E. Other new information, data, or corrections, including, but not limited to, taxonomic or nomenclatural changes, identification of erroneous information contained in the Lists of Endangered and Threatened Wildlife and Plants, and improved analytical methods.

We request any new information concerning the status of any of these 25 species. Information submitted should be supported by documentation such as maps; bibliographic references; methods used to gather and analyze the data; and/or copies of any pertinent publications, reports, or letters by knowledgeable sources.

We may conduct a species status assessment (SSA) for some of these species. An SSA is a biological risk assessment to aid decision makers who must use the best available scientific information to make policy decisions or recommendations under the ESA. The SSA provides decision makers with a scientifically rigorous characterization of a species' status, and of the likelihood that the species will sustain populations, along with key uncertainties in that characterization. It presents a compilation of the best available information on a species, as well as its ecological needs, based on environmental factors. An SSA also describes the current condition of the species' habitat and demographics, and probable explanations for past and ongoing changes in abundance and distribution within the species' range. Finally, it forecasts the species' response to probable future scenarios of environmental conditions and conservation efforts. Overall, an SSA uses the conservation biology principles of resiliency, redundancy, and representation (collectively known as the ''3 Rs'') to evaluate the current and future condition of the species. As a result, the SSA characterizes a species' ability to sustain populations in the wild over time based on the best scientific understanding of current and future abundance and distribution within the species' ecological settings.

Definitions

A. *Species* means any species or subspecies of fish, wildlife, or plant, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.

B. *Endangered* means any species that is in danger of extinction throughout all or a significant portion of its range.

C. *Threatened* means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

How do we determine whether a species is endangered or threatened?

Section 4(a)(1) of the ESA requires that we determine whether a species is endangered or threatened based on one or more of the following five factors:

A. The present or threatened destruction, modification, or curtailment of its habitat or range;

B. Overutilization for commercial, recreational, scientific, or educational purposes;

C. Disease or predation;

D. The inadequacy of existing regulatory mechanisms; or

E. Other natural or manmade factors affecting its continued existence.

Request for New Information

To do any of the following, contact the person associated with the species you are interested in under the table in **Which species are under review?**, above:

A. To get more information on a species;

B. To submit information on a species; or

C. To review information we receive, which will be available for public inspection by appointment, during normal business hours, at the listed addresses.

Public Availability of Comments

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the offices where the comments are submitted. Comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Availability of Status Reviews

All completed status reviews under the ESA are available via the Service website, at *https://www.fws.gov/endangered/species/us-species.html.*

Authority

This document is published under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: December 18, 2019.

Mike Oetker,

Acting Regional Director, Southeast Region.

[FR Doc. 2020–06223 Filed 3–24–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR–2011–0008; DS63644000 DR2000000.CH7000 190D1113RT; OMB Control Number 1012–0006]

Agency Information Collection Activities: Suspensions Pending Appeal and Bonding

AGENCY: Office of the Secretary, Office of Natural Resources Revenue, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Office of Natural Resources Revenue (ONRR) is proposing to renew an information collection. Through this Information Collection Renewal (ICR), ONRR seeks renewed authority to collect information related to the paperwork requirements under 30 CFR part 1243 to post a surety or bond, or demonstrate financial solvency.

DATES: Submit written comments on or before May 26, 2020

ADDRESSES: You may submit comments on this ICR to ONRR through the following three methods: (Please use ''ICR 1012–0006'' as an identifier in your comment).

1. Electronically go to *http://www.regulations.gov.* In the entry titled ''Enter Keyword or ID,'' enter ''ONRR–2012–0006'' and then click ''Search.'' Follow the instructions to submit public comments. ONRR will post all comments.

2. Email comments to Mr. Luis Aguilar, Regulatory Specialist, at *Luis.Aguilar@onrr.gov.*

3. Hand-carry or mail comments to ONRR by using an overnight courier service. Our courier address is Building 85, MS 64400B, Denver Federal Center, West 6th Ave. and Kipling St., Denver, Colorado 80225.

FOR FURTHER INFORMATION CONTACT: For questions on technical issues, contact Ms. Kimberly Werner, Financial Services, ONRR, at (303) 231–3801 or email to *Kimberly.Werner@onrr.gov.* For other questions, contact Mr. Luis Aguilar, at (303) 231–3418, or email to *Luis.Aguilar@onrr.gov.* You may also contact Mr. Aguilar to obtain copies of the ICR and the regulations requiring ONRR to collect the information. There is no cost to request copies of these documents.

SUPPLEMENTARY INFORMATION: In accordance with the PRA, ONRR provides the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continued information collections. This helps ONRR assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand ONRR's information collection requirements and provide the requested data in the desired format.

ONRR publishes this notice to elicit comments on the proposed ICR. ONRR is especially interested in public comment addressing the following issues mentioned in the Office of Management and Budget (OMB) regulations at 5 CFR 1320.8(d)(1): (1) Is the collection necessary to perform the proper functions of ONRR; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might ONRR enhance the quality, utility, and clarity of the information to be collected; and (5) how might ONRR 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. ONRR will post all comments, including names and addresses of respondents at *http://www.regulations.gov.* ONRR will include or summarize each comment in our request to OMB to approve this ICR. Before including your Personally Identifiable Information (PII), such as your address, phone number, email address, or other personal identifying information in your comment(s), you should be aware that your entire comment, including PII, may be made available to the public at any time. While you can ask ONRR, in your comment, to withhold your PII from public view, ONRR cannot guarantee that it will be able to do so. ONRR will post the ICR at *https://www.onrr.gov/Laws_R_D/FRNotices/ICR0122.htm.*

Abstract

The Secretary of the United States Department of the Interior is responsible for mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). Under various laws, the Secretary's responsibility is to (1) manage mineral resource production, (2) collect royalties and other mineral revenues due, and (3) disburse the funds collected. ONRR posted the laws pertaining to mineral leases on Federal and Indian lands and the OCS at *http://www.onrr.gov/Laws_R_D/PubLaws/default.htm.*

The Secretary also has a trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. ONRR performs the minerals revenue management functions for the Secretary and assists the Secretary in carrying out the Department's trust responsibility for Indian lands.

General Information

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share in an amount or value of production from the leased lands. The lessee or its designee must report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling such minerals.

If ONRR determines that a lessee did not properly report or pay, it may issue orders, notices of noncompliance, and civil penalty notices to compel corrective reporting, payment, or both. Lessees have a right to appeal ONRR's determinations.

Information Collections

Regulations under 30 CFR part 1243 govern the submission of appropriate surety instruments to suspend compliance with orders or decisions and to stay the accrual of civil penalties (if the Office of Hearings and Appeals grants a lessee's petition to stay accrual of civil penalties) pending administrative appeal for Federal and Indian leases. For Federal oil and gas leases, under 30 U.S.C. 1724(l) and its implementing regulations under 30 CFR part 1243, an appellant requesting a suspension without providing a surety must submit information to demonstrate financial solvency. This ICR covers the burden hours associated with submitting financial statements and surety instruments required to stay an ONRR order, decision, or accrual of civil penalties.

Stay of Payment Pending Appeal

Title 30 CFR 1243.1 states that lessees or recipients of ONRR orders may suspend compliance with an order if they appeal under 30 CFR part 1290. Pending appeal, ONRR may suspend the payment requirement if the appellant submits a formal agreement of payment in the case of default, such as a bond or other surety; for Federal oil and gas leases, the appellant may alternatively demonstrate financial solvency. If the Office of Hearings and Appeals grants a lessee's, or other recipient of a notice of noncompliance or civil penalty notice, request to stay the accrual of civil penalties under 30 CFR 1241.55(b)(2)

and 1241.63(b)(2), the lessee or other recipient must post a bond or other surety. For Federal oil and gas leases, the appellant may alternatively demonstrate financial solvency.

ONRR accepts the following surety types: form ONRR–4435, Administrative Appeal Bond; form ONRR–4436, Letter of Credit; form ONRR–4437, Assignment of Certificate of Deposit; Self-bonding; and U.S. Treasury Securities.

When an appellant selects one of the surety types and puts it in place, the appellant must maintain the surety until the appeal's completion. If the appeal is decided in favor of the appellant, ONRR will return the surety to the appellant. If the appeal is decided in favor of ONRR, then ONRR will take action to collect the total amount due or draw down on the surety. ONRR will draw down on a surety if the appellant fails to comply with requirements relating to the amount due, timeframe, or surety submission or resubmission. Whenever ONRR draws down on a surety, it reduces the total amount due, which is defined as the unpaid principal plus the interest accrued to the projected receipt date of the surety payment. Appellants may refer to the Surety Instrument Posting Instructions, available on our website at *http://www.onrr.gov/compliance/appeals.htm.*

Forms and Other Surety Types

A. Form ONRR–4435, Administrative Appeal Bond

An appellant may file form ONRR–4435, Administrative Appeal Bond, which ONRR uses to secure the financial interests of the public and Indian lessors during the entire administrative and judicial appeal processes. Under 30 CFR 1243.4, an appellant is required to submit its contact and surety amount information on the bond to obtain the benefit of suspension of an obligation to comply with an order. The bond must be issued by a qualified surety company that the U.S. Department of the Treasury approves (see Department of the Treasury Circular No. 570, revised periodically in the **Federal Register**). ONRR's Director, or the delegated bond-approving officer, maintains the bonds in a secure facility. After an appeal's conclusion, ONRR may release and return the bond to the appellant or collect payment on the bond. If collection is necessary for a remaining balance, ONRR will issue a demand for payment to the surety company with a notice to the appellant. ONRR will also include all interest accrued on the affected receivable.

B. Form ONRR–4436, Letter of Credit

An appellant may choose to file form ONRR–4436, Letter of Credit, with no modifications. Requirements under 30 CFR 1243.4 continue to apply. ONRR's Director, or the delegated bond-approving officer, maintains the Letter of Credit (LOC) in a secure facility. The appellant is responsible for verifying that the bank provides a current Fitch rating to ONRR. After the appeal's conclusion, ONRR may release and return the LOC to the appellant or collect payment on the LOC. If collection is necessary for a remaining balance, ONRR will issue a demand for payment that includes the principal amount plus the interest assessed on the receivable, to the bank with a notice to the appellant.

C. Form ONRR–4437, Assignment of Certificate of Deposit

An appellant may choose to secure a debt by requesting to use a Certificate of Deposit (CD) from a bank with the required minimum rating and submitting form ONRR–4437, Assignment of Certificate of Deposit. Requirements under 30 CFR 1243.4 continue to apply. The appellant must file the request with ONRR prior to the invoice due date. ONRR will accept a book-entry CD that explicitly assigns the CD to ONRR's Director. If collection of the CD is necessary for an unpaid balance, ONRR will return unused CD funds to the appellant after total settlement of the appealed issues, including applicable interest charges.

D. Self-Bonding

For Federal oil and gas leases, regulations under 30 CFR 1243.201 provide that no surety instrument is required when a person representing the appellant periodically demonstrates, to the satisfaction of ONRR, that the guarantor or appellant is financially solvent or otherwise able to pay the obligation. The appellant must submit a written request to ''self-bond'' every time a new appeal is filed. To evaluate the financial solvency and exemption from requirements of appellants to maintain a surety related to an appeal, ONRR requires appellants to submit a consolidated balance sheet, subject to annual audit. In some cases, ONRR also requires copies of the most recent tax returns (up to three years) filed by the appellant.

In addition, an appellant must annually submit financial statements, subject to annual audit, to support its net worth. ONRR uses the consolidated balance sheet or business information supplied to evaluate the financial solvency of a lessee, designee, or payor seeking a stay of payment obligation pending review. If the appellant does not have a consolidated balance sheet documenting its net worth, or if it does not meet the $300 million net worth requirement, ONRR selects a business information or credit reporting service to provide information concerning the appellant's financial solvency. ONRR charges the appellant a $50 fee each time it reviews data from a business information or credit reporting service. The fee covers ONRR's cost to determine an appellant's financial solvency.

E. U.S. Treasury Securities

An appellant may choose to secure its debts by requesting to use a U.S. Treasury Security (TS). The appellant must file the letter of request with ONRR prior to the invoice due date. The TS must be a U.S. Treasury note or bond with maturity equal to or greater than one year. The TS must equal 120 percent of the appealed amount plus 1 year of estimated interest (necessary to protect ONRR against interest rate fluctuations). ONRR only accepts book-entry TS.

OMB Approval

ONRR is requesting OMB's approval to continue to collect this information. Not collecting this information would limit the Secretary's ability to discharge the duties of the office and may result in loss of royalty and other payments. Proprietary information submitted to ONRR under this collection is protected, and there are no questions of a sensitive nature included in this information collection. A response is mandatory in order to suspend compliance with an order pending appeal.

Data

Title: Suspensions Pending Appeal and Bonding.

OMB Control Number: 1012–0006.

Bureau Form Numbers: Forms ONRR–4435, ONRR–4436, and ONRR–4437.

Frequency: Annually and on occasion.

Estimated Number and Description of Respondents: 105 Federal or Indian appellants.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 210 hours.

The following table shows the estimated annual burden hours by CFR section and paragraph. ONRR has not included in its estimates certain requirements performed in the normal course of business and considered usual and customary.

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS

Citation 30 CFR part 1243	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
1243.4(a)(1); 1243.6; 1243.7(a); 1243.8(a)(2) and (b)(2); 1243.101(b); 1243.202(c).	How do I suspend compliance with an order? (a) If you timely appeal an order, and if that order or portion of that order: (1) Requires you to make a payment, and you want to suspend compliance with that order, you must post a bond or other surety instrument or demonstrate financial solvency * * *.	2	40 (surety instruments: Forms ONRR–4435, ONRR–4436, ONRR–4437, or TS).	80
1243.200(a) and (b); 1243.201(c)(1), (c)(2)(i) and (c)(2)(ii) and (d)(2).	How do I demonstrate financial solvency? ..... (a) To demonstrate financial solvency under this part, you must submit an audited consolidated balance sheet, and, if requested by the ONRR bond-approving officer, up to 3 years of tax returns to the ONRR, * * *.			
	(b) You must submit an audited consolidated balance sheet annually, and, if requested, additional annual tax returns on the date ONRR first determined that you demonstrated financial solvency as long as you have active appeals, or whenever ONRR requests. * * *.	2	65 self-bonding submissions.	130
Total burden	.....	.....	105	210

Estimated Annual Reporting and Recordkeeping ''Non-hour'' Cost Burden: There are no additional recordkeeping costs associated with this information collection. However, ONRR estimates 5 appellants per year will pay a $50 fee to obtain credit data from a business information or credit reporting service, which is a total ''non-hour'' cost burden of $250 per year (5 appellants per year × $50 = $250).

Public Disclosure Statement: The PRA (44 U.S.C. 3501 *et seq.*) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Request for Comments

Section 3506(c)(2)(A) of the PRA requires each agency to ''* * * provide 60-day notice in the **Federal Register** * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information* * *.'' Agencies must specifically solicit comments to: (1) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, usefulness, and clarity of the information that ONRR collects; and (4) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

The PRA also requires agencies to estimate the total annual reporting ''non-hour cost'' burden to respondents or record-keepers resulting from the collection of information. If you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods that you use to estimate (1) major cost factors, including system and technology acquisition, (2) expected useful life of capital equipment, (3) discount rate(s), and (4) the period over which you incur costs. Capital and startup costs include, among other items: Computers and software that you purchase to prepare for collecting information; monitoring, sampling, and testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Federal government; or (iv) as part of customary and usual business or private practices.

ONRR will summarize written responses to this notice and address them in its ICR submission for OMB approval, including appropriate adjustments to the estimated burden. ONRR will provide a copy of the ICR to you without charge upon request. ONRR also will post the ICR at *http://www.onrr.gov/Laws_R_D/FRNotices/ICR0122.htm.*

Public Comment Policy

ONRR will post all comments, including names and addresses of respondents at *http://www.regulations.gov.* Before including Personally Identifiable Information (PII), such as your address, phone number, email address, or other personal information in your comment(s), you should be aware that your entire comment (including PII) may be made available to the public at any time. While you may ask ONRR in your comment to withhold PII from public view, ONRR cannot guarantee that it will be able to do so.

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.

(Authority: Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*)

Kimbra G. Davis,

Director, Office of Natural Resources Revenue.

[FR Doc. 2020–06207 Filed 3–24–20; 8:45 am]

BILLING CODE 4335–30–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–415 and 731–TA–933–934 (Third Review)]

Polyethylene Terephthalate (PET) Film From India and Taiwan; Scheduling of Full Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty and countervailing duty orders on polyethylene terephthalate (pet) film from India and Taiwan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: March 18, 2020.

FOR FURTHER INFORMATION CONTACT: Charles Cummings (202–(202) 708–1666), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On October 4, 2019, the Commission determined that it should proceed to full reviews in the subject five-year reviews (84 FR 67960, December 12, 2019); accordingly, full reviews are being scheduled pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's website.

Participation in the reviews and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the reviews will be placed in the nonpublic record on June 24, 2020, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on Thursday, July 16, 2020, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before July 8, 2020. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on July 10, 2020, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is July 2, 2020. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is July 23, 2020. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before July 23, 2020. On August 18, 2020, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 20, 2020, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a

document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: March 19, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–06199 Filed 3–24–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–643 and 731–TA–1493 (Preliminary)]

Small Vertical Shaft Engines From China; Institution of Anti-Dumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701–TA–643 and 731–TA–1493 (Preliminary) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of small vertical shaft engines from China, provided for in subheadings 8407.90.10, 8409.91.99, 8433.11.00, 8424.30.90, and 8407.90.90, of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of China. Unless the Department of Commerce (''Commerce'') extends the time for initiation, the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by May 4, 2020. The Commission's views must be transmitted to Commerce within five business days thereafter, or by May 11, 2020.

DATES: March 18, 2020.

FOR FURTHER INFORMATION CONTACT: Charles Cummings ((202) 708–1666), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to a petition filed on March 18, 2020, by Briggs & Stratton Corporation, Wauwatosa, Wisconsin.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—As the Commission proceeds with alternative solutions during the COVID–19 pandemic, the Commission is not holding in-person Title VII (antidumping and countervailing duty) preliminary phase staff conferences at the U.S. International Trade Commission Building. It is providing an opportunity for parties to provide opening remarks, witness testimony, and responses to staff questions through written submissions. Requests to participate in these written proceedings should be emailed to *preliminaryconferences@usitc.gov* (DO NOT FILE ON EDIS) on or before April 1, 2020. A nonparty who has testimony that may aid the Commission's deliberations may request permission to participate by submitting a short statement.

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before April 13, 2020, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their participation in the written proceedings described above. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these investigations must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that any information that it submits to the Commission during these investigations 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 these or related investigations or reviews, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: March 20, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–06240 Filed 3–24–20; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number: 1110–0070]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of an Existing Collection in Use Credit Card Payment Form (1–786)

AGENCY: Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Criminal Justice Information Services (CJIS) Division will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: The Department of Justice encourages public comment and will accept input until April 24, 2020.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Gerry Lynn Brovey, Supervisory Information Liaison Specialist, Federal Bureau of Investigation, Criminal Justice Information Services Division, 1000 Custer Hollow Road; Clarksburg, WV 26306; phone: 304–625–4320 or email *glbrovey@fbi.gov.* Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Credit Card Payment Form.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is 1–786, the applicable component within the Sponsoring component: Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division.

4. *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals. This collection is necessary for individuals to submit payment to receive a copy of their personal identification record.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Annually, the FBI receives 25,000 credit card payment forms, therefore there are 25,000 respondents. The form requires 3.5 minutes to complete.

6. *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 1,458 total annual burden hours associated with this collection.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Suite 3E.405B, Washington, DC 20530.

Dated: March 20, 2020.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2020–06242 Filed 3–24–20; 8:45 am]

BILLING CODE 4410–AT–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0048]

Proposed Extension of Information Collection; Respirator Program Records

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

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 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. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Respirator Program Records.

DATES: All comments must be received on or before May 26, 2020.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2020–0011.
- *Regular Mail:* Send comments to USDOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452.
- *Hand Delivery:* USDOL–Mine Safety and Health Administration, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

Title 30 CFR 56.5005 and 57.5005 require, whenever respiratory equipment is used, that metal and nonmetal mine operators institute a respirator program governing selection, maintenance, training, fitting, supervision, cleaning, and use of respirators. These standards seek to control miner exposure to harmful airborne contaminants by using engineering controls to prevent contamination and vent or dilute the contaminated air. However, where accepted engineering control measures have not been developed or when necessary by the nature of work involved (for example, while establishing controls or occasional entry into hazardous atmospheres to perform maintenance or investigation), employees may work for reasonable periods of time in concentrations of airborne contaminants exceeding permissible levels if they are protected by appropriate respiratory protective equipment.

Sections 56.5005 and 57.5005 incorporate by reference, requirements of the American National Standards Institute's Practices for Respiratory Protection (ANSI Z88.2–1969). These incorporated requirements mandate that miners who must wear respirators be fit-tested to the respirators that they will use. Certain records are also required to be kept in connection with respirators, including: written standard operating procedures governing the selection and use of respirators; records of the date of issuance of the respirator; and fit-test results.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The information collection request will be available on *http://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov.*

The public may also examine publicly available documents at USDOL–Mine Safety and Health Administration, 201 12th South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This request for collection of information contains provisions for Respirator Program Records. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Revision of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0048.

Affected Public: Business or other for-profit.

Number of Respondents: 350.

Frequency: On occasion.

Number of Responses: 6,300.

Annual Burden Hours: 3,588 hours.

Annual Respondent or Recordkeeper Cost: $140,000.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Sheila McConnell,

Certifying Officer.

[FR Doc. 2020–06221 Filed 3–24–20; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0152]

Proposed Extension of Information Collection; Periodic Medical Surveillance Examinations for Coal Miners

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

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 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. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Periodic

Medical Surveillance Examinations for Coal Miners.

DATES: All comments must be received on or before May 26, 2020.

ADDRESSES: You may submit comment as follows. Please note that late, untimely filed comments will not be considered.

Electronic Submissions: Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments for docket number MSHA–2020–0010.
- Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket, with no changes. Because your comment will be made public, you are 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 your or anyone else's Social Security number or confidential business information.
- 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.

Written/Paper Submissions: Submit written/paper submissions in the following way:

- *Mail/Hand Delivery:* Mail or visit DOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452.
- MSHA will post your comment as well as any attachments, except for information submitted and marked as confidential, in the docket at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal and metal and nonmetal mines.

The Mine Act authorizes the National Institute for Occupational Safety and Health (NIOSH) to study the causes and consequences of coal-related respiratory disease, and in cooperation with MSHA, to carry out a program for early detection and prevention of pneumoconiosis. NIOSH administers the National Coal Workers' Health Surveillance Program, ''Specifications for Medical Examinations of Underground Coal Miners,'' as specified in 42 CFR part 37. Title 30 CFR 72.100 contains collection requirements for these activities in paragraphs (d) and (e).

Section 72.100(d) requires that each mine operator must develop and submit for approval to NIOSH a plan in accordance with 42 CFR part 37 for providing miners with the required periodic examinations specified in section 72.100(a) and a roster specifying the name and current address of each miner covered by the plan.

Section 72.100(e) requires that each mine operator must post on the mine bulletin board at all times the approved plan for providing the examinations specified in section 72.100(a).

Sections 72.100(d) and (e) are requirements that mirror NIOSH information collection requirements under 42 CFR 37.4 (existing OMB No. 0920–0020). Including these requirements allows MSHA to use its inspection and enforcement authority to ensure that operators comply with these provisions.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Background documents related to this information collection request are available at *https://regulations.gov* and in DOL–MSHA located at 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice from the previous collection of information.

III. Current Actions

This information collection request concerns provisions for Periodic Medical Surveillance Examinations for Coal Miners. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request from the previous information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0152.

Affected Public: Business or other for-profit.

Number of Respondents: 1,126.

Frequency: On occasion.

Number of Responses: 1,352.

Annual Burden Hours: 1,051 hours.

Annual Respondent or Recordkeeper Cost: $406.

Comments submitted in response to this notice will be summarized in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and will be available at *https://www.reginfo.gov.*

Sheila McConnell,

Certifying Officer.

[FR Doc. 2020–06218 Filed 3–24–20; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0034]

Proposed Extension of Information Collection; Records of Tests and of Examinations of Personnel Hoisting Equipment

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

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 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. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Records of Tests and of Examinations of Personnel Hoisting Equipment.

DATES: All comments must be received on or before May 26, 2020.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2020–0012.
- *Regular Mail:* Send comments to USDOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452.
- *Hand Delivery:* USDOL–Mine Safety and Health Administration, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

Under Title 30 of the Code of Federal Regulations (CFR), MSHA has requirements that address hoists and appurtenances, including wire rope, used for hoisting persons. The requirements address both metal and nonmetal surface and underground mines (30 CFR parts 56 and 57); and underground coal and surface work areas of underground coal mines (30 CFR parts 75 and 77).

Sections 56/57.19022 and 75/77.1432 requires the diameter of newly installed wire rope to be measured at least once in every third interval of the rope's active length to establish a baseline for subsequent semiannual measurements. A record of the measurements is required to be made and retained until the rope is retired from service.

Sections 56/57.19023 and 75/77.1433 require the wire rope to be visually examined at least every fourteen days for visible structural damage, corrosion, and improper lubrication or dressing. If the examination reveals weakening portions of the rope, the weakened portions must be monitored daily for further deterioration until retirement criteria require that the rope be removed from service. The person conducting the examination must certify that the examination was made and the record must be retained for one year.

Sections 56/57.19121 requires the person conducting the inspection, test or examination of hoisting equipment certify that these activities have been done. Any unsafe conditions must be noted in a record and dated. All certifications and records must be retained for one year.

Section 75.1400–2 requires a record to be made of tests conducted on safety catches. Safety catches are the last means to stop, safely, a falling conveyance in the event of rope or equipment failure.

Sections 75.1400–4 and 77.1404 require a record to be made of each daily examination. If any unsafe condition is found during the examination, the person conducting the examination must make a record of the condition. All certifications and records must be retained for one year.

Section 77.1906 requires a daily examination of hoists used for shaft sinking. If any unsafe condition is found during the examination, the person conducting the examination must make a record of the condition. All certifications and records must be retained for one year.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The information collection request will be available on *http://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov.*

The public may also examine publicly available documents at USDOL–Mine Safety and Health Administration, 201 12th South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This request for collection of information contains provisions for Records of Tests and of Examinations of Personnel Hoisting Equipment. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0034.

Affected Public: Business or other for-profit.

Number of Respondents: 225.

Frequency: On occasion.

Number of Responses: 61,366.

Annual Burden Hours: 5,133 hours.

Annual Respondent or Recordkeeper Cost: $270,000.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the

information collection request; they will also become a matter of public record.

Sheila McConnell,

Certifying Officer.

[FR Doc. 2020–06219 Filed 3–24–20; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0089]

Proposed Extension of Information Collection; Safety Defects; Examination, Correction, and Records

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

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 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. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Safety Defects; Examination, Correction, and Records.

DATES: All comments must be received on or before May 26, 2020.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2019–0050.
- *Regular Mail:* Send comments to USDOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452.
- *Hand Delivery:* USDOL–Mine Safety and Health Administration, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal and metal and nonmetal mines.

This Information Collection Request concerns recordkeeping requirements related to: (1) Inspection of compressed-air receivers and other unfired pressure vessels, (2) Boilers, (3) Safety defects; examination, correction and records, and (4) Examination of working places.

Under sections 56.13015 and 57.13015 of title 30, Code of Federal Regulations (CFR), compressed-air receivers and other unfired pressure vessels must be inspected by inspectors holding a valid National Board Commission and in accordance with the applicable chapters of the National Board Inspection Code, a Manual for Boiler and Pressure Vessels Inspectors, 1979. Safety defects found on compressed-air receivers and other unfired pressure vessels have caused injuries and fatalities in the mining industry.

Records of inspections must be kept in accordance with the requirements of the National Board Inspection Code and the records must be made available to the Secretary or an authorized representative.

Under sections 56.13030 and 57.13030 of title 30 CFR, fired pressure vessels (boilers) must be equipped with water level gauges, pressure gauges, automatic pressure-relief valves, blowdown piping and other safety devices approved by the American Society of Mechanical Engineers to protect against hazards from overpressure, flameouts, fuel interruptions and low water level.

Records of inspection and repairs must be retained by the mine operator in accordance with the requirements of the ASME Boiler and Pressure Vessel Code, 1977, and the National Board Inspection Code (progressive records—no limit on retention time) and shall be made available to the Secretary or an authorized representative.

Under sections 56.14100 and 57.14100, operators must inspect equipment, machinery, and tools that are to be used during a shift for safety defects before the equipment is placed in operation. Defects affecting safety are required to be corrected in a timely manner. In instances where the defect makes continued operation of the equipment hazardous to persons, the equipment must be removed from service, tagged to identify that it is out of use, and repaired before use is resumed.

Safety defects on self-propelled mobile equipment account for many injuries and fatalities in the mining industry. Inspection of this equipment prior to use is required to ensure safe operation. The equipment operator is required to make a visual and operational check of the various primary operating systems that affect safety, such as brakes, lights, horn, seatbelts, tires, steering, back-up alarm, windshield, cab safety glass, rear and side view mirrors, and other safety and health related items.

Any defects found are required to be either corrected immediately, or reported to and recorded by the mine operator prior to the timely correction. The precise format in which the record is kept is left to the discretion of the mine operator. Reports of uncorrected defects are required to be recorded by the mine operator and kept at the mine office from the date the defects are recorded, until the defects are corrected.

Under sections 56.18002 and 57.18002 of title 30 CFR, a competent person designated by the operator shall examine each working place at least once each shift before miners begin work in that place, for conditions that may adversely affect safety or health. A record of each examination must be made before the end of the shift for which the examination was conducted. The record must contain the name of the person conducting the examination; the date of the examination; location of all areas examined; and description of each condition found that may adversely affect the safety or health of miners. When a condition that may adversely affect safety or health is corrected, the examination record shall include, or be supplemented to include, the date of the corrective action. The operator must maintain the examination records for at least one year, make the records available for inspection by authorized representatives of the Secretary and the representatives of miners, and provide these representatives a copy on request.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The information collection request will be available on *http://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov.*

The public may also examine publicly available documents at USDOL–Mine Safety and Health Administration, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This request for collection of information contains recordkeeping provisions for 30 CFR 56/57.13015, 56/57.13030, 56/57.14100, and 56/57.18002. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0089.

Affected Public: Business or other for-profit.

Number of Respondents: 12,280.

Frequency: On occasion.

Number of Responses: 4,101,012.

Annual Burden Hours: 881,963 hours.

Annual Respondent or Recordkeeper Cost: $215,299.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Sheila McConnell,

Certifying Officer.

[FR Doc. 2020–06220 Filed 3–24–20; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (20–037)]

Notice of Intent To Grant Partially Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant partially exclusive patent license.

SUMMARY: NASA hereby gives notice of its intent to grant a partially exclusive patent license in the United States to practice the invention described and claimed in U.S. Patent Application entitled, ''Disruptive Tuned Mass System and Method'', MFS–33317–1, to Linc Research, Inc., having its principal place of business in Huntsville, AL. The fields of use will be limited to smokestacks, helicopters, and jitter dampers. The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. NASA has not yet made a determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

DATES: The prospective partially exclusive license may be granted unless NASA receives written objections, including evidence and argument no later than April 9, 2020 that establish that the grant of the license would not be consistent with the requirements regarding the licensing of federally owned inventions as set forth in the Bayh-Dole Act and implementing regulations. Competing applications completed and received by NASA no later than April 9, 2020 will also be treated as objections to the grant of the contemplated partially exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act.

ADDRESSES: Objections relating to the prospective license may be submitted to James J. McGroary, Chief Patent counsel/LS01, NASA Marshall Space Flight Center, Huntsville, AL 35812, (256) 544–0013. Email *james.j.mcgroary@nasa.gov.*

FOR FURTHER INFORMATION CONTACT: Cory S. Efird, Technology Transfer Branch/ST22, NASA Marshall Space Flight Center, Huntsville, AL 35812, (256) 617–0237. Email *cory.efird@nasa.gov.*

SUPPLEMENTARY INFORMATION: This notice of intent to grant a partially exclusive patent license is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective co-exclusive license will comply with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

Helen M. Galus,

Agency Counsel for Intellectual Property.

[FR Doc. 2020–06236 Filed 3–24–20; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (20–036)]

National Space Council Users' Advisory Group; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting postponement.

SUMMARY: In accordance with the Federal Advisory Committee Act, the National Aeronautics and Space Administration (NASA) announces that the planned meeting on March 30, 2020, of the National Space Council Users' Advisory Group (UAG) is being postponed until further notice.

SUPPLEMENTARY INFORMATION: This meeting was announced in the **Federal Register** on March 18, 2020 (see reference below). The postponement of this meeting is due to scheduling issues of the key participants. NASA will announce the new dates for this meeting in a future **Federal Register** notice. REF: **Federal Register**/Vol. 85, No. 53/

Wednesday, March 18, 2020/Notices; page 15504.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2020–06228 Filed 3–24–20; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–341–LA; ASLBP No. 20–966–02–LA–BD01]

DTE Electric Company; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission, *see* 37 FR 28,710 (Dec. 29, 1972), and the Commission's regulations, *see, e.g.,* 10 CFR 2.104, 2.105, 2.300, 2.309, 2.313, 2.318, 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding:

DTE Electric Company

(Fermi 2)

This proceeding involves a challenge to an application by DTE Electric Company for a license amendment to the operating license for the Fermi 2 nuclear reactor located in Monroe County, Michigan. The requested amendment would, *inter alia,* eliminate a license renewal condition to replace spent fuel pool storage racks containing Boraflex based on a proposal to install neutron absorbing inserts. In response to a notice filed in the **Federal Register**, *see* 85 FR 728, 731 (Jan. 7, 2020), Citizens' Resistance at Fermi 2 (CRAFT) filed a petition to intervene. *See* Petition of [CRAFT] For Leave to Intervene and For a Hearing Request to Invalidate a License Extension Condition by a License Amendment Request (Mar. 9, 2020).

The Board is comprised of the following administrative judges:

Paul S. Ryerson, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

Dr. Sue H. Abreu, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

Dr. Gary S. Arnold, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing rule. *See* 10 CFR 2.302.[1]

Dated: March 19, 2020, in Rockville, Maryland.

E. Roy Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 2020–06225 Filed 3–24–20; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88428; File No. SR–BX–2020–004]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 4121(b)

March 19, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 19, 2020, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 4121(b) concerning the resumption of trading following a Level 3 market-wide circuit breaker halt.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqbx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] In its memorandum referring CRAFT's Petition to Intervene to the Atomic Safety and Licensing Board Panel for appropriate action in accordance with 10 CFR 2.346(i), the Office of the Secretary stated:

The petition includes some discussion of the criteria and proposed NRC staff findings regarding a no significant hazards consideration determination. As stated in 10 CFR 50.58(b)(6), no petition or other request for review of, or hearing on, the staff's no significant hazards consideration determination will be entertained by the Commission. Accordingly, this referral memorandum is not to be construed as reflecting a determination that CRAFT is entitled to a review of, or hearing on, the staff's no significant hazards consideration determination.

Memorandum from Annette L. Vietti-Cook to E. Roy Hawkens (Mar. 18, 2020).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 4121(b) concerning the resumption of trading following a Level 3 market-wide circuit breaker halt. The Exchange is proposing this rule change in conjunction with other national securities exchanges and the Financial Industry Regulatory Authority (''FINRA'').

Rule 4121 provides a methodology for determining when to halt trading in all stocks due to extraordinary market volatility (*i.e.,* market-wide circuit breakers). The market-wide circuit breaker (''MWCB'') mechanism under Rule 4121 was approved by the Commission to operate on a pilot basis, the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the ''LULD Plan''),[3] including any extensions to the pilot period for the LULD Plan.[4] The Commission recently approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis.[5] In light of the proposal to make the LULD Plan permanent, the Exchange amended Rule 4121 to untie the pilot's effectiveness from that of the LULD Plan and to extend the pilot's effectiveness to the

[3] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). The LULD Plan provides a mechanism to address extraordinary market volatility in individual securities.

[4] *See* Securities Exchange Act Release Nos. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BX–2011–068) (Approval Order); and 68815 (February 1, 2013), 78 FR 9752 (February 11, 2013) (SR–BX–2013–009) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Delay the Operative Date of a Rule Change to Exchange Rule 4121).

[5] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019).

close of business on October 18, 2019.[6] The Exchange then filed to extend the pilot for an additional year to the close of business on October 18, 2020.[7]

The market-wide circuit breaker under Rule 4121 provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA adopted uniform rules on a pilot basis relating to market-wide circuit breakers in 2012 (''MWCB Rules''), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.[8] Market-wide circuit breakers provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index.

Pursuant to Rule 4121, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. ET and before 3:25 p.m. ET would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. ET would not halt market-wide trading. A market decline that triggers a Level 3 halt, at any time during the trading day, would halt market-wide trading until the primary listing market opens the next trading day.

Today, in the event that a Level 3 market decline occurs, the Exchange would halt trading for the remainder of the trading day, and would not resume until the primary listing market opens the next trading day, which time may currently vary depending on the primary listing market. For example, if the primary listing market is the New York Stock Exchange (''NYSE''), NYSE would resume trading in its listed securities at 9:30 a.m. Eastern Time (''ET''), and the Exchange would not be able to resume trading during its Pre-Market Session.[9] Alternatively, if the primary listing market is the Nasdaq Stock Market LLC (''Nasdaq''), Nasdaq would resume trading in its listed securities at 4:00 a.m. ET on the next trading day, and therefore, the Exchange could resume trading at the commencement of its Pre-Market Session.[10]

Upon feedback from industry participants, the Exchange has been working with other national securities exchanges and FINRA to establish a standardized approach for resuming trading in all NMS Stocks following a Level 3 halt. The proposed approach would allow for the opening of all securities the next trading day after a Level 3 halt as a regular trading day, and is designed to ensure that Level 3 MWCB events are handled in a more consistent manner that is transparent for market participants.[11]

As proposed, a Level 3 halt would end at the end of the trading day on which it is declared. This proposed change would allow for next-day trading to resume in all NMS Stocks no differently from any other trading day. In other words, an exchange could resume trading in any security when it first begins trading under its rules and would not need to wait for the primary listing market to re-open trading in a security before it could start trading such security.[12] Accordingly, under the proposal, the Exchange could begin trading all securities at the beginning of the Exchange's Pre-Market Session.

To effect this change, the Exchange proposes to delete the language in Rule 4121(b)(ii) requiring the Exchange to wait until the primary listing exchange opens the next trading day following a Level 3 market decline, and specify that the Exchange will halt trading for the remainder of the trading day.[13] The proposed rule change would therefore allow each exchange to resume trading in all securities the next trading day following a Level 3 halt at whatever time such exchange normally begins trading under its rules, which for the Exchange would be at the beginning of the Pre-Market Session at 7:00 a.m. ET under its current rules. The Exchange also expects that the primary listing exchanges will facilitate this change by sending resume messages to the applicable securities information processor (''SIP'') to lift the Level 3 trading halt message in all securities. The resumption messages will be disseminated after the SIP has started on the next trading day and before the start of the earliest pre-market trading session of all exchanges. If a security is separately subject to a regulatory halt that has not ended, the primary listing exchange would replace the Level 3 halt message with the applicable regulatory halt message.

Having a consistent approach for all securities will make the opening process the day after a Level 3 halt more uniform and reduce complexity, which the Exchange believes is important after a significant market event. Based on industry feedback, the Exchange believes that opening in the normal course in all equity securities will be beneficial to the marketplace. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective rules of each exchange, the proposed rule change would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks and balances out potential concerns around volatility. While the Exchange recognizes that the impact of this proposal is to permit all securities to be traded in the Pre-Market Session, which does not have certain price protections for volatility such as LULD Bands or MWCB protections, the Exchange nonetheless believes that this outcome is outweighed by the benefits provided by opening in the Pre-Market Session in a manner that is more familiar to the marketplace. Moreover, allowing the resumption of trading to occur on the Exchange at the beginning of the Pre-Market Session in all NMS Stocks will allow for price formation to occur earlier in the trading day, which in turn allows market participants to react to news that has developed. As

[6] *See* Securities Exchange Act Release No. 85585 (April 10, 2019), 84 FR 15643 (April 16, 2019) (SR–BX–2019–008).

[7] *See* Securities Exchange Act Release No. 87208 (October 3, 2019), 84 FR 54213 (October 9, 2019) (SR–BX–2019–034).

[8] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129) (''MWCB Approval Order'').

[9] Pre-Market Session means the trading session that begins at 7:00 a.m. and continues until 9:30 a.m. *See* Rule 4120(b)(4).

[10] The Exchange's system begins adding and processing all eligible orders in time priority at 7:00 a.m. *See* Rule 4752(a) for further description of trading in the Pre-Market Session.

[11] Of note, the U.S. futures markets, which have similar rules for coordinated MWCB halts, normally begin their ''next day'' trading session at 6:00 p.m. ET (for CFE and CME) or at 8:00 p.m. ET (for ICE). If the U.S. futures markets amend their MWCB rules, as needed, to allow for normal course trading following a Level 3 halt, the futures markets would resume trading in their normal course at 6:00 p.m. ET (CFE and CME) or 8:00 p.m. ET (ICE) the same day as the Level 3 halt.

[12] The Exchange anticipates that the other national securities exchanges and FINRA will also file similar proposals to amend their MWCB rules on the resumption of trading following Level 3 halts, and amend their rules, where required, to have their Level 3 next-day openings happen normally.

[13] Presently, the Exchange's equities trading day ends at 7:00 p.m. ET. *See* Rule 4701(g).

such, trading at the beginning of regular hours may be more orderly.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The market-wide circuit breaker mechanism under Rule 4121 is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility, and how the markets will resume trading following a Level 3 market decline. As described above, the Exchange, together with other national securities exchanges and FINRA, is seeking to adopt a standardized approach related to resuming trading in NMS Stocks after a Level 3 MWCB halt. In this regard, the Exchange believes that the proposal to resume trading in all securities following a Level 3 halt in the same manner that securities would open trading on a regular trading day (*i.e.,* the beginning of the Pre-Market Session at 7 a.m. ET on BX) will benefit investors, the national market system, Exchange members, and the Exchange market by promoting a fair and orderly market and reducing confusion during a significant cross-market event. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective rules of each exchange, the proposed rule change would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks. Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under Rule 4121 with the proposed standardized process for resuming trading in all securities following a Level 3 halt will promote fair and orderly markets, and protect investors and the public interest.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because the proposed Level 3 rule change described above would standardize the opening process for all securities on the Exchange, which would make the opening process the day after a Level 3 halt more uniform and reduce complexity. Further, the Exchange understands that FINRA and other national securities exchanges will file similar proposals to adopt the proposed Level 3 rule change.[16]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [17] and Rule 19b–4(f)(6) thereunder.[18] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[19]

A proposed rule change filed under Rule 19b–4(f)(6) [20] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[21] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that it approved a substantively similarly proposed rule change submitted by Nasdaq.[22] Waiver of the operative delay will ensure consistency across the market centers and the timely implementation of the proposed rule change. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[23]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [24] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2020–004 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2020–004. This file number should be included on the subject line if email is used. To help the Commission process and review your

[16] *See, e.g.,* Securities Exchange Act Release No. 88360 (March 11, 2020), 85 FR 15240 (March 17, 2020) (SR–NASDAQ–2020–003) (''Nasdaq Proposal'').

[17] 15 U.S.C. 78s(b)(3)(A)(iii).

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived the pre-filing requirement.

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6)(iii).

[22] *See* Securities Exchange Act Release No. 88360 (March 11, 2020) (SR–NASDAQ–2020–003).

[23] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[24] 15 U.S.C. 78s(b)(2)(B).

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–BX–2020–004 and should be submitted on or before April 15, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–06192 Filed 3–24–20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88431; File No. SR–Phlx–2020–11]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Rule 3101(b)

March 19, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 19, 2020, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 3101(b) concerning the resumption of trading following a Level 3 market-wide circuit breaker halt.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 3101(b) concerning the resumption of trading following a Level 3 market-wide circuit breaker halt. The Exchange is proposing this rule change in conjunction with other national securities exchanges and the Financial Industry Regulatory Authority (''FINRA'').

Rule 3101 provides a methodology for determining when to halt trading in all stocks due to extraordinary market volatility (*i.e.,* market-wide circuit breakers). The market-wide circuit breaker (''MWCB'') mechanism under Rule 3101 was approved by the Commission to operate on a pilot basis, the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the ''LULD Plan''),[3] including any extensions to the pilot period for the LULD Plan.[4] The Commission recently approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis.[5] In light of the proposal to make the LULD Plan permanent, the Exchange amended Rule 133 to untie the pilot's effectiveness from that of the LULD Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019.[6] The Exchange then filed to extend the pilot for an additional year to the close of business on October 18, 2020.[7]

The market-wide circuit breaker under Rule 3101 provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA adopted uniform rules on a pilot basis relating to market-wide circuit breakers in 2012 (''MWCB Rules''), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.[8] Market-wide circuit breakers provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index.

Pursuant to Rule 3101, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. ET and before 3:25 p.m. ET would halt market-wide trading for

[25] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012). The LULD Plan provides a mechanism to address extraordinary market volatility in individual securities.

[4] *See* Securities Exchange Act Release Nos. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–Phlx–2011–129) (Approval Order); and 68816 (February 1, 2013), 78 FR 9760 (February 11, 2013) (SR–Phlx–2013–11) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Delay the Operative Date of a Rule Change to Exchange Rule 133).

[5] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019).

[6] *See* Securities Exchange Act Release No. 85579 (April 9, 2019), 84 FR 15258 (April 15, 2019) (SR–Phlx–2019–12).

[7] *See* Securities Exchange Act Release No. 87206 (October 3, 2019), 84 FR 54234 (October 9, 2019) (SR–Phlx–2019–40).

[8] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129) (''MWCB Approval Order'').

15 minutes, while a similar market decline at or after 3:25 p.m. ET would not halt market-wide trading. A market decline that triggers a Level 3 halt, at any time during the trading day, would halt market-wide trading until the primary listing market opens the next trading day.

Today, in the event that a Level 3 market decline occurs, the Exchange would halt trading for the remainder of the trading day, and would not resume until the primary listing market opens the next trading day, which time may currently vary depending on the primary listing market. For example, if the primary listing market is the New York Stock Exchange (''NYSE''), NYSE would resume trading in its listed securities at 9:30 a.m. Eastern Time (''ET''), and the Exchange would not be able to resume trading during its Pre-Market Session.[9] Alternatively, if the primary listing market is the Nasdaq Stock Market LLC (''Nasdaq''), Nasdaq would resume trading in its listed securities at 4:00 a.m. ET on the next trading day, and therefore, the Exchange could resume trading at the commencement of its Pre-Market Session.[10]

Upon feedback from industry participants, the Exchange has been working with other national securities exchanges and FINRA to establish a standardized approach for resuming trading in all NMS Stocks following a Level 3 halt. The proposed approach would allow for the opening of all securities the next trading day after a Level 3 halt as a regular trading day, and is designed to ensure that Level 3 MWCB events are handled in a more consistent manner that is transparent for market participants.[11]

As proposed, a Level 3 halt would end at the end of the trading day on which it is declared. This proposed change would allow for next-day trading to resume in all NMS Stocks no differently from any other trading day. In other words, an exchange could resume trading in any security when it first begins trading under its rules and would not need to wait for the primary listing market to re-open trading in a security before it could start trading such security.[12] Accordingly, under the proposal, the Exchange could begin trading all securities at the beginning of the Exchange's Pre-Market Session.

To effect this change, the Exchange proposes to delete the language in Rule 3101(b)(ii) requiring the Exchange to wait until the primary listing exchange opens the next trading day following a Level 3 market decline, and specify that the Exchange will halt trading for the remainder of the trading day.[13] The proposed rule change would therefore allow each exchange to resume trading in all securities the next trading day following a Level 3 halt at whatever time such exchange normally begins trading under its rules, which for the Exchange would be at the beginning of the Pre-Market Session at 8:00 a.m. ET under its current rules. The Exchange also expects that the primary listing exchanges will facilitate this change by sending resume messages to the applicable securities information processor (''SIP'') to lift the Level 3 trading halt message in all securities. The resumption messages will be disseminated after the SIP has started on the next trading day and before the start of the earliest pre-market trading session of all exchanges. If a security is separately subject to a regulatory halt that has not ended, the primary listing exchange would replace the Level 3 halt message with the applicable regulatory halt message.

Having a consistent approach for all securities will make the opening process the day after a Level 3 halt more uniform and reduce complexity, which the Exchange believes is important after a significant market event. Based on industry feedback, the Exchange believes that opening in the normal course in all equity securities will be beneficial to the marketplace. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective rules of each exchange, the proposed rule change would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks and balances out potential concerns around volatility. While the Exchange recognizes that the impact of this proposal is to permit all securities to be traded in the Pre-Market Session, which does not have certain price protections for volatility such as LULD Bands or MWCB protections, the Exchange nonetheless believes that this outcome is outweighed by the benefits provided by opening in the Pre-Market Session in a manner that is more familiar to the marketplace. Moreover, allowing the resumption of trading to occur on the Exchange at the beginning of the Pre-Market Session in all NMS Stocks will allow for price formation to occur earlier in the trading day, which in turn allows market participants to react to news that has developed. As such, trading at the beginning of regular hours may be more orderly.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The market-wide circuit breaker mechanism under Rule 3101 is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility, and how the markets will resume trading following a Level 3 market decline. As described above, the Exchange, together with other national securities exchanges and FINRA, is seeking to adopt a standardized approach related to resuming trading in NMS Stocks after a Level 3 MWCB halt. In this regard, the Exchange believes that the proposal to resume trading in all securities following a Level 3 halt in the same manner that securities would open trading on a regular trading day (*i.e.,* the beginning of the Pre-Market Session at 8 a.m. ET on the Exchange) will benefit investors, the national market system, Exchange members, and the Exchange market by promoting a fair and orderly market and reducing

[9] Pre-Market Session means the trading session that begins at 8:00 a.m. and continues until 9:30 a.m. *See* Rule 3100(b)(2).

[10] The Exchange's system is opened for order entry and processing at 8:00 a.m. *See* Rule 3302 for further description of trading in the Pre-Market Session.

[11] Of note, the U.S. futures markets, which have similar rules for coordinated MWCB halts, normally begin their ''next day'' trading session at 6:00 p.m. ET (for CFE and CME) or at 8:00 p.m. ET (for ICE). If the U.S. futures markets amend their MWCB rules, as needed, to allow for normal course trading following a Level 3 halt, the futures markets would resume trading in their normal course at 6:00 p.m. ET (CFE and CME) or 8:00 p.m. ET (ICE) the same day as the Level 3 halt.

[12] The Exchange anticipates that the other national securities exchanges and FINRA will also file similar proposals to amend their MWCB rules on the resumption of trading following Level 3 halts, and amend their rules, where required, to have their Level 3 next-day openings happen normally.

[13] Presently, the Exchange's equities trading day ends at 5:00 p.m. ET. *See* Rule 3301(g).

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

confusion during a significant cross-market event. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective rules of each exchange, the proposed rule change would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks. Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under Rule 3101 with the proposed standardized process for resuming trading in all securities following a Level 3 halt will promote fair and orderly markets, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because the proposed Level 3 rule change described above would standardize the opening process for all securities on the Exchange, which would make the opening process the day after a Level 3 halt more uniform and reduce complexity. Further, the Exchange understands that FINRA and other national securities exchanges will file similar proposals to adopt the proposed Level 3 rule change.[16]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[17] and Rule 19b–4(f)(6) thereunder.[18] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[19]

A proposed rule change filed under Rule 19b–4(f)(6)[20] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[21] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it approved a substantively similarly proposed rule change submitted by The Nasdaq Stock Market LLC.[22] Waiver of the operative delay will ensure consistency across the market centers and the timely implementation of the proposed rule change. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[23]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[24] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2020–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2020–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2020–11 and should be submitted on or before April 15, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–06197 Filed 3–24–20; 8:45 am]

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[16] *See, e.g.,* Securities Exchange Act Release No. 88360 (March 11, 2020), 85 FR 15240 (March 17, 2020) (SR–NASDAQ–2020–003) (''Nasdaq Proposal'').

[17] 15 U.S.C. 78s(b)(3)(A)(iii).

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived the pre-filing requirement.

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6)(iii).

[22] *See* Securities Exchange Act Release No. 88360 (March 11, 2020) (SR–NASDAQ–2020–03).

[23] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[24] 15 U.S.C. 78s(b)(2)(B).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88425; File No. SR–FINRA–2020–009]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend FINRA Rule 6121.02 (Market-Wide Circuit Breakers in NMS Stocks)

March 19, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 18, 2020, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 6121.02 (Market-wide Circuit Breakers in NMS Stocks) concerning the resumption of trading following a Level 3 market-wide circuit breaker halt.

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA proposes to amend Rule 6121.02 concerning the resumption of trading following a Level 3 market-wide circuit breaker halt. FINRA is proposing this rule change in conjunction with other self-regulatory organizations (''SROs'').

Rule 6121.02 addresses the circumstances under which FINRA shall halt, and subsequently resume, over-the-counter trading in all NMS stocks due to extraordinary market volatility (*i.e.,* market-wide circuit breakers). The market-wide circuit breaker (''MWCB'') mechanism under Rule 6121.02 was approved by the Commission to operate on a pilot basis, the term of which was to coincide with the pilot period for the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (the ''LULD Plan''),[4] including any extensions to the pilot period for the LULD Plan.[5] Last year, the Commission approved an amendment to the LULD Plan for it to operate on a permanent, rather than pilot, basis.[6] In light of the proposal to make the LULD Plan permanent, FINRA amended Rule 6121.02 to untie the pilot's effectiveness from that of the LULD Plan and to extend the pilot's effectiveness to the close of business on October 18, 2019.[7] FINRA then filed a proposed rule change to extend the pilot for an additional year to the close of business on October 18, 2020.[8]

The market-wide circuit breaker under Rule 6121.02 provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. FINRA and the U.S. equity exchanges adopted uniform rules on a pilot basis relating to market-wide circuit breakers in 2012 (''MWCB Rules''), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.[9] Market-wide circuit breakers provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index.

Pursuant to Rule 6121.02, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. ET and before 3:25 p.m. ET would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. ET would not halt market-wide trading. A market decline that triggers a Level 3 halt, at any time during the trading day, would halt market-wide trading until the primary listing market opens the next trading day.

Today, in the event that a Level 3 market decline occurs, trading in exchange-listed stocks would be halted until the primary listing market opens the next trading day. Upon feedback from industry participants, FINRA has been working with other SROs to establish a standardized approach for resuming trading in all NMS stocks following a Level 3 halt. The proposed approach would allow for the opening of all NMS stocks the next trading day after a Level 3 halt as a regular trading day, and is designed to ensure that Level 3 MWCB events are handled in a more consistent manner that is transparent for market participants.[10]

[4] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (the ''Limit Up-Limit Down Release''). The LULD Plan provides a mechanism to address extraordinary market volatility in individual securities.

[5] *See* Securities Exchange Act Release Nos. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (Order Approving File No. SR–FINRA–2011–054); and 68778 (January 31, 2013), 78 FR 8668 (February 6, 2013) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2013–011) (Proposed Rule Change to Delay the Operative Date of FINRA Rule 6121.02).

[6] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019) (Order Approving the Eighteenth Amendment to the National Market System Plan To Address Extraordinary Market Volatility).

[7] *See* Securities Exchange Act Release No. 85547 (April 8, 2019), 84 FR 14981 (April 12, 2019) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2019–010).

[8] *See* Securities Exchange Act Release No. 87078 (September 24, 2019), 84 FR 51669 (September 30, 2019) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA– 2019–023).

[9] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129) (Notice of Filing of Amendments No. 1 and Order Granting Accelerated Approval of Proposed Rule Changes as Modified by Amendments No. 1, Relating to Trading Halts Due to Extraordinary Market Volatility).

[10] Of note, the U.S. futures markets, which have similar rules for coordinated MWCB halts, normally begin their ''next day'' trading session at 6:00 p.m.

Continued

As proposed, a Level 3 halt would end at the end of the trading day on which it is declared. This proposed change would allow over-the-counter trading in all NMS stocks to resume the next day no differently from any other trading day. In other words, a member could resume trading otherwise than on an exchange in any NMS stock on the day following the Level 3 market wide circuit breaker, and would not need to wait for the primary listing market to re-open trading in a security before it could start trading such security, so long as the halt has been lifted by the applicable securities information processor (''SIP'').[11]

To effect this change, FINRA is amending Rule 6121.02 to delete the language requiring that members wait until the primary listing exchange opens the next trading day following a Level 3 market decline, and specify that FINRA will halt trading otherwise than on an exchange in all NMS stocks for the remainder of the trading day. The proposed rule change would therefore allow each SRO to resume trading in all NMS stocks the next trading day following a Level 3 halt as they normally would. Members should ensure that they have policies and procedures in place that address their resumption of over-the-counter trading in NMS stocks following a Level 3 MWCB.

FINRA expects that the primary listing exchanges will facilitate this change by sending resume messages to the applicable SIP to lift the Level 3 trading halt message in all NMS stocks. The resumption messages will be disseminated after the SIP has started on the next trading day and before the start of the earliest pre-market trading session of all exchanges. If a security is separately subject to a regulatory halt that has not ended, FINRA expects that the primary listing exchanges would replace the Level 3 halt message with the applicable regulatory halt message.

Having a consistent approach for all NMS stocks will make the opening process the day after a Level 3 halt more uniform and reduce complexity, which FINRA believes is important after a significant market event. Based on industry feedback, FINRA believes that opening in the normal course for all NMS stocks will be more beneficial to the marketplace. By allowing trading to resume after a Level 3 halt in all NMS stocks no differently from any normal trading day under the respective rules of each SRO, the proposed rule change would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS stocks and balances out potential concerns around volatility. While FINRA recognizes that the impact of this proposal is to permit all NMS stocks to be traded during time periods that do not have certain price protections for volatility such as LULD Bands or MWCB protections, FINRA nonetheless believes that this outcome is outweighed by the benefits provided by opening in a manner that is more familiar to the marketplace. Moreover, allowing the resumption of trading to occur as it would on any other trading day will allow for price formation to occur earlier in the trading day, which in turn allows market participants to react to news that has developed. As such, trading at the beginning of regular hours may be more orderly.

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[12] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The market-wide circuit breaker mechanism under Rule 6121.02 is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. FINRA believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility, and how the markets will resume trading following a Level 3 market decline.

As described above, FINRA together with other SROs, is seeking to adopt a standardized approach related to resuming trading in NMS stocks after a Level 3 MWCB halt. In this regard, FINRA believes that the proposal to resume trading in all NMS stocks following a Level 3 halt in the same manner that these securities would open trading on a regular trading day will benefit investors, the national market system, and FINRA members by promoting a fair and orderly market and reducing confusion during a significant cross-market event. By allowing trading to resume after a Level 3 halt in all NMS stocks no differently from any normal trading day under the respective rules of each exchange, the proposed rule change would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS stocks.

Based on the foregoing, FINRA believes that the benefits to market participants under the proposed revisions to Rule 6121.02 with the proposed standardized process for resuming trading in all NMS stocks following a Level 3 halt will promote fair and orderly markets, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed Level 3 rule change described above would standardize the opening process for all NMS stocks, which would make the opening process the day after a Level 3 halt more uniform and reduce complexity. Further, The Nasdaq Stock Market LLC (''Nasdaq'') already amended its rules to adopt amendments concerning the resumption of trading following a Level 3 MWCB to allow for the opening of all securities the next trading day after a Level 3 halt

ET (for CFE and CME) or at 8:00 p.m. ET (for ICE). If the U.S. futures markets amend their MWCB rules, as needed, to allow for normal course trading following a Level 3 halt, the futures markets would resume trading in their normal course at 6:00 p.m. ET (CFE and CME) or 8:00 p.m. ET (ICE) the same day as the Level 3 halt.

Furthermore, there may be cross-market differences in how each exchange currently opens the next day after a Level 3 MWCB halt. For example, while some exchanges currently resume trading in listed securities no differently from a regular trading day, other exchanges may, for instance, conduct a halt auction process instead of opening in the normal course under their respective rules. As discussed later in this filing, the proposed changes will allow each SRO to resume trading in all NMS stocks the next trading day following a Level 3 halt no differently from a regular trading day.

[11] The SEC has approved a proposed rule change by NASDAQ to permit NASDAQ to resume trading the day following a Level 3 market decline as it would on any other trading day. *See* Securities Exchange Act Release No. 88360 (March 11, 2020) (Order Approving File No. SR–NASDAQ– 2020–003) (''Nasdaq Approval Order''). FINRA anticipates that the other SROs also will file similar proposals to amend their MWCB rules on the resumption of trading following Level 3 halts, and amend their rules, where required, to have their Level 3 next-day openings happen normally.

[12] 15 U.S.C. 78*o*–3(b)(6).

as a regular trading day.[13] FINRA understands that the other SROs will file similar proposals to adopt the proposed changes related to resumptions following a Level 3 MWCB.

Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, to analyze the potential economic impacts, including anticipated costs, benefits, and distributional and competitive effects, relative to the current baseline, and the alternatives FINRA considered in assessing how to best meet its regulatory objectives.[14]

Regulatory Objective

FINRA proposes to amend Rule 6121.02 concerning the resumption of trading following a Level 3 market-wide circuit breaker halt. The proposed rule change would allow each SRO to resume trading in all NMS stocks the next trading day following a Level 3 halt as they normally would, without requiring the primary listing market to first re-open trading in a security.

Economic Baseline

The market-wide circuit breaker under Rule 6121.02 provides an automatic mechanism that is invoked to promote stability and investor confidence during a period of stress when securities markets experience extreme broad-based declines. Market-wide circuit breakers provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index.

Pursuant to Rule 6121.02, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. A market decline that triggers a Level 3 halt, defined as a 20% decline in price from the prior day's closing price of the S&P 500 Index, currently would halt market-wide trading until the primary listing market opens the next trading day.

Over-the-counter trading in an NMS stock currently may start the next trading day when its primary listing market opens the security. Consequently, the opening process for NMS stocks after a Level 3 halt is different from any other trading day that was not preceded by a Level 3 MWCB. This adds to complexity the day after a Level 3 MWCB halt.

Economic Impact

Having a consistent approach for all NMS stocks will make the opening process the day after a Level 3 halt more uniform and reduce complexity. FINRA recognizes that the proposed rule change would permit all NMS stocks to be traded during time periods when certain price protections for volatility such as LULD Bands or MWCB protections are not in force. The absence of these protections may be mitigated because the resumption of trading would occur as it would on any other trading day, which permits price formation to occur earlier in the trading day, and should allow market participants to more quickly react to news events. As a result, trading at the beginning of regular hours may be less volatile.

Alternatives

No further alternatives are under consideration.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[15] and Rule 19b–4(f)(6) thereunder.[16] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[17]

A proposed rule change filed under Rule 19b–4(f)(6)[18] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[19] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it approved a substantively similarly proposed rule change submitted by The Nasdaq Stock Market LLC.[20] Waiver of the operative delay will ensure consistency across the market centers and the timely implementation of the proposed rule change. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[21]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[22] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2020–009 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2020–009. This file

[13] *See* Nasdaq Approval Order.

[14] FINRA believes an abbreviated economic impact assessment is appropriate to facilitate the expedient adoption of consistent rules regarding the resumption of trading in all NMS stocks following a Level 3 market-wide circuit breaker.

[15] 15 U.S.C. 78s(b)(3)(A)(iii).

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived the pre-filing requirement.

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] *See* Securities Exchange Act Release No. 88360 (March 11, 2020) (SR–NASDAQ–2020–03).

[21] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 15 U.S.C. 78s(b)(2)(B).

number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2020–009 and should be submitted on or before April 15, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–06189 Filed 3–24–20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88422; File No. SR–FINRA–2020–007]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change to FINRA's Suitability, Non-Cash Compensation and Capital Acquisition Broker (CAB) Rules in Response to Regulation Best Interest

March 19, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 12, 2020, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing amendments to FINRA Rules 2111 (Suitability), 2310 (Direct Participation Programs), 2320 (Variable Contracts of an Insurance Company), 2341 (Investment Company Securities), and 5110 (Corporate Financing Rule—Underwriting Terms and Arrangements), and Capital Acquisition Broker (CAB) Rule 211 (Suitability). The proposed rule change would: (1) Amend the FINRA and CAB suitability rules to state that the rules do not apply to recommendations subject to Regulation Best Interest (''Reg BI''),[3] and to remove the element of control from the quantitative suitability obligation; and (2) conform the rules governing non-cash compensation to Reg BI's limitations on sales contests, sales quotas, bonuses and non-cash compensation.

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

On June 5, 2019, the SEC adopted Reg BI, a new rule under the Exchange Act, which establishes a standard of conduct for broker-dealers and natural persons who are associated persons of a broker-dealer (unless otherwise indicated, together referred to as ''broker-dealer'') when they make a recommendation to a retail customer of any securities transaction or investment strategy involving securities.[4] The SEC stated that Reg BI will improve investor protection by enhancing the obligations that apply when a broker-dealer makes a recommendation to a retail customer, and reducing the potential harm to retail customers from conflicts of interest that may affect the recommendation.[5] The date by which broker-dealers must comply with Reg BI is June 30, 2020.[6]

FINRA proposes to amend the suitability and non-cash compensation rules to provide clarity on which standard applies and to address inconsistencies with Reg BI. The changes would amend the FINRA suitability rule (Rule 2111) to state that it will not apply to recommendations subject to Reg BI, and to remove the element of control from the quantitative suitability obligation. In addition, the proposed rule change would conform the CAB suitability rule, CAB Rule 211, to the proposed amendments to Rule 2111, and would conform FINRA's rules governing non-cash compensation to Reg BI's limitations on sales contests, sales quotas, bonuses, and non-cash compensation.

As noted below, Reg BI addresses the same conduct that is addressed by Rule 2111, but employs a best interest, rather than a suitability, standard. Absent action by FINRA, a broker-dealer would be required to comply with both Reg BI and Rule 2111 regarding recommendations to retail customers. In such circumstances, FINRA believes that compliance with Reg BI would result in compliance with Rule 2111 because a broker-dealer that meets the best interest standard would necessarily meet the suitability standard. Accordingly, in order to reduce the potential for confusion, FINRA is proposing limiting the application of Rule 2111 to circumstances in which Reg BI does not apply. To do so, FINRA would add new paragraph .08 to the FINRA Rule 2111 Supplementary Material and new paragraph .03 to the CAB Rule 211 Supplementary Material that states that those rules shall not apply to recommendations subject to Reg BI.

[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.15*l*–1.

[4] *See* Securities Exchange Act Release No. 86031 (June 5, 2019), 84 FR 33318 (July 12, 2019) (Final Rule; Regulation Best Interest: The Broker-Dealer Standard of Conduct) (the ''Release'').

[5] *See* Release, 84 FR at 33318–33319.

[6] *See* Release, 84 FR at 33400.

Suitability

FINRA Rule 2111 requires that a broker-dealer ''have a reasonable basis to believe that a recommended transaction or investment strategy involving a security or securities is suitable for the customer, based on the information obtained through the reasonable diligence of the member or associated person to ascertain the customer's investment profile.'' The rule further explains that a ''customer's investment profile includes, but is not limited to, the customer's age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other information the customer may disclose to the member or associated person in connection with such recommendation.'' [7]

Rule 2111 imposes three main suitability obligations: Reasonable basis suitability, customer-specific suitability and quantitative suitability. Reasonable basis suitability requires a member or associated person to have a reasonable basis to believe, based on reasonable diligence, that the recommendation is suitable for at least some investors. Customer-specific suitability requires that a member or associated person have a reasonable basis to believe that the recommendation is suitable for a particular customer based on that customer's investment profile. Quantitative suitability requires a member or associated person who has actual or de facto control over a customer account to have a reasonable basis for believing that a series of recommended transactions, even if suitable when viewed in isolation, are not excessive and unsuitable for the customer when taken together in light of the customer's investment profile.[8]

Rule 2111(b) provides an exemption to customer-specific suitability for recommendations to institutional customers under specified circumstances. In order for this exemption to apply, three criteria must be satisfied. First, the account must meet the definition of institutional account as defined in FINRA Rule 4512(c).[9] Second, the broker-dealer must have a reasonable basis to believe that the institutional customer is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies involving a security or securities. Third, the institutional customer must affirmatively indicate that it is exercising independent judgment in evaluating the member's or associated person's recommendations. Where an institutional customer has delegated decision making authority to an agent, such as an investment adviser or a bank trust department, these factors are applied to the agent.[10]

Reg BI's ''best interest'' standard requires firms to satisfy four component obligations: Disclosure, Care, Conflict of Interest and Compliance. Reg BI's Care Obligation incorporates and enhances principles that are also found in Rule 2111. Two key enhancements are that Reg BI explicitly imposes a best interest standard and explicitly requires a consideration of costs. In addition, Reg BI places greater emphasis than the suitability rule on consideration of reasonably available alternatives.[11] Moreover, Reg BI explicitly applies to recommendations of types of accounts (*e.g.,* broker-dealer or investment adviser, or among broker-dealer accounts, including recommendations of IRA rollovers). Reg BI also eliminates the ''control'' element of the quantitative suitability obligation.

In light of these enhancements and to provide clarity on which standard applies, FINRA proposes that its suitability rule state that it will not apply to recommendations subject to Reg BI.[12] FINRA does not propose to eliminate the suitability rule because it applies broadly to all recommendations to customers whereas Reg BI applies only to recommendations to ''retail customers,'' which Reg BI defines as a natural person, or the legal representative of such natural person, who receives a recommendation of any securities transaction or investment strategy involving securities from a broker-dealer and uses the recommendation primarily for personal, family, or household purposes.[13] Thus, FINRA's suitability rule is still needed for entities and institutions (*e.g.,* pension funds), and natural persons who will not use recommendations primarily for personal, family, or household purposes (*e.g.,* small business owners and charitable trusts).

In addition, the proposal would modify the quantitative suitability obligation under FINRA Rule 2111.05(c) to remove the element of control that currently must be proved to demonstrate a violation.[14] This change is consistent with Reg BI, which eliminates the control element from its Care obligation.

Finally, the proposed rule change would amend CAB Rule 211 to state that it will not apply to recommendations subject to Reg BI.[15]

Non-Cash Compensation

FINRA Rules 2310 (Direct Participation Programs), 2320 (Variable Contracts of an Insurance Company), 2341 (Investment Company Securities), and 5110 (Corporate Financing Rule—Underwriting Terms and Arrangements) each includes provisions restricting the payment and receipt of non-cash compensation in connection with the sale and distribution of securities governed by those rules. As a general matter, these rules limit non-cash compensation arrangements to:

- Gifts that do not exceed $100 in value and that are not preconditioned on the achievement of a sales target;
- An occasional meal, a ticket to a sporting event or the theater, or other comparable entertainment that does not raise any question of propriety and is not preconditioned on the achievement of a sales target;
- Payment or receipt by ''offerors'' (generally product sponsors and their affiliates) in connection with training or education meetings, subject to specified conditions, including that the payment of such compensation is not conditioned on achieving a sales target; and
- Internal non-cash compensation arrangements between a member and its associated persons, subject to specified conditions. If the internal non-cash compensation arrangement is in the form of a sales contest, the contest must be based on the total production of associated persons with respect to all securities within the rule's product category, and credit for those sales must be equally weighted.[16]

[7] *See* FINRA Rule 2111(a).

[8] *See* FINRA Rule 2111.05.

[9] Rule 4512(c) defines ''institutional account'' to mean the account of: (1) A bank, savings and loan association, insurance company or registered investment company; (2) an investment adviser registered either with the SEC or with a state securities commission; or (3) any other person (whether a natural person, corporation, partnership, trust or otherwise) with total assets of at least $50 million.

[10] *See* FINRA Rule 2111(b).

[11] *See* Release, 84 FR at 33381 (''It is our view that such a consideration [of reasonably available alternatives offered by the broker-dealer] is an inherent aspect of making a 'best interest' recommendation, and is a key enhancement over existing broker-dealer suitability obligations, which do not necessarily require such a comparative assessment among such alternatives'').

[12] *See* proposed FINRA Rule 2111.08.

[13] *See* 17 CFR 240.15*l*–1(b)(1).

[14] *See* proposed FINRA Rule 2111.05(c).

[15] *See* proposed CAB Rule 211.03.

[16] *See* FINRA Rules 2310(c), 2320(g), 2341(l)(5), and 5110(h). Rules 2310(c) and 5110(h) do not require internal non-cash compensation arrangements to be based on total production and equal weighting of securities sales.

Reg BI's Conflict of Interest Obligation requires broker-dealers to establish, maintain, and enforce written policies and procedures reasonably designed to identify and eliminate any sales contests, sales quotas, bonuses, and non-cash compensation that are based on the sales of specific securities or specific types of securities within a limited time period.[17] As discussed above, FINRA's current non-cash compensation rules permit internal firm sales contests that may not meet this standard, since they permit contests based on sales of specific types of securities (such as mutual funds or variable annuities).

FINRA proposes to modify its rules governing non-cash compensation arrangements to specify that any non-cash compensation arrangement permitted by those rules must be consistent with the requirements of Reg BI. FINRA also proposes to eliminate provisions in Rules 2320 and 2341 that require internal non-cash compensation arrangements to be based on total production and equal weighting of securities sales.[18] Thus, firms generally would no longer be permitted to sponsor or maintain internal sales contests based on sales of securities within a product category within a limited time, even if they are based on total production and equal weighting. This requirement also would apply to the non-cash compensation provisions governing gifts, business entertainment and training or education meetings. As discussed above, these forms of non-cash compensation may not be preconditioned on achievement of a sales target. Nevertheless, FINRA believes that it must make clear that these provisions do not permit arrangements that conflict with Reg BI.

If the Commission approves the proposed rule change, FINRA will announce the approval of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval. The effective date will be the compliance date of Reg BI.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[19] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposed changes to FINRA's suitability rules will clarify when Reg BI versus the suitability rules apply, eliminating confusion and allowing firms to focus on compliance with the higher standards in Reg BI, when applicable. At the same time, the change will provide continued protection for customers that are not retail customers covered by Reg BI. Moreover, the removal of the element of control from the quantitative suitability obligation will align this standard with the corresponding quantitative component of the Care Obligation under Reg BI. Finally, the proposed amendments to FINRA's rules on non-cash compensation arrangements will eliminate any potential inconsistency with the requirements of Reg BI.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA has undertaken an economic impact assessment, as set forth below, to analyze the regulatory need for the proposed rulemaking, its potential economic impacts, including anticipated costs and benefits, and the alternatives FINRA considered in assessing how to best meet its regulatory objectives.

Economic Impact Assessment

Reg BI imposes new obligations on broker-dealers and associated persons. As such, FINRA is proposing to modify existing FINRA rules to better align them with the new obligations. The alignment of FINRA rules to Reg BI requirements is expected to provide greater protections to customers against investor abuse from firms and their associated persons. It also reduces uncertainty for firms about which standard applies, thus potentially avoiding unintentional rule violations and reducing compliance costs on the margin. The Economic Impact Assessment analyzes only the impacts directly attributable to the proposed rule change. The impacts attributable to Reg BI are assumed to have been evaluated by the SEC during the adoption process.

The proposed rule changes would better align the existing FINRA suitability rule with Reg BI's obligations. The proposed rule change would provide that the suitability rule does not apply to any recommendation that is subject to Reg BI. The benefits of this approach are that it would reduce regulatory uncertainty for firms and clarify to retail customers that Reg BI's ''best interest'' standard applies to recommendations they receive from their broker-dealer and its associated persons. FINRA does not believe that this change will negatively impact firms in any material way, since in almost all cases, retail customer recommendations would be governed by Reg BI, making the application of the suitability rule in these contexts superfluous. Firms also would benefit by focusing their regulatory review of recommendations to retail customers solely on Reg BI, thus increasing the efficiency of such reviews.

The proposed rule change also would eliminate the control element from the quantitative suitability obligation in the suitability rule. This change is consistent with Reg BI, which similarly does not require a showing of control. FINRA had previously analyzed the economic impact of this change when it proposed it in *Regulatory Notice* 18–13. Potential economic impacts are even less significant at this time, as the SEC has since adopted Reg BI, which expressly excludes the control element and will now apply to a large portion of recommendations (*i.e.,* recommendations to retail customers).

The proposed change is expected to provide greater protections to customers against investor abuse from firms and their associated persons. In cases where excessive trading is alleged, customers would benefit from the reduced burden on FINRA of not having to prove control while firms and associated persons engaged in excessive trading could experience a higher number of findings of violations. FINRA believes the proposed change would impose minimal, if any, additional compliance burdens on members because FINRA staff understands firms generally perform compliance reviews for excessive trading activity without consideration of whether a broker controls the account.

Lastly, the proposed rule change would align FINRA's non-cash compensation rules with Reg BI's Conflict of Interest Obligation. Reg BI requires broker-dealers to establish, maintain and enforce written policies and procedures reasonably designed to identify and eliminate any sales contests, sales quotas, bonuses, and non-cash compensation that are based on the sales of specific securities or specific types of securities within a limited time period, whereas current FINRA non-cash compensation rules permit sales contests for specific types of securities. FINRA believes that this proposed rule change will benefit firms by eliminating regulatory uncertainty

[17] *See* 17 CFR 240.15*l*–1(a)(2)(iii)(D).

[18] *See* proposed amendments to FINRA Rules 2310(c), 2320(g), 2341(l)(5), and 5110(h).

[19] 15 U.S.C. 78*o*–3(b)(6).

created by existing FINRA non-cash compensation rules. To the extent that sales contests and other non-cash compensation arrangements lead brokers to recommend suboptimal investments for customers, banning these practices may benefit customers. However, as for-profit entities, firms may be more limited in their ability to create incentives for their brokers to generate sales.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received on this proposed rule change. However, in April 2018, FINRA published *Regulatory Notice* 18–13, soliciting comment on a proposal to remove the control element from the quantitative suitability obligation in FINRA Rule 2111, consistent with the then-proposed Reg BI. Eleven comments were received in response to the *Notice.* A copy of the *Notice* is attached [sic] as Exhibit 2a. Copies of the comment letters received in response to the *Notice* are attached [sic] as Exhibit 2c.[20]

Since the publication of *Regulatory Notice* 18–13, the SEC has adopted Reg BI, which applies to recommendations to retail customers as defined in Reg BI. With the proposed changes to FINRA Rule 2111.08, as discussed above, the suitability rule, including the quantitative suitability obligation, will no longer apply to recommendations to retail customers. As a result, the impact of the removal of the control element of the quantitative suitability obligation is significantly less than when originally proposed. Nevertheless, a majority of commenters to *Regulatory Notice* 18–13 indicated general support for the proposal to remove the control element from the quantitative suitability obligation of FINRA Rule 2111.[21] In general, these commenters expressed that the proposed rule change was a reasonable and effective approach to improving the rule,[22] and believe it would heighten investor protection.[23] Some commenters raised questions with particular aspects of the proposal or potential unintended consequences.[24] Several commenters were not supportive and raised concerns with the proposal.[25] Many of the comments have been rendered moot by the SEC's adoption of Reg BI or the concerns raised have become less relevant given that Reg BI is now the governing standard that applies to recommendations to retail customers. For example, while some commenters supported FINRA's proposal to remove the control element from the quantitative suitability obligation because it was consistent with the approach set forth in the proposed Reg BI,[26] several commenters indicated that FINRA's proposal was premature and that FINRA should await the outcome of the SEC's proposed rulemaking.[27] FINRA did hold off in filing with the Commission the rule change proposed in *Regulatory Notice* 18–13. With the final adoption of Reg BI, however, the time is ripe to finalize this change. As a result, for recommendations that remain subject to FINRA Rule 2111 (*i.e.,* recommendations that are not covered by Reg BI), this aspect of the proposed rule change will enable FINRA to more effectively address instances of excessive trading by removing the element of control that currently must be proved to demonstrate a violation and will align this integral element of FINRA's suitability rule with corresponding provision of Reg BI.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2020–007 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2020–007. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2020–007 and should be submitted on or before April 15, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–06187 Filed 3–24–20; 8:45 am]

BILLING CODE 8011–01–P

[20] *See* Exhibit 2b for a list of abbreviations assigned to commenters.

[21] *See* Cornell; FSI; NASAA; Pace; PIABA; SEC OIA.

[22] *See* NASAA.

[23] *See* Cornell; FSI; NASAA; Pace; PIABA.

[24] *See* FSI; PIABA; SER.

[25] *See* Cambridge; Capital Forensics; Keesal; SIFMA.

[26] *See* FSI.

[27] *See* Cambridge; Keesal; SIFMA.

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88426; File No. SR–CBOE–2020–021]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule

March 19, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 17, 2020, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt new Footnote 12 of the Fees Schedule to govern pricing changes in the event the Exchange trading floor becomes inoperable.[3] In the event the trading floor becomes inoperable, the Exchange will continue to operate in a screen-based only environment using a floorless configuration of the System that is operational while the trading floor facility is inoperable. The Exchange would operate using that configuration only until the Exchange's trading floor facility became operational. Open outcry trading would not be available in the event the trading floor becomes inoperable.

The Exchange first proposes to provide that in the event the Cboe Options trading floor becomes inoperable, holders of a Market-Maker Floor Permit will be entitled to act as an electronic Market-Maker and holders of a Floor Broker Permit will be entitled to access the Exchange electronically to submit orders to the Exchange, at no further cost. Currently, in order to act as a Market-Maker electronically a Trading Permit Holder (''TPH'') must purchase a Market-Maker Electronic Access Permit. In order to access the Exchange electronically and submit orders to the Exchange, a TPH must purchase an ''Electronic Access Permit''. Conversely, TPHs that wish to act as a Market-Maker on the floor must purchase a Market-Maker Permit and TPHs that wish to act as a Floor Broker on the floor of the Exchange must purchase a Floor Broker Permit. The Exchange wishes to encourage floor-based market participants to participate on the Exchange electronically if the trading floor becomes inoperable. As such, the Exchange proposes to provide that holders of a Market-Maker Floor Permit and Floor Broker Permit are entitled to operate electronically in their registered capacity at no additional cost (*i.e.,* not charge for an additional Market-Maker Electronic Access Permit or Electronic Access Permit).

The Exchange next proposes to amend the Floor Broker ADV Discount. Under this discount program, Floor Broker Trading Permit fees are eligible for rebates based on the average customer (''C'') open-outcry contracts executed per day over the course of a calendar month in all underlying symbols. In light of the Exchange's recent announcement that it's trading floor would be considered inoperable starting March 16, 2020, the Exchange proposes to provide that for the month of March 2020, ADV will be based on March 1–March 13, 2020 volume.

The Exchange next proposes to provide that in the event the trading floor becomes inoperable, the Exchange shall waive SPX and SPXW Execution Surcharges for SPX and SPXW volume executed via the Automated Improvement Mechanism (''AIM'') for the duration of time the Exchange operates in a screen-based only environment. The Exchange currently assesses a SPX Execution Surcharge of $0.21 per contract and a SPXW Execution Surcharge of $0.13 per contract for non-Market Maker orders in SPX and SPXW, respectively that are executed electronically (with some exceptions).[4] The Execution Surcharges were adopted to ensure that there is reasonable cost equivalence between the primary execution channels for SPX and SPXW. More specifically, the Execution Surcharges minimize the cost differentials between manual and electronic executions, which is in the interest of the Exchange as it must both maintain robust electronic systems as well as provide for economic opportunity for floor brokers to continue to conduct business, as the Exchange believes they serve an important function in achieving price discovery and customer executions.[5] In the event the trading floor becomes inoperable, the only execution available for SPX and SPXW would be electronic executions. The Exchange still wishes to encourage floor brokers to continue to conduct business on the Exchange, albeit electronically when the floor is inoperable. To that end, in order to approximate the trading floor environment electronically, the Exchange will make AIM available for SPX/SPXW in the event the trading floor becomes inoperable. Particularly, the Exchange notes that it can determine AIM eligibility on a class-by-class basis[6] and historically SPX and SPXW have not been designated as eligible for AIM Auctions. As such, the Exchange does not wish to discourage floor brokers from executing SPX and SPXW volume via AIM when the trading floor is inoperable by assessing the Execution

[3] The Exchange originally submitted the proposed fee changes on March 16, 2020 (SR–CBOE–2020–020). On March 17, 2020, the Exchange withdrew that filing and submitted this filing.

[4] *See* Cboe Options Fees Schedule, Footnote 21.

[5] *See e.g.,* Securities Exchange Act Release No. 71295 (January 14, 2014) 79 FR 3443 (January 21, 2014) (SR–CBOE–2013–129).

[6] *See* Rule 5.37(a)(1) and 5.38(a)(1).

Surcharges such volume. Indeed, in the absence of the trading floor being inoperable, AIM would not be available for SPX/SPX and such volume would otherwise execute on the floor and not be subject to the Execution Surcharges.

The Exchange next proposes to adopt an AIM Execution Surcharge for SPX, SPXW and VIX AIM Agency/Primary orders for all market participants which would apply only when the Exchange operates in a screen-based only environment and which would be invoiced to the executing TPH. Specifically, the Exchange proposes to adopt a $0.05 per contract fee for SPX and SPXW AIM Agency/Primary orders and a $0.04 per contract fee for VIX AIM Agency/Primary orders. The Exchange notes that currently, SPX, SPXW and VIX orders executed via open-outcry are assessed floor brokerage fees. Specifically, SPX/SPXW orders are assessed a floor brokerage fee of $0.04 per contract fee for non-crossed orders and a $0.02 per contract fee for crossed orders and VIX orders are assessed a floor brokerage fee of $0.03 per contract for non-crossed orders and $0.015 per contract for crossed orders. The Exchange notes that in the event the trading floor becomes inoperable, volume that would otherwise be executed on the floor would have to be executed electronically. The Exchange believes it's appropriate to continue to assess this volume, notwithstanding the fact that it is being moved to an electronic channel.

The Exchange also proposes to provide that SPX/SPXW, VIX and RUT contracts executed via AIM during the time when the Exchange operates in a screen-based only environment will not count towards the 1,000 contract thresholds for the electronic SPX/SPXW, VIX and RUT Tier Appointment Fee. Currently, the Exchange assesses separate monthly Tier Appointment Fees to electronic and floor Market-Maker holding a Market-Maker Electronic Access Permit or Market-Maker Floor Permit, respectively, that trade SPX (including SPXW), VIX or RUT contracts at any time during the month. The Exchange proposes to exclude SPX/SPXW, VIX and RUT volume executed via AIM during the time when the Exchange operates in a screen-based only environment, as the Exchange does not wish to discourage the sending of such orders via AIM during that time. The Exchange notes that the electronic Tier Appointment fees are intended to be assessed to Market-Maker TPHs who act as Market-Makers electronically and engage in trading of these products (as opposed to those who normally execute volume via open outcry, but must participate electronically due to the trading floor being inoperable).

The Exchange next proposes to provide that for purposes of the Market-Maker EAP Appointments Sliding Scale, the total quantity will be determined by the highest quantity used at any point during the month, excluding additional quantity added during the time the Exchange operates in a screen-based only environment. Currently, during Regular Trading Hours, a Market-Maker has an appointment to trade open outcry in all classes traded on the Exchange, at no charge.[7] Electronic Market-Makers however, must select appointments and are charged for one or more ''Appointment Units'' (which are scaled from 1 ''unit'' to more than 5 ''units''), depending on which classes they elect appointments in.[8] The Exchange does not wish to subject Market-Makers to increased fees as a result of selecting appointments to trade electronically in classes during a time when the Exchange operates in a screen-based only environment that they otherwise trade, at no charge, on the floor.

Lastly, as noted above, SPX and SPXW have not historically been designated as eligible for AIM Auctions. The Exchange anticipates that it will designate SPX/SPXW as eligible for AIM Auctions in the event the trading floor becomes inoperable. The header relating to AIM in the Rate Table for Underlying Symbol List A Schedule however references only that AIM is available for (1) VIX and (2) SPX/SPXW during Global Trading Hours.[9] As such, the Exchange proposes to clarify in proposed Footnote 12 of the Fees Schedule that AIM would be available for SPX/SPXW during Regular Trading Hours, in the event the trading floor is inoperable.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act. Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act, which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange believes the proposed rule change to allow holders of Floor Trading Permits to operate in their registered capacity electronically at no further cost is reasonable as such market participants would not be subject to additional costs in the event they can only participate electronically due to the trading floor being inoperable. Indeed, in such an event, the Exchange wishes to encourage floor-based market participants to continue to participate on the Exchange electronically. The Exchange believes the proposed rule change is equitable and not unfairly discriminatory as all such floor participants will be treated equally. The Exchange also believes it's proposal to base the ADV thresholds for the Floor Broker ADV Discount program on volume from March 1, through March 13, 2020 is reasonable as such discount is based on open-outcry volume only and the Exchange floor has been closed indefinitely as of March 16, 2020.

The Exchange believes the proposed rule change to waive SPX and SPXW Execution Surcharges for AIM volume in the event the trading floor becomes inoperable is reasonable because market participants will not be subject to these extra surcharge for these executions. As noted above, the Execution Surcharges minimize the cost differentials between manual and electronic executions, which is in the interest of the Exchange as it must both maintain robust electronic systems as well as provide for economic opportunity for floor brokers to continue to conduct business, as the Exchange believes they serve an important function in achieving price discovery and customer executions. In the event the trading floor becomes inoperable, Exchange still wishes to incentivize floor brokers to conduct business on the Exchange, albeit electronically and as such does not wish to assess a surcharge on volume that was otherwise executed on floor and not

[7] *See* Rule 5.50(e).

[8] Appointment weights for each appointed class are set forth in Cboe Options Rule 5.50(g) and are summed for each Market-Maker in order to determine the total appointment units, to which fees will be assessed.

[9] *See* Cboe Options Fees Schedule, Rate Table—Underlying Symbol List A.

via AIM. As discussed above, the Exchange wishes to make AIM available for SPX/SPXW in the event the trading floor is inoperable in order to best approximate the trading floor in an electronic environment. Indeed, the Exchange believes waiving the Execution Surcharges for volume executed via AIM in the event the trading floor is inoperable will promote and encourage trading of these products notwithstanding the fact that manual executions are no longer available. Additionally, the Exchange does not wish to assess the Execution Surcharges on AIM volume as AIM provides price improvement opportunities for these orders, similar to the opportunities that are generally available to them on the trading floor, which protects customers seeking execution of these orders. The Exchange believes the proposed change is also equitable and not unfairly discriminatory as it applies uniformly to all similarly situated market participants, as all TPHs will be able to execute electronically via AIM and be subject to equivalent execution costs while the trading floor is inoperable.

The Exchange believes the proposal to adopt an AIM Execution Surcharge for SPX/SPXW and VIX Agency/Primary orders is reasonable as the proposed rates are similar to the total rates charged for volume that is executed via open-outcry.[10] The Exchange also notes that the Fees Schedule already provides for a similar scenario of such rates being assessed in the event the trading floor is inoperable. For example, Footnote 15 of the Fees Schedule provides that in the event the Exchange's exclusively listed options must be traded at a Back-up Exchange pursuant to Cboe Options Rule 5.26, the Back-up Exchange has agreed to apply the per contract and per contract side fees (*i.e.,* the Floor Brokerage fees) to such transactions. Accordingly, the Exchange believes it's similarly appropriate to adopt and apply similar fees to transactions that must occur via an electronic execution channel (instead of on a Back-Up Exchange) due to the Exchange's trading floor being inoperable. The Exchange also notes that as discussed above, it is not otherwise assessing the SPX/SPXW Execution Surcharges on AIM SPX/SPXW orders. The Exchange believes the proposed change is also equitable and not unfairly discriminatory as it applies uniformly to all similarly situated market participants, as all TPHs will be able to execute electronically via AIM and be subject to equivalent execution costs while the trading floor is inoperable.

The Exchange believes its proposal to provide that SPX/SPXW, VIX and RUT contracts executed via AIM during a time when the Exchange operates in a screen-based only environment will not count towards the 1,000 contract thresholds for the electronic SPX/SPXW, VIX and RUT Tier Appointment Fees is reasonable as Market-Makers that would otherwise meet the current contract thresholds due to the need to participate on the Exchange electronically will not be subject to an additional Tier Appointment Fee for volume executed via AIM. The Exchange believes the proposed change is reasonable as the Tier Appointment fees were intended to apply to TPHs who act as electronic Market-Makers in SPX/SPX, VIX and RUT, not those that notwithstanding the trading floor being inoperable would act as floor Market-Makers and trade these products. The Exchange anticipates Market-Maker a large portion of volume for any Market-Maker that trades in SPX/SPXW, VIX and RUT only in open cry will be executed via AIM in the event the trading floor is inoperable. Accordingly, the Exchange does not wish to assess the Tier Appointment fees to Market-Makers who do not usually conduct significant electronic volume in these products and would not participate electronically if not for the trading floor being inoperable. Additionally, the Exchange does not wish to discourage the use of AIM for SPX/SPXW, VIX or RUT as AIM provides price improvement opportunities for these orders, similar to the opportunities that are generally available to them on the trading floor, which protects customers seeking execution of these orders. The proposed change is equitable and not unfairly discriminatory because it will apply uniformly to all similarly situated market participants, as it applies to all Market-Makers trading in these products.

The Exchange believes the proposal to not count Appointment Units added during a time when the Exchange operates in a screen-based only environment toward the total quantity of Appointment Units for purposes of calculating the Market-Maker EAP Appointments Sliding Scale is reasonable, as Market-Makers should not be subject to additional charges resulting from any additional appointments selected during a time when the trading floor is inoperable. As discussed above, floor Market-Makers have an appointment to trade open outcry in all classes traded on the Exchange at no cost. The Exchange does not wish to subject Market-Makers to increased fees as a result of selecting appointments to trade classes electronically during a time when the trading floor is inoperable, particularly classes they would otherwise trade at no charge on the trading floor. The proposed change is equitable and not unfairly discriminatory because it will apply uniformly to all similarly situated market participants, as it will apply to all Market-Makers, while also ensuring that Market-Makers who generally operate on the trading floor will not be subject to additional costs due to the unavailability of the trading floor.

Lastly, the Exchange believes its proposal to clarify in the fees schedule that AIM may be available for SPX/SPXW during Regular Trading Hours in the even the trading floor becomes inoperable will provide clarity in the Fees Schedule and alleviate potential confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition that are not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes the proposed changes are not intended to address any competitive issue, but rather to address fee changes it believes are reasonable in the event the trading floor becomes inoperable, thereby only permitting electronic participation on the Exchange. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes apply equally to all similarly situated market participants. The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes only affect trading on the Exchange in limited circumstances.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

[10] *See* Cboe Options Fees Schedule, Floor Brokerage Fees.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and paragraph (f) of Rule 19b–4 [12] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2020–021 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2020–021. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2020–021 and should be submitted on or before April 15, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–06190 Filed 3–24–20; 8:45 am]

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[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88424; File No. SR–CBOE–2019–035]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of Amendment Nos. 1 and 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, Regarding Off-Floor Position Transfers

March 19, 2020.

I. Introduction

On July 3, 2019, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its rule relating to off-floor position transfers. The proposed rule change was published for comment in the **Federal Register** on July 23, 2019.[3] On August 6, 2019, the Exchange filed Amendment No. 1 to the proposed rule change.[4] On September 4, 2019, the Commission extended the time period within which to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the propose rule change, to October 21, 2019.[5] On October 7, 2019, the Exchange filed Amendment No. 2 to the proposed rule change.[6] The Commission received two comment letters on the proposal.[7]

On October 21, 2019, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule changes (''OIP'').[8] The Commission received a letter from the Exchange addressing the previous comments,[9] as well as one additional comment in response to the OIP and the Cboe Response Letter.[10] On January 14,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 86400 (July 17, 2019), 84 FR 35438 (''Notice'').

[4] In Amendment No. 1, the Exchange deleted from the proposed rule change the proposal to permit off-floor risk-weighted asset (''RWA'') transfers. The Exchange subsequently refiled the RWA transfer proposal as a separate proposed rule change filing in SR–CBOE–2019–044. *See* Securities Exchange Release No. 87107 (September 25, 2019), 84 FR 52149 (October 1, 2019) (order approving proposed rule change to adopt Cboe Rule 6.49B regarding off-floor RWA transfers). When the Exchange filed Amendment No. 1 to CBOE–2019–035, it also submitted the text of the amendment as a comment letter to the filing, which the Commission made publicly available at *https://www.sec.gov/comments/sr-cboe-2019-035/srcboe2019035-5917170-189047.pdf.*

[5] *See* Securities Exchange Act Release No. 86861 (September 4, 2019), 84 FR 47627 (September 10, 2019).

[6] In Amendment No. 2, the Exchange updated cross-references to Cboe rules throughout the proposed rule change to reflect separate amendments it made to its rulebook in connection with the Exchange's technology migration, which it subsequently completed on October 7, 2019. When the Exchange filed Amendment No. 2 to CBOE–2019–035, it also submitted the text of the amendment as a comment letter to the filing, which the Commission made publicly available at *https://www.sec.gov/comments/sr-cboe-2019-035/srcboe2019035-6258833-192955.pdf.* In addition to the cross-references updated in Amendment No. 2, the Exchange relocated Rule 6.49A to Rule 6.7 in its post-migration rulebook and made conforming changes to its proposed rule change to reflect that new rule number.

[7] *See* Letter to Vanessa Countryman, Secretary, Commission, dated September 24, 2019, from John Kinahan, Chief Executive Officer, Group One Trading, L.P., *available at https://www.sec.gov/comments/sr-cboe-2019-035/srcboe2019035-6193332-192497.pdf* (''Group One Letter'') and Letter to Brent J. Fields, Secretary, Commission, dated August 19, 2019, from Gerald D. O'Connell, Compliance Coordinator, Susquehanna International Group, LLP, *available at https://www.sec.gov/comments/sr-cboe-2019-035/srcboe2019035-5985436-190350.pdf* (''SIG August 2019 Letter'').

[8] *See* Securities Exchange Act Release No. 87374, 84 FR 57542 (October 25, 2019) (''OIP'').

[9] *See* Letter to Vanessa Countryman, Secretary, Commission, dated November 15, 2019, from Laura G. Dickman, Vice President, Associate General Counsel, Cboe Exchange, Inc., *available at https://www.sec.gov/comments/sr-cboe-2019-035/srcboe2019035-6434377-198588.pdf* (''Cboe Response Letter'').

[10] *See* Letter to Vanessa Countryman, Secretary, Commission, dated December 12, 2019, from Gerald D. O'Connell, Compliance Coordinator, Susquehanna International Group, LLP, *available at https://www.sec.gov/comments/sr-cboe-2019-035/srcboe2019035-6535880-200548.pdf* (''SIG December 2019 Letter'').

2020, the Commission issued a notice of designation of a longer period for Commission action on proceedings to determine whether to approve or disapprove the proposed rule change.[11] This order approves the proposed rule change, as modified by Amendment Nos. 1 and 2, on an accelerated basis.

II. Description of the Proposed Rule Change

Cboe generally requires a Trading Permit Holder (''TPH'') to effect transactions in listed options on an exchange.[12] Notwithstanding that provision, Cboe permits certain types of transfers involving a TPH's positions to be effected off the Exchange (also referred to as ''off-floor'' transfers).[13] The Exchange now proposes to delineate in Rule 6.7 (Off-Floor Transfers of Positions) four additional types of permitted off-floor transfers: (1) Transfers to correct a bona fide error in the recording of a transaction or the transferring of a position to another account, (2) transfers between accounts where there is no change in ownership provided the accounts are not in separate aggregation units or otherwise subject to information barrier or account segregation requirements, (3) consolidation of accounts where no change in ownership is involved, and (4) transfers through operation of law from death, bankruptcy, or otherwise.[14]

In addition, the Exchange purports to codify its prior guidance that off-floor transfers cannot net against another position and that no position transfer may result in preferential margin or haircut treatment.[15] Further, the Exchange purports to codify into Rule 6.7 its interpretation that the off-floor transfer rule ''is intended to facilitate non-routine, non-recurring movements of positions'' and ''is not to be used repeatedly or routinely in circumvention of the normal auction market process.'' [16]

Finally, as discussed more fully in the Notice,[17] the Exchange proposes other modifications to Rule 6.7, including adding provisions that would provide guidance as to the permitted transfer price at which an off-floor transfer may be effected, specify when written notice would be required prior to effecting an off-floor transfer, and provide for recordkeeping requirements.[18]

III. Discussion and Commission Findings

After careful review of the proposal, as modified by Amendment Nos. 1 and 2, and the comments received thereon, the Commission finds that the proposed rule change is consistent with the requirements of the Act,[19] and the rules and regulations thereunder applicable to a national securities exchange.[20] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[21] which requires, among other things, that the rules of a national securities exchange be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and that the rules are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's current rule governing off-floor transfers permits such transfers to occur under specified limited circumstances. The Exchange's proposal, among other things, adds four new scenarios in which off-floor transfers will be permitted. According to the Exchange, the proposed rule change ''adopts no new restrictions on off-floor position transfers, but in fact only adopts narrowly defined, additional circumstances under which such transfers are permissible.'' [22]

One commenter said it ''disagree[s] with the basic premises relied upon by the CBOE for the proposal'' and believes that Cboe failed to adequately justify the proposal.[23] Specifically, the commenter said it objects to the Exchange's purported prohibition on transfers involving ''no *material* change of beneficial ownership,'' which the commenter referred to as ''*no change* transfers,'' and believes that the existing Rule, as well as the proposed changes thereto, are ''overly restrictive'' because they limit off-floor ''no change'' transfers.[24] While Cboe asserts that its proposal is codifying within its rules its longstanding policy on off-floor transfers,[25] the commenter challenges that assertion and characterizes the proposal as based on the ''erroneous current view by the CBOE that its longstanding policy'' was intended to broadly prohibit off-floor transfers where there is no material change in beneficial ownership.[26] The commenter instead argues that Cboe's longstanding policy was historically intended to require that transactions with ''material change of beneficial ownership'' occur on an exchange and ''to direct *no change* transfers to the off-floor transfer process,'' and disagrees with Cboe's assertion that its longstanding policy was to ''generally ensure all position movements occur in the open market.'' [27] The commenter contends that language in the 1995 filing that adopted of Rule 6.7 (formerly Rule 6.49A) supports its position that the rule ''was not meant to alter *no change* transfers, as the open market requirement did not apply to them in the first place.'' [28]

Cboe disagrees with the commenter's characterization of its longstanding policy and states that the commenter's concept of a ''*no change* transfer'' that would be permitted to occur off-floor without restriction ''conflicts with the long-standing policy and approach reflected in the pending rule change filing.'' [29] In support of its position, Cboe cites, among other things, to its adoption in 1995 of Rule 6.7 (formerly Rule 6.49A) as permitting only narrow exceptions to the general requirement under Rule 5.12 (formerly Rule 6.49) that transactions be effected on an exchange.[30] Cboe states that ''[t]o be clear, it is not, and has not been, the Exchange's intent or interpretation of Rule 6.7 (former Rule 6.49A) that off-floor position transfers may freely occur when there is no change in ownership (or beneficial ownership), particularly in circumstances that result in netting, favorable margin treatment, or repeating or recurring transfers, or that result in the avoidance of the normal auction market process.'' [31] Cboe further notes that ''[n]one of the exceptions currently delineated in Rule 6.7 permit the type of 'no change' transfer [the commenter]

[11] *See* Securities Exchange Act Release No. 87959 (January 14, 2020), 85 FR 3448 (January 21, 2020).

[12] *See* Cboe Rule 5.12(a) (formerly Rule 6.49(a)).

[13] *See* Cboe Rule 6.7(a) (formerly Rule 6.49A(a)).

[14] *See* proposed Cboe Rule 6.7(a).

[15] *See* proposed Cboe Rule 6.7(b). *See also* Cboe Options Regulatory Circular RG03–62 (July 24, 2003).

[16] *See* proposed Cboe Rule 6.7(g).

[17] *See* Notice, *supra* note 3.

[18] *See* proposed Cboe Rule 6.7(c), (d), and (e).

[19] 15 U.S.C. 78f.

[20] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 15 U.S.C. 78f(b)(5).

[22] *See* Cboe Response Letter, *supra* note 9, at 6.

[23] *See* SIG December 2019 Letter, *supra* note 10, at 1. *See also* SIG August 2019 Letter, *supra* note 7, at 7.

[24] *See* SIG December 2019 Letter, *supra* note 10, at 2; SIG August 2019 Letter, *supra* note 7, at 1.

[25] *See* Cboe Response Letter, *supra* note 9, at 1.

[26] *See* SIG December 2019 Letter, *supra* note 10, at 5, fn.15.

[27] *See* SIG December 2019 Letter, *supra* note 10, at 3, 5; *see also* SIG August 2019 Letter, *supra* note 7, at 7.

[28] *See* SIG December 2019 Letter, *supra* note 10, at 3.

[29] *See* Cboe Response Letter, *supra* note 9, at 3.

[30] *See* Cboe Response Letter, *supra* note 9, at 2–3.

[31] *See* Cboe Response Letter, *supra* note 9, at 3.

believes is currently permissible.'' [32] Instead, Cboe explains that the current exceptions do not permit off-floor transactions in situations involving ''regular business practices, such as risk management or hedging activities'' but instead allow them in ''infrequent occurrences that arise for legal purposes (*e.g.,* mergers, acquisitions, bankruptcies) or other non-business related events (*e.g.,* donations to not-for-profit entities, gifts to minors).'' [33] The Exchange points out that according to the commenter, a '''no change' transfer may involve a change—just not a material change—in beneficial ownership, which implies different entities (and thus different Persons) own the accounts'' and concludes that such a definition of ''no change transfer'' is not supported by the commenter's argument that this is analogous to a statement comparing different accounts of the same Person (or same entity).[34]

The Commission believes that the Exchange has addressed the commenter's concerns concerning the scope of Rule 6.7 (formerly Rule 6.49A) and Rule 5.12 (formerly Rule 6.49). While the commenter asserts that the Exchange ''has always generally permitted *no change* position movements to be transferred off-floor,'' [35] the Exchange contradicts that assertion as an ''unsupported presumption'' and, in support of its position, cites language to the contrary in its 1995 filing adopting Rule 6.7 (formerly 6.49A).[36] The Commission believes that the Exchange has presented sufficient information in support of what it considers to be its longstanding policy generally prohibiting off-exchange transfers subject to limited exceptions.

Other aspects of the Exchange's proposal expand the list of permitted off-floor transactions and purport to codify certain preexisting Exchange interpretations concerning the nature and extent of permitted off-floor transfers. In particular, the Exchange proposes to add into the Rule provisions specifying that off-floor transfers may not (1) net against another position or result in preferential margin or haircut treatment (''netting restriction'') or (2) be used to facilitate non-routine, non-recurring movements of positions (''frequency restriction'').[37]

Commenters seek clarification on certain of these aspects of the proposal. First, commenters ask which types of transfers would constitute ''routine, recurring'' transfers.[38] For example, one commenter asks whether more than one transfer per day would be considered ''recurring.'' [39] In response, the Exchange states that ''[w]hat constitutes non-routine and non-recurring will be based on facts and circumstances'' and notes that ''[t]he term 'routine' generally refers to regular or habitual actions taken as part of an established procedure'' and ''[t]he term recurring general means something that happens repeatedly.'' [40] The Exchange further explains that ''it is important that the transfer could occur only in connection with one of the specific events/episodes listed in Rule 6.7'' and that if a ''transfer is prescribed by a Person's procedures to occur at specified times in intervals (such as hourly, daily, weekly, or monthly), the Exchange would view that to be routine and recurring and potentially be a violation of the proposed Rule requirement.'' [41] The Commission believes that the Exchange has addressed the commenter's question and has articulated a reasonably and fairly implied interpretation of how the frequency restriction would apply based on its plain meaning.

In addition, one commenter argues that the proposal is ambiguous in its description of what constitutes a separate account with respect to proposed Rule 6.7(a)(2).[42] Proposed Rule 6.7(a)(2) allows for off-floor transfers involving ''the transfer of positions from one account to another account where no change in ownership is involved (*i.e.,* accounts of the same Person (as defined in Rule 1.1)), provided the accounts are not in separate aggregation units or otherwise subject to information barrier or account segregation requirements.'' In response, the Exchange asserts that ''the phrases 'information barriers' and 'aggregation units' are widely understood throughout the financial industry.'' [43] The Exchange explains the purpose behind this restriction as follows:

> Ultimately, these are methods used by Persons to separate accounts for different business (*e.g.,* to separate a market-maker trading unit from a proprietary trading unit) or regulatory purposes (*e.g.,* Regulation SHO). If accounts are subject to such separation for any such purpose, the Exchange believes it is reasonable to not permit off-floor position transfers between such accounts that are otherwise required to be kept separate, as such transfers could be seen as 'breaching the wall' put in place by that separation.[44]

The Commission believes that the Exchange has addressed the commenter's concern and has articulated a fair basis for the restriction, and that such restriction is consistent with the requirements of the Act, and the rules and regulations thereunder.

Further, both commenters generally object to the prohibitions on netting and routine-use, and say that those prohibitions restrict their ability to perform risk-reducing off-floor transfers.[45] For example, one commenter believes the rule's prohibition on repeated or routine use is too restrictive, as it is ''unaware of any normal auction market process that would allow for a single market participant to transact with itself in order to move a position across two accounts maintained by that same market participant.'' [46] This commenter argues that ''[i]n a no-change transfer, there is no buyer and there is no seller,'' as the positions are already owned and ownership is not changing; therefore no-change transfers should be available ''as frequently as necessary.'' [47] In response, Cboe ''reiterates that Rule 5.12 prohibits all off-floor positions transfers, unless specifically permitted by an exception.'' [48] The Exchange further explains that:

> [w]hile [the commenter] references accounts of the ''same market participant,'' it also references a ''no change transfer'' which, again, could result in a position transfer between accounts of different entities (and thus different market participants) with the same beneficial owner. The Exchange believes accounts of different Persons, even with the same beneficial owner, could be

[32] *See* Cboe Response Letter, *supra* note 9, at 4.

[33] *See* Cboe Response Letter, *supra* note 9, at 4.

[34] *See* Cboe Response Letter, *supra* note 9, at 9.

[35] *See* SIG December 2019 Letter, *supra* note 10, at 5.

[36] *See* Cboe Response Letter, *supra* note 9, at 4 and 1–2.

[37] *See* proposed Cboe Rule 6.7(b) and (g). While the amended Rule will continue to allow the Exchange to grant an exemption from Cboe Rule 5.12 to allow additional types of off-floor transfers, the revised rule text makes it clear that such exemptions may only be granted on rare occasions when necessary or appropriate for the maintenance of a fair and orderly market and the protection of investors and where the exemption is in the public interest, including due to unusual or extraordinary circumstances.

[38] *See* Group One Letter, *supra* note 7, at 2; SIG August 2019 Letter, *supra* note 7, at 6.

[39] *See* Group One Letter, *supra* note 7, at 2.

[40] *See* Cboe Response Letter, *supra* note 9, at 10.

[41] *See* Cboe Response Letter, *supra* note 9, at 10.

[42] *See* SIG December 2019 Letter, *supra* note 10, at 2; SIG August 2019 Letter, *supra* note 7, at 3.

[43] *See* Cboe Response Letter, *supra* note 9, at 13.

[44] *See* Cboe Response Letter, *supra* note 9, at 13.

[45] *See* Group One Letter, *supra* note 7, at 2; SIG December 2019 Letter, *supra* note 10, at 3, 8; SIG August 2019 Letter, *supra* note 7, at 6, 8.

[46] *See* Group One Letter, *supra* note 7, at 1.

[47] *See* Group One Letter, *supra* note 7, at 2. *See also* SIG December 2019 Letter, *supra* note 10, at 9 (noting that pursuant to Rule 5.12, no member ''acting as principal or agent may effect transactions . . . '' and arguing that ''[n]o change transfers do not reflect one's intent to buy from and sell to oneself, but simply to move what one already holds on one's books and records for risk management.'').

[48] Cboe Response Letter, *supra* note 9, at 11.

used to circumvent the normal auction process if, for example, those accounts were being used for different trading businesses. Therefore, the Exchange limited the proposed exception to transfers between accounts of the same Person.[49]

In short, Cboe believes that the commenters seek an interpretation that is beyond the scope of the proposed rule change.[50]

Similarly, one commenter argues that to the extent that the proposal overly restricts off-floor transfers of positions that could otherwise be netted for risk management purposes, the result is to potentially harm some market makers and needlessly inflate open interest.[51] The commenter suggests that the proposal may force market makers who wish to avoid the appearance of wash sales to undertake expensive alternatives like carrying positions until expiration or paying the spread to trade out of a position.[52] According to the commenter, market makers often assume unwanted positions from customer facilitations and some market makers that do not use a ''universal account'' nevertheless may find post-trade opportunities to hedge or close positions, which could be more efficiently accomplished through an off-floor transfer.[53] The commenter states that the inability to use off-floor transfers to reduce risk could raise a market maker's expenses and result in wider quotes by impacted market makers that ultimately could harm investors.[54]

In response, the Exchange notes that is proposal ''adopts no new restrictions on off-floor position transfers, but in fact only adopts narrowly defined, additional circumstances under which such transfers are permissible'' and it ''disputes the characterization of the Proposal as creating restrictions and curtailing flexibility.'' [55] Further, the Exchange points to other procedures that ''support and encourage Market-Maker liquidity and foster tighter quotes,'' such as the ''universal account'' through which ''positions in Market-Maker subaccounts registered across multiple options exchanges automatically transfer into a single universal account and net against other positions in the universal account.'' [56] Accordingly, the Exchange asserts that ''there is in fact a cost-efficient method available for Market-Makers to offset positions, and thus not create this perceived harm on investors.'' [57] The Exchange further asserts that:

> The Commenters have not provided any reasoning as to why the proposed exceptions will create new burdens that do not exist today; they merely wish the Exchange would expand the exceptions to address issues that the Proposal is not intended to address. The Exchange notes again that if the Commission disapproves the Proposal, Commenters would continue to be prohibited from effecting the ''no change'' transfers they support.[58]

The Commission believes that the Exchange has addressed the commenters' concerns. Accepting the Exchange's position that its proposal is not designed to materially change the existing intended scope of its off-floor transfer rule, the Commission finds that the Exchange has articulated a reasonable explanation for its proposal and that commenters are seeking material changes to the underlying rule itself that are beyond the scope of its more narrowly-tailored proposal. The current and proposed exceptions that allow certain off-floor transfers are based on specified, limited legal situations or one-time events, not regular business practices such as risk management or hedging activities. As the Exchange notes, other alternatives, including universal accounts, exist and may be utilized to avoid the potential harms envisioned by one commenter, such as excessive risk, wash sales, and overstating open interest. The Commission believes that the proposed provisions, including the netting restriction and frequency restriction, are designed to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, by assuring that off-floor transfers are conducted in a manner consistent with the Exchange's rules. In addition, the Commission believes that the requirement for the parties to provide written notice to the Exchange and maintain detailed records of each transfer will ensure that the Exchange is made aware of off-floor transfers and is able to review them for compliance with applicable rules.

IV. Solicitation of Comments on Amendment Nos. 1 and 2 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment Nos. 1 and 2 are consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2019–035 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2019–035. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2019–035 and should be submitted on or before April 15, 2020.

[49] Cboe Response Letter, *supra* note 9, at 11.

[50] *See* Cboe Response Letter, *supra* note 9, at 9.

[51] *See* SIG December 2019 Letter, *supra* note 10, at 3; SIG August 2019 Letter, *supra* note 7, at 8. In addition, the commenter stated that the prohibition on netting stemmed from concerns from floor brokers ''troubled by apparent changes in publicly disseminated open interest (from off-floor transferring) without the opportunity to trade in those instances.'' *See* SIG December 2019 Letter, *supra* note 10, at 10.

[52] *See* SIG December 2019 Letter, *supra* note 10, at 3, 10; SIG August 2019 Letter, *supra* note 7, at 3–4, 6.

[53] *See* SIG December 2019 Letter, *supra* note 10, at 8–9.

[54] *See* SIG December 2019 Letter, *supra* note 10, at 9; SIG August 2019 Letter, *supra* note 7, at 4.

[55] Cboe Response Letter, *supra* note 9, at 6.

[56] Cboe Response Letter, *supra* note 9, at 7.

[57] Cboe Response Letter, *supra* note 9, at 7.

[58] Cboe Response Letter, *supra* note 9, at 9.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment Nos. 1 and 2

The Commission finds good cause to approve the proposed rule change, as modified by Amendment Nos. 1 and 2, prior to the thirtieth day after the date of publication of notice of the filing of Amendment Nos. 1 and 2 in the **Federal Register**. As discussed above, in Amendment No. 1, the Exchange deleted from the proposed rule change its proposal to permit RWA transfers.[59] The Commission notes that the Exchange subsequently refiled the RWA transfer proposal as a separate proposed rule change filing in SR–CBOE–2019–044.[60] Additionally, in Amendment No. 2 the Exchange revised the proposal to update cross-references to Cboe rules throughout the proposed rules to reflect separate amendments it made to its rulebook in connection with the Exchange's technology migration; relocated the proposed Rule 6.49A to Rule 6.7; and made conforming changes to its proposed rule change to reflect the new rule number.[61] The Commission believes that Amendment Nos. 1 and 2 make technical amendments to the proposed rule changes and do not raise any novel regulatory issues. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[62] to approve the proposed rule change, as modified by Amendment Nos. 1 and 2, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[63] that the proposed rule change (SR–CBOE–2019–035), as modified by Amendment No. 1 and 2, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[64]

J. Matthew DeLesDernier,

Assistant Secretary.

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[59] *See* Amendment No. 1, *supra* note 4.

[60] *See* Amendment No. 1, *supra* note 4.

[61] *See* Amendment No. 2, *supra* note 6.

[62] 15 U.S.C. 78s(b)(2).

[63] 15 U.S.C. 78s(b)(2).

[64] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88427; File No. SR–LTSE–2020–07]

Self-Regulatory Organizations; Long-Term Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Amending Rule 11.280 Concerning the Resumption of Trading Following a Level 3 Market-Wide Circuit Breaker Halt

March 19, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 19, 2020, Long-Term Stock Exchange (''LTSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

LTSE proposes a rule change to amend Rule 11.280 concerning the resumption of trading following a Level 3 market-wide circuit breaker halt.

The text of the proposed rule change is available at the Exchange's website at *https://longtermstockexchange.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.280 concerning the resumption of trading following a Level 3 market-wide circuit breaker halt. The Exchange is proposing this rule change in conjunction with other national securities exchanges and the Financial Industry Regulatory Authority (''FINRA'').

Rule 11.280 provides a methodology for determining when to halt trading in all stocks due to extraordinary market volatility (*i.e.,* market-wide circuit breakers). The market-wide circuit breaker under Rule 11.280 provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA adopted uniform rules on a pilot basis relating to market-wide circuit breakers (''MWCB'') in 2012 (''MWCB Rules''), which are designed to slow the effects of extreme price movement through coordinated trading halts across securities markets when severe price declines reach levels that may exhaust market liquidity.[3] Market-wide circuit breakers provide for trading halts in all equities and options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index.

Pursuant to Rule 11.280, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. ET and before 3:25 p.m. ET would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. ET would not halt market-wide trading. A market decline that triggers a Level 3 halt at any time during the trading day would halt market-wide trading until the primary listing market opens the next trading day.

[3] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR-Phlx–2011–129) (''MWCB Approval Order'').

Today, in the event that a Level 3 market decline occurs, the Exchange would halt trading for the remainder of the trading day, and would not resume until the primary listing market opens the next trading day. On the next trading day, the Exchange would remain closed for all symbols until the primary listing market opens the next trading day.[4]

Upon feedback from industry participants, the Exchange has been working with other national securities exchanges and FINRA to establish a standardized approach for resuming trading in all NMS Stocks following a Level 3 halt. The proposed approach would allow for the opening of all securities the next trading day after a Level 3 halt as a regular trading day, and is designed to ensure that Level 3 MWCB events are handled in a more consistent manner that is transparent for market participants.[5]

As proposed, a Level 3 halt would end at the end of the trading day on which it is declared. This proposed change would allow for next-day trading to resume in all NMS Stocks no differently from any other trading day. In other words, an exchange could resume trading in any security when it first begins trading under its rules and would not need to wait for the primary listing market to re-open trading in a security before it could start trading such security.[6] Accordingly, under the proposal, the Exchange could begin trading all securities at the beginning of the Exchange's Pre-Market Session at 8:00 a.m. ET,[7] regardless of whether the primary listing markets for those securities have actually opened.

To effect this change, the Exchange proposes to delete the language in Rule 11.280(b)(2) requiring the Exchange to wait until the primary listing exchange opens the next trading day following a Level 3 market decline, and specify that the Exchange will halt trading for the remainder of the trading day. The proposed rule change would therefore allow each exchange to resume trading in all securities the next trading day following a Level 3 halt at whatever time such exchange normally begins trading under its rules, which for the Exchange would be at the beginning of the Pre-Market Session at 8:00 a.m. ET under its current rules. The Exchange also expects that the primary listing exchanges will facilitate this change by sending resume messages to the applicable securities information processor (''SIP'') to lift the Level 3 trading halt message in all securities. The resumption messages will be disseminated after the SIP has started on the next trading day and before the start of the earliest pre-market trading session of all exchanges. If a security is separately subject to a regulatory halt that has not ended, the primary listing exchange would replace the Level 3 halt message with the applicable regulatory halt message.

Having a consistent approach for all securities will make the opening process the day after a Level 3 halt more uniform and reduce complexity, which the Exchange believes is important after a significant market event. Based on industry feedback, the Exchange believes that resuming trading in the normal course in all equity securities will be more beneficial to the marketplace. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective rules of each exchange, the proposed rule change would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks and balances out potential concerns around volatility. While the Exchange recognizes that the impact of this proposal is to permit all securities to be traded in the various exchanges' early trading sessions, which do not have certain price protections for volatility such as LULD Bands or MWCB protections, the Exchange nonetheless believes that this outcome is outweighed by the benefits provided by resuming trading in the early trading sessions in a manner that is more familiar to the marketplace. Moreover, allowing the resumption of trading to occur on the various exchanges at the beginning of their early trading sessions in all NMS Stocks will allow for price formation to occur earlier in the trading day, which in turn allows market participants to react to news that has developed. As such, trading at the beginning of regular hours may be more orderly.

The Exchange will announce the implementation date of the amendment to Rule 11.280(b)(2) by information circular.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The market-wide circuit breaker mechanism under Rule 11.280 is an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when securities markets experience extreme broad-based declines. The Exchange believes that the proposed rule change promotes just and equitable principles of trade in that it promotes transparency and uniformity across markets concerning when and how to halt trading in all stocks as a result of extraordinary market volatility, and how the markets will resume trading following a Level 3 market decline. As described above, the Exchange, together with other national securities exchanges and FINRA, is seeking to adopt a standardized approach related to resuming trading in NMS Stocks after a Level 3 MWCB halt. In this regard, the Exchange believes that the proposal to resume trading in all securities following a Level 3 halt in the same manner that securities would open trading on a regular trading day will benefit investors, the national market system, Exchange members, and the Exchange market by promoting a fair and orderly market and reducing confusion during a significant cross-market event. By allowing trading to resume after a Level 3 halt in all securities no differently from any normal trading day under the respective rules of each exchange, the proposed rule change would provide greater certainty to the marketplace by ensuring a familiar experience for all market participants that trade NMS Stocks.

Based on the foregoing, the Exchange believes the benefits to market participants from the MWCB under Rule

[4] *See* LTSE Rule 11.280(b)(2).

[5] Of note, the U.S. futures markets, which have similar rules for coordinated MWCB halts, normally begin their ''next day'' trading session at 6:00 p.m. ET (for CFE and CME) or at 8:00 p.m. ET (for ICE). If the U.S. futures markets amend their MWCB rules, as needed, to allow for normal course trading following a Level 3 halt, the futures markets would resume trading in their normal course at 6:00 p.m. ET (CFE and CME) or 8:00 p.m. ET (ICE) the same day as the Level 3 halt.

[6] The Exchange anticipates that the other national securities exchanges and FINRA will also file similar proposals to amend their MWCB rules on the resumption of trading following Level 3 halts, and amend their rules, where required, to have their Level 3 next-day openings happen normally.

[7] The term ''Pre-Market Session'' refers to the time between 8:00 a.m. and 9:30 a.m. Eastern Time. *See* LTSE Rule 1.160(dd).

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(5).

11.280 with the proposed standardized process for resuming trading in all securities following a Level 3 halt will promote fair and orderly markets, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed Level 3 rule change described above would standardize the opening process for all securities on the Exchange, which would make the opening process the day after a Level 3 halt more uniform and reduce complexity. Further, the Exchange understands that FINRA and other national securities exchanges will file similar proposals to adopt the proposed Level 3 rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that it approved a substantively similarly proposed rule change submitted by The Nasdaq Stock Market LLC.[15] Waiver of the operative delay will ensure consistency across the market centers and the timely implementation of the proposed rule change. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[16]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [17] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–LTSE–2020–07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Vanessa Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–LTSE–2020–07. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of LTSE and on its internet website at *https://longtermstockexchange.com/.* All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–LTSE–2020–07 and should be submitted on or before April 15, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–06191 Filed 3–24–20; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived the pre-filing requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] *See* Securities Exchange Act Release No. 88360 (March 11, 2020) (SR–NASDAQ–2020–003).

[16] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78s(b)(2)(B).

[18] 17 CFR 200.30–3(a)(12).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR–2020–0014]

Request for Comments on Additional Modifications to the 301 Action To Address COVID–19: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and request for comments.

SUMMARY: In prior notices, the U.S. Trade Representative has modified the action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation by removing additional duties from medical-care products needed to address the COVID–19 outbreak. In light of ongoing developments, the Office of the U.S. Trade Representative (USTR) is requesting public comments on possible further modifications to remove duties from additional medical-care products.

DATES: The docket for comments will remain open at least until June 25, 2020, and may be extended as appropriate. To facilitate timely consideration of possible modifications, interested parties should submit comments as promptly as possible. To be assured of consideration, any responses to comments should be submitted within three business days after a comment is posted in the docket.

ADDRESSES: USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: *http://www.regulations.gov* (*Regulations.gov*). Follow the instructions for submitting requests for exclusion and responses to requests in Section C below. The docket number is USTR–2020–0014.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, contact Associate General Counsels Philip Butler or Megan Grimball at (202) 395–5725.

SUPPLEMENTARY INFORMATION:

A. Background

At the direction of the President, the U.S. Trade Representative has imposed duties on products of China in order to obtain the elimination of the unfair and damaging acts, policies, and practices identified in this investigation. The duties have been imposed in four tranches. *See* 83 FR 28719 (June 20, 2018), 83 FR 40823 (August 16, 2018), 83 FR 47974 (September 21, 2018), as modified by 83 FR 49153 (September 28, 2018), and 84 FR 43304 (August 20, 2019), as modified by 84 FR 69447 and 85 FR 3741.

For each tranche, the U.S. Trade Representative established a process by which U.S. stakeholders could request exclusion of particular products classified within an eight-digit Harmonized Tariff Schedule of the United States (HTSUS) subheading covered by the action. *See* 83 FR 32181 (July 11, 2018), 83 FR 47236 (September 18, 2018), 84 FR 29576 (June 24, 2019), and 84 FR 57144 (October 24, 2019). The exclusion processes for tranches 3 and 4 are still in process, and are not affected by this notice.

Throughout the exclusion process, USTR assessed medical necessity in granting exclusions, consistent with its published criteria. In addition, the U.S. Trade Representative, in consultation with the Department of Health and Human Services (HHS), prioritized the review of exclusion requests addressed to medical-care products related to the U.S. response to COVID–19, and granted approximately 200 separate exclusions on March 5, 2020. *See* 85 FR 13970 (March 10, 2020), 85 FR 15015 (March 16, 2020), and 85 FR 15244 (March 17, 2020). The exclusions covered personal protective equipment products and other medical-care related products.

B. Request for Public Comments

In order to reflect developments in the efforts to respond to the COVID–19 outbreak, USTR is requesting public comments on possible further modifications to remove duties from additional medical-care products. USTR invites comments from interested persons with respect to whether a particular product covered by the action in this investigation is needed to respond to the COVID–19 outbreak. The docket for comments will remain open at least until June 25, 2020, and may be extended as appropriate. To facilitate timely consideration of possible modifications, interested persons should submit comments as promptly as possible. Interested persons may also submit responses to comments. To be assured of consideration, any responses to comments should be submitted within three business days after a comment is posted in the docket. USTR will review comments on a rolling basis.

Each comment specifically must identify the particular product of concern and explain precisely how the product relates to the response to the COVID–19 outbreak. For example, the comment may address whether a product is directly used to treat COVID–19 or to limit the outbreak, and/or whether the product is used in the production of needed medical-care products.

Comments may be submitted regarding any product covered by the action in the investigation, regardless of whether the product is subject to a pending or denied exclusion request.

In order to facilitate timely consideration of possible modifications, commenters should define the product of concern as precisely as possible. All comments must include the following information, to the extent possible: The ten-digit subheading of the HTSUS applicable to the product, and the identity of the particular product in terms of its functionality and physical characteristics (*e.g.,* dimensions, material composition, or other characteristics). Commenters may provide information concerning the producer, importer, ultimate consumer, or trademarks or tradenames, but this is less helpful.

C. Submission Instructions

All submissions must be in English and sent electronically via *Regulations.gov*. To submit comments via *www.regulations.gov,* enter docket number USTR–2020–0014 on the home page and click 'search.' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice and click on the link titled 'comment now!' For further information on using the *www.regulations.gov* website, please consult the resources provided on the website by clicking on 'How to Use *Regulations.gov*' on the bottom of the home page. USTR will not accept hand-delivered submissions.

The *Regulations.gov* website allows users to submit comments by filling in a 'comment' field or by attaching a document using an 'upload file' field. USTR prefers that you submit comments in an attached document. If you attach a document, it is sufficient to type 'see attached' in the 'comment' field. USTR prefers submissions in Microsoft Word (.doc) or searchable Adobe Acrobat (.pdf). If you use an application other than those two, please indicate the name of the application in the 'comment' field.

File names should reflect the name of the person or entity submitting the comments. Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the comment itself, rather than submitting them as separate files.

You can view submissions on the *Regulations.gov* website by entering docket number USTR–2020–0014 in the search field on the home page.

Joseph Barloon,

General Counsel, Office of the United States Trade Representative.

[FR Doc. 2020–06285 Filed 3–23–20; 8:45 am]

BILLING CODE 3290–F0–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Orders Limiting Operations at John F. Kennedy International Airport and New York LaGuardia Airport; High Density Traffic Airports Rule at Ronald Reagan Washington National Airport

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

ACTION: Notice of opportunity to show cause and request for information regarding extension of a limited waiver of the minimum slot usage requirement.

SUMMARY: The FAA has tentatively determined to extend through October 24, 2020, the coronavirus (COVID–19)-related limited waiver of the minimum slot usage requirement at John F. Kennedy International Airport (JFK), New York LaGuardia Airport (LGA), and Ronald Reagan Washington National Airport (DCA) that the FAA has already made available through May 31, 2020. Similarly, the FAA has tentatively determined to extend through October 24, 2020, its coronavirus-related policy for prioritizing flights canceled at designated International Air Transport Association (IATA) Level 2 airports in the United States, for purposes of establishing a carrier's operational baseline in the next corresponding season. These IATA Level 2 airports include Chicago O'Hare International Airport (ORD), Newark Liberty International Airport (EWR), Los Angeles International Airport (LAX), and San Francisco International Airport (SFO). These extensions through October 24, 2020, would be on the same terms as the relief that the FAA already has announced through May 31, 2020. This notice affords interested persons an opportunity to show cause why the FAA should or should not finalize this tentative decision to extend relief through October 24, 2020, and to submit any information relevant to making this decision. The FAA anticipates subsequently providing notice of its final decision.

DATES: Submit comments on or before March 30, 2020.

ADDRESSES: Submit written views and supporting data by email to the Slot Administration Office at *7-awa-slotadmin@faa.gov.*

FOR FURTHER INFORMATION CONTACT: Bonnie Dragotto, Office of the Chief Counsel, Regulations Division, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–3808; email: *bonnie.dragotto@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

In a notice that the FAA issued on March 11, 2020, and published in the **Federal Register** on March 16, 2020 (85 FR 15018), the FAA announced certain relief through May 31, 2020, in light of impacts on air travel demand related to the outbreak of novel 2019 coronavirus (also known as ''SARS–CoV–2,'' causing the disease COVID–19) (''Coronavirus''). As announced in that notice, through May 31, 2020, the FAA will waive the minimum usage requirement as to any slot associated with a scheduled nonstop flight between JFK, LGA, or DCA, respectively, and other points that is canceled as a direct result of Coronavirus-related impacts.[1] In addition, that notice announced that the FAA will prioritize flights canceled due to Coronavirus at designated IATA Level 2 airports in the United States—including ORD, EWR, LAX, and SFO—through May 31, 2020, for purposes of establishing a carrier's operational baseline in the next corresponding season.[2] In granting this relief, the FAA asserted its expectation that foreign slot coordinators would accommodate U.S. carriers with reciprocal relief. The FAA further stated that it would continue to monitor the situation and might augment the waiver as circumstances warrant.

Since the FAA issued that notice on March 11, 2020, the Coronavirus has continued to cause greater disruption. On March 11, the World Health Organization (WHO) characterized COVID–19 as a pandemic, as the rates of infection continued to rise in many locations around the world and across the United States. On March 13, the President of the United States proclaimed that the COVID–19 outbreak in the United States constitutes a national emergency. On March 16, the President and the White House Coronavirus Task Force announced a program called ''15 Days to Slow the Spread,'' a nationwide effort to slow the spread of COVID–19 in the United States through the implementation of social distancing at all levels of society, including a recommendation to avoid discretionary travel. On March 19, the Department of State issued a Global Level 4 Health Advisory—Do Not Travel, advising U.S. citizens to avoid all international travel due to the global impact of COVID–19. As of March 20, Coronavirus had been detected in over 150 countries and every state in the United States. Whereas on March 11 the WHO reported 118,319 confirmed COVID–19 cases globally (including 696 in the United States), on March 21 the WHO reported 266,073 confirmed COVID–19 cases globally (including 15,219 in the United States).

Since issuing the March 11, 2020, notice, the FAA continues to receive cancelation notices at slot-controlled airports in the United States, which include JFK, LGA, and DCA, as well as U.S. airports designated as IATA Level 2, for flights to and from areas with significant Coronavirus outbreaks. U.S. and foreign carriers have continued to urge the FAA to extend relief through the Summer 2020 scheduling season, which ends on October 24, 2020.

IATA, which asserts that it represents some 290 airlines comprising 82% of global air traffic, stated in a March 3, 2020, press release that offering relief through the Summer 2020 season ''will mean that airlines can respond to market conditions with appropriate capacity levels, avoiding any need to run empty services in order to maintain slots.'' According to IATA, without certainty through the Summer 2020 season, ''airlines are unable to plan ahead sufficiently to ensure efficient rostering of crew or deployment of aircraft.''

On March 16, 2020, the FAA received a letter addressed to responsible slot authorities from leaders of twenty-three airlines around the world, including United Airlines from the United States, requesting ''a global waiver from standard slot usage rules through summer 2020 to obtain flexibility for capacity reductions in light of diminishing passenger demand, and to help stabilize a very tenuous operational and commercial environment.'' The letter asserts ''[h]aving such a waiver in hand will help us plan our operations over the summer months in a manner to maximize global connectivity and efficiency.'' United Airlines announced on March 17, 2020, that it would implement a 60% schedule reduction for April 2020, including a 42% reduction across the United States and Canada and an 85% decrease in international flights. United Airlines followed with an announcement on March 20, 2020, that it is reducing its international schedule by 95% for April 2020.

In a March 19, 2020, letter to the FAA, American Airlines ''strongly requests''

[1] Although DCA and LGA are not designated as IATA Level 3 slot-controlled airports given that these airports primarily serve domestic destinations, FAA limits operations at these airports via rules at DCA and an Order at LGA that are equivalent to IATA Level 3.

[2] The FAA notes that a minimum usage requirement does not apply at designated IATA Level 2 airports in the United States. Moreover, established procedures under the IATA WSG allow for the prioritization of such cancelations in subsequent corresponding seasons consistent with the FAA's policy statement.

the FAA to ''issue a full usage waiver for the remainder of the summer 2020 IATA season.'' American Airlines asserts that it ''has taken unprecedented action to cut our schedules by more than 75% internationally and 30% domestically in April alone with significantly more cuts in May and beyond into the spring and summer months.''

Other U.S. airlines also report significant capacity cuts in the coming months. Delta Air Lines announced on March 10, 2020, that to align capacity with expected demand, it is reducing system capacity by 15 points versus its plan, with international capacity reduced by 20–25%, and domestic capacity reduced by 10–15%. JetBlue Airways announced on March 18, 2020, that it will reduce its capacity by at least 40% in April and May, and it also expects substantial cuts in June and July. Southwest Airlines announced on March 20, 2020, that it has implemented a plan to reduce capacity by at least 20 percent for the period from April 14 through June 5, 2020, driven by a drop in travel demand due to the COVID–19 outbreak. On March 18, 2020, Airlines for America, which describes itself as an advocate for leading U.S. airlines, asserted that ''cancellations far outpace new bookings for U.S. carriers, planes are only 20–30% full and new bookings are implying 70–80 percent declines in traffic even as airlines make dramatic cuts in capacity—and this is getting worse each day with no end in sight.''

Opportunity To Show Cause

In consideration of the foregoing information, the requests that the FAA has received, and the evolving situation, the FAA has tentatively determined to extend through October 24, 2020, the relief that the FAA has already granted through May 31, 2020, to continue on the same terms as the FAA announced in granting that relief. If the FAA extends relief to October 24, 2020, the FAA expects that foreign slot coordinators will provide reciprocal relief to U.S. carriers. To the extent that U.S. carriers fly to a foreign carrier's home jurisdiction and that home jurisdiction does not offer reciprocal relief to U.S. carriers, the FAA may determine not to grant a waiver to that foreign carrier. A foreign carrier seeking a waiver may wish to ensure that the responsible authority of the foreign carrier's home jurisdiction submits a statement by email to *ScheduleFiling@dot.gov* confirming reciprocal treatment of the slot holdings of U.S. carriers.

The Coronavirus continues to present a highly unusual and unpredictable condition that is beyond the control of carriers. Passenger demand continues to decrease dramatically as a result of the Coronavirus. The ultimate duration and severity of Coronavirus impacts on passenger demand in the United States and internationally remain unclear. Even after the pandemic is contained, impacts on passenger demand are likely to continue for some time.

The FAA tentatively has concluded that an extension of relief through October 24, 2020, is appropriate to provide carriers with maximum flexibility during this unprecedented situation and to support the long-term viability of carrier operations at slot-controlled and IATA Level 2 airports in the United States.[3] Continuing relief for this additional period is reasonable to mitigate the impacts on demand for air travel resulting from the spread of the Coronavirus worldwide.

The FAA seeks views and information regarding this tentative decision. Interested persons are invited to show cause why the FAA should or should not finalize this decision, and to submit any information relevant to making this decision. Written views and supporting data may be submitted no later than March 30, 2020, by email to the Slot Administration Office at *7-awa-slotadmin@faa.gov.* Information submitted to the FAA may be subject to disclosure under the Freedom of Information Act. The FAA recognizes that commenters may seek to submit business information that is both customarily and actually treated as confidential. Persons that submit such confidential business information should clearly mark the information as ''PROPIN''. The FAA will take the necessary steps to protect properly designated information to the extent allowable by law.

After receiving and reviewing comments, the FAA anticipates subsequently providing notice of its final decision.

Issued in Washington, DC, on March 22, 2020.

Lorelei Peter,

Assistant Chief Counsel for Regulations.

[FR Doc. 2020–06316 Filed 3–23–20; 11:15 am]

BILLING CODE 4910–13–P

[3] The FAA is responsible to develop plans and policy for the use of the navigable airspace and assign by regulation or order the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. *See* 49 U.S.C. 40103(b)(1). The FAA manages slot usage requirements under the authority of 14 CFR 93.227 at DCA and under the authority of Orders at LGA and JFK. *See* Operating Limitations at John F. Kennedy International Airport, 83 FR 46865 (Sep. 17, 2018); Operating Limitations at New York LaGuardia Airport, 83 FR 47065 at 47066 (Sep. 18, 2018).

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2020–0056]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel LOVE SONG (Sailboat); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 24, 2020.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2020–0056 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2020–0056 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2020–0056, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey

Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel LOVE SONG is:

—*Intended Commercial Use of Vessel:* ''OUPV 6-pack charter with myself as a licensed captain on San Francisco Bay and coastwise, mostly CA, possibly occasionally up and down the West Coast or over to the Channel Islands and Hawaii''

—*Geographic Region Including Base of Operations:* ''California, Hawaii, Washington, Oregon, Florida, Puerto Rico, Texas, Louisiana, Mississippi'' (Base of Operations: Sausalito, CA)

—*Vessel Length and Type:* 36′ sailboat

The complete application is available for review identified in the DOT docket as MARAD–2020–0056 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2020–0056 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

Dated: March 20, 2020.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2020–06239 Filed 3–24–20; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request Concerning Tip Reporting Alternative Tip Agreement Used in the Cosmetology and Barber Industry

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 tip reporting alternative tip agreement used in the cosmetology and barber industry.

DATES: Written comments should be received on or before May 26, 2020 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, 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: Tip Reporting Alternative Tip Agreement used in the Cosmetology and Barber Industry.

OMB Number: 1545–1529.

Announcement Number: 2000–21 and 2001–01.

Abstract: Announcement 2000–21, 2000–19 I.R.B. 983, and Announcement 2001–1, 2001–2 I.R.B. 277, contain information required by the Internal Revenue Service in its tax compliance efforts to assist employers and their employees in understanding and complying with Internal Revenue Code section 6053(a), which requires employees to report all their tips monthly to their employers.

Current Actions: There are no changes being made to the announcement at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 4,600.

Estimated Time per Respondent: 9 hours, 22 minutes.

Estimated Total Annual Burden Hours: 43,073 hours.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their

contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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: March 19, 2020.

R. Joseph Durbala,

IRS Tax Analyst.

[FR Doc. 2020–06211 Filed 3–24–20; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 85 Wednesday,
No. 58 March 25, 2020

Part II

The President

Memorandum of March 20, 2020—Delegation of Functions Under 31 U.S.C. 5302

Federal Register
Vol. 85, No. 58
Wednesday, March 25, 2020

Presidential Documents

Title 3—

The President

Memorandum of March 20, 2020

Delegation of Functions Under 31 U.S.C. 5302

Memorandum for the Secretary of the Treasury

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. *Delegation of Authority over the Exchange Stabilization Fund.* (a) I hereby delegate the functions and authorities conferred upon the President by section 5302 of title 31, United States Code, to the Secretary of the Treasury for use of the Exchange Stabilization Fund in an aggregate amount of up to $50 billion.

(b) The functions and authorities delegated by this section may not be redelegated.

Sec. 2. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

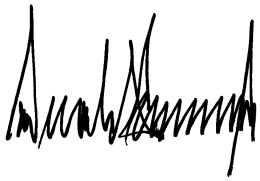
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(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.

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



THE WHITE HOUSE,
Washington, March 20, 2020

[FR Doc. 2020–06398
Filed 3–24–20; 11:15 am]
Billing code 3295–F0–P

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S. 3503/P.L. 116–128
To authorize the Secretary of Veterans Affairs to treat certain programs of education converted to distance learning by reason of emergencies and health-related situations in the same manner as programs of education pursued at educational institutions, and for other purposes. (Mar. 21, 2020; 134 Stat. 221)

S. 893/P.L. 116–129
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